

ORDINANCE 2011-11

AN ORDINANCE ADDING SECTION 14-402 TO TITLE 14, CHAPTER 4
OF THE BELLE MEADE MUNICIPAL CODE;
STORMWATER USER FEE ORDINANCE

BE IT ORDAINED BY THE CITY OF BELLE MEADE, as follows:

On the recommendation of the Board of Commissioners that the City and as necessary to fund and assure compliance with the Water Quality Act of 1977, the City of Belle Meade acts to amend its Municipal Code to add as Chapter 4 of Title 14 of the Belle Meade Municipal Code to add section 14-402 as set forth below.

14-402. Stormwater user fee adopted. In order to facilitate compliance with the Water Quality Act of 1977, pursuant to authority granted by §§ 68-221-1101 through 68-221-1113 of the Tennessee Code Annotated and for the purpose of providing stormwater management operations and establishing a stormwater user fee within the City of Belle Meade, the “Stormwater User Fee Ordinance,” is hereby adopted.

- (1) Findings. The Commissioners of the City of Belle Meade make the following additional findings:
 - (a) The Water Quality Act of 1977 imposes upon municipalities certain obligations that require the expenditure of city funds.
 - (b) An equitable approach to funding stormwater management services and facilities can be provided by adopting a schedule of service charges upon properties that is related to the burden of stormwater quantity and quality control service requirements and costs posed by properties throughout the city.
 - (c) Such schedule of service charges can be complemented by other funding methods that address specific needs, including, but not limited to, allocations of local option sales taxes to stormwater drainage improvement projects, collection of fees for special services including, but not limited to, plans review and inspections, and establishment of a capital recovery fee or fees consistent with state law.
 - (d) A service charge credit is an appropriate means of adjusting service charges in recognition that private stormwater systems and/or actions can effectively reduce or eliminate the burden of stormwater quantity and quality control service requirements and costs that a property or properties pose for the city.
 - (e) Impervious area is the most important factor influencing stormwater service requirements and costs posed by properties throughout the city, and therefore is an appropriate parameter for calculating stormwater service charges and associated credits.
 - (f) The Belle Meade Level of Service and Maintenance Policies for Stormwater Infrastructure will be the guide for prioritizing stormwater infrastructure maintenance and capital improvement projects.
- (2) Definitions. As used in this chapter 14-402, unless the context clearly indicates otherwise, the following definitions apply:
 - (a) "Credit" shall mean a conditional reduction in the stormwater service charge amount to an individual property based on the provision and continuing presence of an effectively maintained and operational on-site stormwater system or facility or the provision of a service or activity by the property owner, which system, facility, service, or activity reduces the stormwater utility's cost of providing stormwater services and facilities. Credits for on-site stormwater systems shall be generally proportional to

the affect that such systems have on the peak rate of runoff from the individual property. Credits shall be defined and implemented in the City of Belle Meade Stormwater Credit Policy Manual.

- (b) "Customers of the stormwater utility" shall include all persons, properties, and entities served by and/or benefiting from the City's acquisition, management, maintenance, extension, and improvement of the stormwater management programs, systems, and facilities and regulation of public and private stormwater systems, facilities, and activities related thereto, and persons, properties, and entities which will ultimately be served or benefited as a result of the stormwater management program.

- (c) "Detached dwelling unit" shall mean developed land containing one structure which is not attached to another dwelling and which contains one or more rooms with a bathroom and kitchen facilities designed for occupancy by one family. Detached dwelling units may include houses, manufactured homes, and mobile homes located on one or more individual lots or parcels of land. Developed land may be classified as a detached dwelling unit despite the presence of incidental structures associated with residential uses such as garages, carports, or small storage buildings. Detached dwelling unit can also include developed land that has a non-residential use of a dwelling unit designed for occupancy for one family so long as such use does not result in additional impervious areas, such as parking spaces, impervious surfaced playgrounds, or structures or additions to the building which are used as offices, storage facilities, meeting rooms, classrooms, houses of worship, or similar nonresidential uses. Detached dwelling unit shall not include developed land containing: manufactured homes and mobile homes located within manufactured home or mobile home parks where the land is owned by others than the owners of the manufactured homes or mobile homes or multiple-unit residential properties.

- (d) "Developed land" shall mean property altered from a natural state by construction or installation of more than 200 square feet of impervious surfaces as defined in this chapter. Impervious area installed by a public utility within an easement on an undeveloped parcel does not count against the total impervious area on that parcel.

- (e) "Duplexes and triplexes" shall mean developed land containing two (duplex) or three (triplex) attached residential dwelling units located on one or more parcels of land.

- (f) "Equivalent residential unit (ERU)" of impervious area shall mean the median impervious coverage of detached dwelling unit properties in the City of Belle Meade as determined by the city, and shall be used as the basis for determining stormwater service charges to detached dwelling unit properties or classes of detached dwelling unit properties and other properties. Twelve thousand two hundred (12,200) square feet of impervious area shall be one equivalent residential unit (ERU).

- (g) "Flood control facilities" shall mean all natural and manmade conveyances and structures for which the partial or full purpose or use is to convey surface flood runoff water within the jurisdictional boundaries of the City of Belle Meade. This includes all natural conveyances for which the city has assumed a level of maintenance responsibility, to which the city has made improvements, against the flooding of which the city must make provision to protect public and private property, or for which the city is accountable under federal or state regulations for protecting the water quality within its jurisdictional boundaries.

- (h) "Impervious surfaces" shall mean those areas which prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development. Common impervious areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings.

- (i) "Multiple dwelling unit residential properties" shall mean developed land whereon four or more attached residential dwelling units are located and shall include, but not be limited to, apartment houses, condominiums, townhomes, attached single-family homes, boarding houses, group homes, hotels and motels, retirement centers, and other structures in which four or more family groups commonly and normally reside or could reside. In the application of stormwater service charge rates, multiple dwelling unit properties shall be treated as other developed lands. However, multiple dwelling unit residential properties where individual residential dwelling units are owned independently, such as residential condominiums, may be treated as detached dwelling unit properties in the application of stormwater service charge rates.
 - (j) "Other developed land" shall mean, but shall not be limited to, multiple dwelling unit residential properties, manufactured home and mobile home parks, commercial and office buildings, public buildings and structures, churches, temples, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools and universities, research stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, water reservoirs, and water and wastewater treatment plants.
 - (k) "Stormwater" shall mean stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration (other than infiltration contaminated by seepage from sanitary sewers or by other discharges) and drainage.
 - (l) "Stormwater user fee" shall mean the stormwater management service charge or charges applicable to a parcel of developed land, which charge shall be reflective of the City of Belle Meade's cost of providing stormwater management services and facilities.
 - (m) "Stormwater management facilities" shall mean those natural and man-made drainage structures, conveyances, conduits, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.
- (3) Determination and modification of stormwater user fee. Stormwater service charges may be determined and modified from time to time by the Commissioners of the City of Belle Meade so that the total revenue generated by said charges and any other sources of revenue that may be made available to the stormwater utility will be sufficient to meet the cost of services and facilities, including, but not limited to, the payment of principal and interest on debt incurred for stormwater management purposes, the creation of reserves for the replacement of permanent improvements for stormwater management, and such other expenses reasonably necessary or convenient in the acquisition, construction, operation, maintenance, education, and regulation of the stormwater system and of properties affecting the stormwater system. These fees shall be reasonable in amount and used exclusively by the municipality for purposes set forth in this part. Such a graduated stormwater user's fee shall be based on actual or estimated use of the stormwater and/or flood control facilities of the municipality, and each user or user class shall only be required to pay its proportionate share of the construction, administration, operation and maintenance, including replacement costs, of such facilities based on the user's actual or estimated proportionate contribution to the total stormwater runoff from all users or user classes. To ensure a proportionate distribution of all costs to each user or user class, the user's contribution shall be based on the amount of impervious area utilized by the user. Stormwater service charges may also include special charges to individual customers for services or facilities related to stormwater management, including, but not limited to, charges for development plan review, inspection of development projects and on-site stormwater control systems, and enhanced levels of stormwater services above those normally provided by the city.

(4) Effective date of stormwater user fee. Stormwater service charges shall accrue beginning July 1, 2011 and shall be billed periodically thereafter to customers except as specific exemptions and adjustments may apply.

(5) Stormwater user fee. In order to supplement the cost of providing stormwater services and facilities while fairly and reasonably apportioning the cost among developed properties throughout the city, the following stormwater rates shall apply.

(a) Detached dwelling units. Detached dwelling units shall be charged according to the table below based upon the ERU as specified below in § 5(c) or as specified in or as amended by ordinance in the future.

Total area of parcel (square feet)	Factor x ERU
0-40,000	0.5 x ERU
40,001-70,000	1.0 x ERU
> 70,000	2.0 x ERU

(b) Other developed lands. Other developed lands are subject to special regulation under the appendices of the Zoning Code. All developed lands not classified as detached dwelling units and regulated in accordance with Appendices A-D of the Zoning Code shall be exempt from payment of the stormwater user fee.

(c) The stormwater service charge rate per equivalent residential unit, as defined in this chapter, shall be (\$7.47) per month until and unless the service charge rate is changed by the Commissioners of the City of Belle Meade.

(6) Exemptions and credits applicable to stormwater user fee. Except as provided in this section, no public or private property shall be exempt from stormwater utility service charges or receive a credit or offset against such service charges. No exemption, credit, offset, or other reduction in stormwater service charges shall be granted based on the age, tax, or economic status, race, or religion of the customer, or other condition unrelated to the stormwater utility's cost of providing stormwater services and facilities.

(a) The following exemptions from stormwater service charges shall be allowed:

i. Undeveloped land as defined by this chapter shall be exempt from stormwater charges;

ii. Railroad tracks shall be exempt from stormwater service charges. However, railroad stations, maintenance buildings, or other developed land uses for railroad purposes shall not be exempt from stormwater charges.

iii. Improved public road rights-of-way of federal, state, or local governments that are available for vehicular transportation by the general public are exempt from stormwater service charges. Platted private roads and platted private rights-of-way are further exempt from stormwater charges.

iv. Other developed lands are subject to special regulation under the appendices of the Zoning Code. All developed lands not classified as detached dwelling units and regulated in accordance with Appendices A-D of the Zoning Code shall be exempt from payment of the stormwater user fee.

(b) Stormwater service charge credits shall be allowed for the following activities/occurrences and shall be effective when initiated at the discretion of the City of Belle Meade and in accordance with a credit manual described subsequently:

- i. Other developed lands that have, and maintain in proper working order, on-site stormwater detention and retention systems that reduce the peak rate of stormwater discharge.
 - ii. Other developed lands that have, and maintain in proper working order, on-site stormwater best management practices that reduce the impact of stormwater runoff or water quality in accordance with water quality standards set forth by the City of Belle Meade.
- (c) A stormwater service charge credit manual shall be prepared by the City of Belle Meade specifying the design and performance standards of on-site systems, facilities, activities, and services which qualify for application of a service charge credit, and how such credits shall be calculated.
- (d) The stormwater service charge credit shall be determined based on the technical requirements and standards contained in the stormwater service charge credit manual. The stormwater service charge credit may be up to fifty (50) percent of the service charge applicable to a property, and shall be proportional to the extent that on-site systems, facilities, services, and activities provided, operated, and maintained by the property owner reduce or mitigate the stormwater utility's cost of providing services and facilities.
- (e) Groups of detached dwelling units represented by a homeowner's association providing on-site systems or facilities that reduce or mitigate the stormwater utility's cost of providing stormwater management services and facilities may receive a stormwater service charge credit.
- (f) Any credit allowed against the stormwater service charge is conditioned on continuing compliance with the city's design and performance standards as stated in the stormwater service charge credit manual and/or upon continuing provision of the systems, facilities, services, and activities provided, operated, and maintained by the property owner or owners upon which the credit is based. A credit may be revoked by the city at any time for noncompliance. Thirty (30) days notice of a non-complying condition and intent to revoke a stormwater service charge credit shall be provided to the stormwater service charge customer receiving a credit before the credit is revoked thereby allowing the customer the opportunity to attain compliance.
- (7) Stormwater user fee billing, delinquencies, and collections. A stormwater service charge bill may be sent through the United States mail or by alternative means, notifying all customers of the amount of the bill, the date the payment is due, and the date when past due. Failure to receive a bill is not justification for non-payment. Regardless of the status of the party to whom the bill is initially directed, the owner of each parcel of developed land shall be ultimately obligated to pay the stormwater service fee. If a customer is under-billed or if no bill is sent for developed land, the city may back-bill for a period of up to ten years, but shall not assess penalties for any delinquency. A late charge will be based upon the unpaid balance in accordance with the City of Belle Meade Customer Service Policy Manual.
- (8) Application of stormwater user fee billed in common. The City of Belle Meade shall bill the stormwater user fee when the annual property tax is billed.
- (9) Removal or cessation of utility services. The City of Belle Meade may remove or cease to provide any utility services as it determines necessary to enforce the payment of all city utility service charges.
- (10) Appeals. Any stormwater utility service customer who believes the provisions of this article have been applied in error may appeal in the following manner:
- (a) An appeal must be filed in writing with the City of Belle Meade City Manager. In the case of service charge appeals, the appeal shall include a survey prepared by a registered land surveyor or professional engineer containing information on the total property area, the impervious surface area, and any other features or conditions which influence the hydrologic response of the property to rainfall events.

- (b) Using the information provided by the appellant, the City Manager and appropriate staff will conduct a technical review of the conditions on the property and respond to the appeal in writing within thirty (30) days.
 - (c) In response to an appeal, the City Manager may adjust the stormwater service charge applicable to a property in conformance with the general purpose and intent of the article.
 - (d) A decision of the City Manager which is adverse to an appellant may be further appealed to the Board of Commissioners within thirty (30) days of the adverse decision. Notice of the appeal shall be delivered to the Board of Commissioners by the appellant, stating the grounds for the further appeal. The Board of Commissioners shall issue a decision on the appeal within thirty (30) days. All decisions of the Board of Commissioners shall be served on the customer personally or by registered or certified mail. Service shall be based upon the service charge billing address of the customer.
 - (e) The appeal process contained in this section shall not prevent an appellant from seeking relief in the approved manner and form from a court of competent jurisdiction.
- (11) City of Belle Meade, Tennessee Stormwater User Fee Credit Manual for Stormwater Fees. The City of Belle Meade, Tennessee Stormwater Utility Credit Manual for Stormwater Fees will be prepared and attached hereto as Exhibit A once it is completed.

This Ordinance shall become effective fifteen days after its passage.

Passed on first reading:


September 21, 2011

Passed on Second Reading:

October 19, 2011



Gray Thornburg, Mayor



Linda Berner, City Recorder