



## Agenda Item Executive Summary

**Title:** MC-2-2014 - Adding Chapter 13.16 and Establishing a Stormwater Utility

**Presenter:** Katherine S. Janega, Village Attorney

**Agenda Date:** 02/18/2014

**Consent:**  YES  NO

- |                                     |                         |
|-------------------------------------|-------------------------|
| <input checked="" type="checkbox"/> | Ordinance               |
| <input type="checkbox"/>            | Resolution              |
| <input type="checkbox"/>            | Bid Authorization/Award |
| <input type="checkbox"/>            | Policy Direction        |
| <input type="checkbox"/>            | Informational Only      |

### Item History:

May 14, 2013 Study Session  
October 1, 2013 Council Meeting, Agenda pp. 35 - 62  
February 4, 2014 Council Meeting, Agenda pp. 27 - 59  
February 11, 2014 Study Session, Agenda pp. 22 - 120

### Executive Summary:

Ordinance MC-2-2014 adds new Chapter 13.16 to the Village Code, to establish and implement a stormwater utility.

As presented to the Village Council in the February 4, 2014, agenda materials, Section 13.16.130(B) of new Village Code Chapter 13.16 allowed the Village, in its discretion, to consider entering into agreements with institutions that could provide "significant stormwater management assistance to the Village" in addition to meeting applicable requirements ("Partnership Credit"). In return, the Village, in its discretion, could exempt the institution from all or part of the stormwater utility fee. Following a lengthy discussion, the Council deleted that provision before introducing the Ordinance.

The Council discussed the issue of credits at greater length at the February 11th Study Session, and directed that a modified credit provision should be included in Chapter 13.16. The modified provision would include a modified Partnership Credit, based on the original draft, and would also include a new individual credit, based on the credit provisions in the Highland Park City Code.

The attached Agenda Report provides a detailed explanation of the amendments, and once again provides an overview of the related amendments to the Village Code.

### Recommendation / Suggested Action:

Consider a motion to amend Ordinance MC-2-2014, as reflected in the Agenda materials.

### Attachments:

Agenda Report  
Ordinance MC-2-2014 (Clean draft)  
Attachment 1 – Original Partnership Credit provision  
Attachment 2 – Highland Park Stormwater Credit provision  
Attachment 3 – Amended draft of MC-2-2014 (Tracked changes)

## **AGENDA REPORT**

**SUBJECT:**                    **Ordinance MC-2-2014 – Adding a New Chapter 13.16 to Title 13 and Making Related Amendments to the Winnetka Village Code to Establish a Stormwater Utility**

**PREPARED BY:**            Katherine S. Janega, Village Attorney

**REFERENCE:**              May 14, 2013                    Study Session  
                                  October 1, 2013                Council Meeting, Agenda pp. 35 – 62  
                                  February 11, 2014            Study Session, pp. 72 - 120

**DATE:**                      February 14, 2014

### **Introduction**

Ordinance MC-2-2014, which was introduced at the February 4, 2014, Village Council meeting, adds new Chapter 13.16 to the Village Code, to establish and implement a stormwater utility. As noted at the time of introduction, Chapter 13.16 is based in part on the sample ordinance provided by the Village’s stormwater utility consultant, Municipal & Financial Services Group (MFSG), as well as on a review of similar ordinances in other Illinois communities. Chapter 13.16 has also been crafted so that it is consistent with Village Code Chapters 13.04, 13.08 and 13.12, which govern the Village’s water, electric and sanitary sewer utilities.

As presented to the Village Council in the agenda materials, Ordinance MC-2-2014, Section 13.16.130(B) of new Village Code Chapter 13.16 would have allowed the Village, in its discretion, to consider entering into agreements with institutions that not only met applicable stormwater requirements, but that also would provide “significant stormwater management assistance to the Village” (“Partnership Credit”). In return, the Village, in its discretion, could exempt the institution from all or part of the stormwater utility fee. Following a lengthy discussion, the Council deleted that provision before introducing the Ordinance.

The Council discussed the issue of credits at greater length at the February 11<sup>th</sup> Study Session, and directed that a modified credit provision should be included in Chapter 13.16. This Agenda Report provides a detailed explanation of the amendments, and once again provides an overview of the related amendments to the Village Code.

### **Stormwater Fee Credits**

After reviewing and discussing examples of credit provisions at the February 11<sup>th</sup> Study Session, the Council determined that the new Chapter 13.16 should provide for a form of Partnership Credit. The Council also determined that Partnership Credits should be limited so that proposed partnerships would not be presented after the system is designed or built, since that

would be less likely to produce a financial benefit to the Village and could thus shift the “partners” costs to the rest of the stormwater customers.

In addition, the Council determined that Chapter 13.16 should also provide for stormwater fee credits to individual property owners, similar to the credits the City of Highland Park offers to its stormwater utility customers.

The following paragraphs describe the amendments made to Ordinance MC-2-2014 to implement the policy direction the Council gave on February 11<sup>th</sup>. An updated draft of Ordinance MC-2-2014 follows this Agenda Report, showing the proposed text of Chapter 13.16 in its final form, without tracking. A draft of Ordinance MC-2-2014 with red-lined tracking of the changes to Chapter 13.16 since adoption is attached as Attachment 3. The page references below are the same for either version of the Ordinance.

**Definition of Credit.** On page 3, the term “Credit” has been added to the definitions in Section 13.16.020. As defined, a credit is “a conditional, recurring reduction in the amount of a stormwater user fee to an individual property that meets the qualification standards established in this Chapter and the Rules and Regulations of the Village of Winnetka Stormwater Utility.”

**Section 13.16.130 Exemptions.** On page 7, the Exemption provision has been modified by striking the subsection A reference. The text exempting public rights of way has been retained, without change. When Ordinance MC-2-2014 was originally presented to the Council, this section contained a subsection B, which contained the initial Partnership Credit provision. Because that provision was deleted, the subsection A reference is no longer necessary.

**Section 13.16.140 Credits.** This new section, on pages 7 and 8 of Ordinance MC-2-2014, contains the heart of the amendments. Section 13.16.130 has been divided into two subsections. Subsection A is captioned “Partnership Credits,” and Subsection B is captioned “Individual Credits.”

**Partnership Credits.** On page 7, Paragraph 1 of the Partnership Credits provision restores the language that was originally in subsection B of Section 13.16.130. (See Attachment 1.) Paragraph 2 of the Partnership Credit provision is new and is unique to Winnetka’s Ordinance. The new provision reserves the Village’s “sole and exclusive right and discretion” to limit when proposals for Partnership Credits can be submitted and considered, with the stated purpose of the reservation being to “avoid delay in the design and construction of stormwater projects, and to assure that a proposed partnership credit will not shift the costs of stormwater compliance from the party proposing the partnership to the other users of the stormwater system.”

The “reservation of rights and discretion” approach in paragraph 2 was arrived at after several unsuccessful attempts to set a bright line deadline for Partnership Credit applications. Staff has concluded that a bright line is not possible, because the Village has several different projects in the Stormwater Master Plan, any of which might generate a partnership approach.

Because setting a fixed date or milepost as a cut-off could have the unintended consequence of discouraging partnerships in future projects, Staff has concluded that a clear statement of the Village’s reservation of its discretion to limit when credits will be considered, coupled with a statement of the purpose for that limitation, will send the appropriate signal to potential partners for initial projects while keeping the doors open for future cooperative efforts.

**Individual Credits.** The individual credits provisions, in subsection B on page 8, are based on the Highland Park model. (See Attachment 2.) The individual credits are of two types: (i) a 50% credit for qualifying stormwater detention, and a 100% credit for direct discharge. Conditions for the credits include providing engineering documentation and providing annual proof that the individual stormwater facilities are being maintained. In addition, the credits are limited to a period of 5 years, and must then be renewed.

**Other Amendments to Ordinance MC-2-2014**

Ordinance MC-2-2014 has several less significant amendments. On page 4, technical amendments to the definitions of “Stormwater System” and “Stormwater Utility” provide consistency in those two terms. On page 5, the second sentence in the base fee provision for the stormwater utility fee in Section 13.16.070 has been deleted. As noted at the time of introduction, that sentence had proved to be both unnecessary and confusing. The only other changes in the draft of Chapter 13.16 are in the section numbers, which have changed due to the insertion of the new Credits provision.

**Summary of Remaining Sections of Ordinance MC-2-2014**

The preceding discussion addressed amendments to Section 2 of the Ordinance, which adds Chapter 13. The following table, taken from the initial Agenda Report at the time of introduction, summarizes the other Village Code amendments necessary to establish the Stormwater Utility.

In the first column, numbers preceded by the word “Section” refer to the Section numbers in the Ordinance. The indented numbers preceded by the section symbol (§) refer to sections in the Winnetka Village Code (WVC).

<b>Section</b>	<b>Description</b>
<b>Section 3</b>	Amends WVC Chapter 1.04, “General Provisions.”
<b>§ 1.04.140(A)</b>	This amendment inserts a reference to stormwater in the definition of delinquent accounts in WVC § 1.04.140 of the Village Code’s general provisions
<b>Section 4</b>	Amends WVC Chapter 2.48, “Finance Department.”
<b>§2.48.010 to §2.48.050</b>	This section contains non-substantive and substantive amendments to Chapter 2.48. Non-substantive amendments: The non-substantive amendments restructure the chapter, which is currently a single section, by assigning

Section	Description
	<p>separate section numbers to what are now subsections. This restructuring mirrors the other chapters in Title 2 and facilitates searches, as only section numbers are listed in the table of contents.</p> <p>Substantive Amendments: The two substantive amendments insert the word “stormwater” in paragraphs 6 and 8 of what is now Section 2.48.050.</p>
<b>Section 5</b>	Amends WVC Chapter 2.64, “Department of Public Works.”
<p><b>§2.64.010</b> <b>to §2.64.040</b></p>	<p>This section contains non-substantive and substantive amendments to Chapter 2.48.</p> <p>Non-substantive amendments: The chapter has been restructured in the same manner as Chapter 2.48.</p> <p>Substantive amendment: The only substantive amendment is in the addition of a new paragraph 6 in what is now Section 2.64.040, to place the operation and maintenance of the stormwater utility system in the Department of Public Works.</p>
<b>Section 6</b>	Boilerplate: Refers to the Village’s exercise of its home rule powers.
<b>Section 7</b>	Boilerplate: States that the Ordinance is to be effective immediately.

**Attachments:**

- Ordinance MC-2-2014 (Clean text)
- Attachment 1 – Original Partnership Credit provision
- Attachment 2 – Highland Park Stormwater Credit provision
- Attachment 3 – Amended draft of MC-2-2014 (Tracked changes)

**Recommendation:**

Consider a motion to amend Ordinance MC-2-2014, as reflected in the Agenda materials.

**AN ORDINANCE  
ADDING A NEW CHAPTER 13.16 TO TITLE 13  
AND MAKING RELATED AMENDMENTS  
TO THE WINNETKA VILLAGE CODE  
TO ESTABLISH A STORMWATER UTILITY**

**WHEREAS**, the Village of Winnetka (“Village”) is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970 and, pursuant thereto, has the authority, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the government and affairs of the Village, including the power to regulate for the protection of the public health, safety and welfare; and

**WHEREAS**, the Village owns and operates a system of storm sewers, drains, pipes, pump stations and outlets that collects stormwater that drains from properties located within the corporate limits of the Village and transports that stormwater for delivery into open watercourses (“Stormwater System”); and

**WHEREAS**, the principal watercourses that drain stormwater runoff from the Village are the Skokie River and Lake Michigan; and

**WHEREAS**, in response to a series of storms that inundated numerous areas of the Village, the Village has embarked on the development and implementation of a stormwater management plan that provides for a series of capital improvements, upgrades and additions to the Stormwater System throughout the Village (“Stormwater Projects”); and

**WHEREAS**, the Winnetka Village Council (“Village Council”) finds and determines that, due to the high cost of some of the Stormwater Projects and the long life of stormwater facilities once they are in place, it is in the best interests of the Village and its residents that the cost of the Stormwater Projects be spread over a long period of time, so that, to the extent reasonably possible, the Stormwater Projects are paid for as the improvements are used and current users of the Stormwater System do not pay for the use of the Stormwater System by future users; and

**WHEREAS**, the Village Council finds and determines that, in order to provide an effective and long term approach to stormwater management within the Village, it is necessary to provide an adequate and stable revenue stream for the Stormwater Projects and for the operation and maintenance of the Stormwater System; and

**WHEREAS**, the Village Council finds and determines that all land in the Village contributes to stormwater runoff and either uses or benefits from the maintenance of the Stormwater System; and

**WHEREAS**, the Village Council finds and determines that it is in the best interests of the health, safety and general welfare of the Village and its residents that the Stormwater System be operated as a municipal utility that is funded through user fees rather than property taxes; and

**WHEREAS**, the Village Council finds and determines that owning and operating the Stormwater System, and financing the operation, maintenance and improvement of the

Stormwater System through user fees, are matters pertaining to the government and affairs of the Village.

**NOW, THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Winnetka, as follows:

**SECTION 1:** The foregoing recitals are hereby incorporated as the findings of the Council of the Village of Winnetka, as if fully set forth herein.

**SECTION 2:** Title 13 of the Winnetka Village Code, “Municipal Utility Services,” is hereby amended by adding a new Chapter 13.16, which shall be titled “Stormwater Utility System” and shall provide as follows:

**Chapter 13.16  
Stormwater Utility System**

**Sections:**

- |                  |   |
|------------------|---|
| <b>13.16.010</b> | <b>Legislative findings, policy and purpose.</b>              |
| <b>13.16.020</b> | <b>Definitions.</b>   |
| <b>13.16.030</b> | <b>Stormwater utility established.</b>                        |
| <b>13.16.040</b> | <b>Scope of responsibility of stormwater utility.</b>         |
| <b>13.16.050</b> | <b>Rules and regulations.</b>                                 |
| <b>13.16.060</b> | <b>Charges for stormwater utility service.</b>                |
| <b>13.16.070</b> | <b>Stormwater utility fee.</b>                                |
| <b>13.16.080</b> | <b>Billing and collection procedures.</b>                     |
| <b>13.16.090</b> | <b>Effect of nonpayment of bill.</b>                          |
| <b>13.16.100</b> | <b>Requests for adjustment of the stormwater utility fee.</b> |
| <b>13.16.110</b> | <b>Stormwater utility fund.</b>                               |
| <b>13.16.120</b> | <b>Impervious area database.</b>                              |
| <b>13.16.130</b> | <b>Exemptions from stormwater utility fee.</b>                |
| <b>13.16.140</b> | <b>Credits.</b>   |
| <b>13.16.150</b> | <b>Stormwater service connections.</b>                        |
| <b>13.16.160</b> | <b>Interference with stormwater system.</b>                   |
| <b>13.16.170</b> | <b>Responsibility for damage to stormwater system.</b>        |

**Section 13.16.010 Legislative findings; policy and purpose.**

A. Legislative findings. The Village Council finds:

1. that all real property in the Village contributes to runoff and either uses or benefits from the maintenance of the stormwater system;
2. that, in order to provide an effective and long term approach to stormwater management within the Village, it is necessary to provide an adequate and stable revenue stream for the construction, maintenance, operation and improvement of the Village of Winnetka stormwater system; and

3. that it is in the best interests of the health, safety and general welfare of the Village, its residents and property owners, that the Village of Winnetka stormwater system be operated as a municipal utility that is funded through user fees.

B. Statement of policy.

1. It is the policy of the Village of Winnetka to provide a dedicated funding source for the construction, maintenance, operation and improvement of stormwater facilities in the Village, so that the Village is able to proactively manage stormwater for the benefit of all residents and owners of real property within the Village.

2. It is the policy of the Village of Winnetka that, except as provided in this chapter, the owner or owners of any real property in the Village that uses or benefits from the Village's stormwater system be charged a stormwater utility fee, whether or not the owner or parcel is exempt from taxation.

C. Purpose. The purpose of this chapter is to establish a stormwater utility to protect the public health, safety and welfare of the residents of the Village of Winnetka from damage to property and local waterways from stormwater runoff and floods, through the construction and operation of flood reduction and control facilities, and through water quality management and floodplain management. It is also the purpose of this chapter to provide an effective and long-term approach to stormwater management within the Village by identifying and providing an adequate and stable funding source for stormwater management.

**Section 13.16.020 Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

*Credit* means a conditional, recurring reduction in the amount of a stormwater user fee to an individual property that meets the qualification standards established in this Chapter and the Rules and Regulations of the Village of Winnetka Stormwater Utility.

*Developed Land* means a parcel within the corporate limits of the Village that has been altered from its natural state by the addition of impervious area.

*Direct Discharge* means the conveyance of stormwater runoff directly from a parcel of property to a receiving stream or Lake Michigan, without using any part of the stormwater system.

*Equivalent Runoff Unit (ERU)* means the base billing unit for the stormwater utility fee, used as an index to compare runoff generated by different types and uses of parcels with different stormwater runoff characteristics. One ERU is defined as the runoff generated by a typical single family residential parcel and shall equal three thousand four hundred (3,400) square feet of impervious area or any fraction thereof.

*Impervious Area* means the area within a parcel that prevents or significantly impedes the infiltration of stormwater into the soil. Impervious areas shall include, but are not limited to buildings, roofed structures, paved areas, walkways, driveways, parking lots, patios, decks, swimming pools, and similar non-porous areas.

*NPDES* or *National Pollutant Discharge Elimination System* means the national permitting program implemented under the Clean Water Act.

*Parcel* means an area of land within the corporate limits of the Village that has been established by a plat or other legal means and has been assigned a Property Index Number (PIN) by the County of Cook, Illinois.

*Stormwater Service Connection* means such pumps, pipes, drains and other appurtenances necessary to drain and channel runoff from any parcel into the Village of Winnetka stormwater system.

*Stormwater System, or Village Stormwater System*, means the system of conveyances owned and operated by the Village and designed for or used in the collection, control, transportation, treatment or discharge of stormwater, including but not limited to storm sewers, storm drains, curbs, gutters, ditches, detention ponds or basins, dams, river impoundment, manmade channels or storm drains, and flood control facilities, and any appurtenances thereto.

*Stormwater Utility, or Village Stormwater Utility*, means the Village of Winnetka stormwater utility established by this chapter for the management, operation, maintenance, engineering, planning and capital investments related to the stormwater system.

*Undeveloped Parcel* means a parcel of land that remains in its natural state with no impervious area.

*User* means the owner of a parcel that uses, benefits from or connects to the Village's stormwater system.

**Section 13.16.030 Stormwater utility established.**

A. Stormwater Utility. The Village hereby establishes a stormwater utility to provide for the management, operation, maintenance, engineering, planning, construction, enhancement and rehabilitation of the Village's stormwater system, as defined in this chapter.

B. Terms and Conditions of Service. All stormwater management service within the Village shall be provided in accordance with the provisions of this chapter and the rules and regulations promulgated pursuant to this chapter.

**Section 13.16.040 Scope of responsibility of stormwater utility.**

A. The stormwater utility shall be responsible for the operation, maintenance, management and improvement of the stormwater system owned by the Village in accordance with all applicable permits, licenses and regulations, including all activities required by the NPDES Stormwater Permit.

B. The Village of Winnetka stormwater utility shall be operated by the Department of Public Works established in Chapter 2.64 of this code.

**Section 13.16.050 Rules and regulations.**

The Village Manager shall adopt such rules and regulations as may be necessary to give effect to and explain the provisions of this chapter. The Director of Public Works shall make recommendations to the Village Manager regarding the content of the rules and regulations and shall enforce the rules and regulations once they are adopted.

**Section 13.16.060 Charges for stormwater utility service.**

A. Establishing Rates and Fees. Effective July 1, 2014, the owner of any parcel that uses, benefits from or connects to the stormwater utility shall be charged for such service in accordance with rates, fees and charges established from time to time by resolution of the Village Council. All resolutions setting or amending rates, fees and other charges for stormwater utility service shall be introduced at one meeting and adopted at a subsequent meeting.

B. Basis of Rates and Fees. The stormwater utility fee shall be based on the extent to which each parcel creates a need for stormwater management; the amount of impervious area on each parcel; and the cost of operating, maintaining, and improving the stormwater system.

**Section 13.16.070 Stormwater utility fee.**

A. Fee Imposed. A stormwater utility fee is hereby imposed on the owners of property in the Village. The stormwater utility fee for all parcels in the Village shall be based on the measured number of ERUs on the parcel, rounded to the nearest 10<sup>th</sup> of an ERU. Parcels with an impervious area of 170 square feet or less shall not be subject to the stormwater utility fee.

B. Fee Resolution. The stormwater utility fee shall be set by resolution as provided in section 13.16.060 of this Chapter.

C. Fee components. The stormwater utility fee shall consist of the sum of the following:

1. Base Fee. The base fee shall be the amount to be charged each month per ERU in order to produce the amount of principal and interest on any outstanding stormwater utility system debt that is due and payable during the fiscal year for which the Base Fee is calculated.

2. Such other rates, fees and charges that the Village Council determines are necessary to recover all costs related to operating, maintaining and improving the stormwater system utility.

**Section 13.16.080 Billing and collection procedures.**

A. Issuance of bill. The Finance Department shall issue all bills for stormwater utility fees.

1. For users of the stormwater system that have an existing utility account with the Village, the Finance Department may include the stormwater utility fee on the same statement issued for such other utility service.

2. The Finance Department may issue a separate bill to the owner of any parcel that does not have an existing utility account with the Village. If the owner of such parcel has not provided the Finance Department with a billing address, then the Finance Department may mail the stormwater utility bill to the same person who receives property tax bills for that parcel.

B. Responsibility for payment. The owner of any parcel, building or premises and the occupant thereof and the customer of the utility service of said system shall be jointly and severally liable to pay for such stormwater utility fee for said premises.

C. Application of payments. If the stormwater utility fee is included on a common statement and the user does not pay the total amount due on the statement, the payment shall be applied first to the stormwater utility fee. If any amount on a utility bill is past due, the payment will first be applied to such past due amounts.

**Section 13.16.090 Effect of nonpayment of bill.**

A. Additional Charges for Failure to Pay Bill. If any bill for stormwater service is not paid by the date due, as shown on the utility bill, a late payment penalty of five percent shall be added to the bill and collected from the user.

B. Collection Costs. Any unpaid bill that is turned over for collection shall be subject to an additional charge, the amount of which shall be established by the Village Manager, upon the recommendation of the Finance Director, in an amount sufficient to recover the Village's costs of carrying and collecting the debt.

C. Unpaid Accounts Constitute Lien. All unpaid amounts of rates, fees and charges for stormwater utility service shall constitute a lien against the property to which service was provided, to the extent such lien is authorized by law.

D. Effect of Delinquent Accounts. All delinquent stormwater utility accounts shall be subject to the provisions of Section 1.04.140 of this code. In addition, no person with a delinquent stormwater utility account shall be allowed either a new utility service at another location in the Village, or a change or upgrade of the service at the premises for which the delinquent account has accrued, unless the account is paid in full.

**Section 13.16.100 Requests for adjustment of the stormwater utility fee.**

A. The owner of a parcel, or the owner's authorized agent, may request correction of the stormwater utility fee by submitting a written request to the Village Manager or his or her designee on or before the date payment is due. The owner of the parcel is solely responsible for initiating any review of the amounts of the stormwater utility fee. Grounds for correction of the stormwater utility fee include:

1. Incorrect classification of the property for purposes of determining the fee;
2. Errors in the square footage of the impervious surface area of the property;
3. Mathematical errors in calculating the fee to be applied to the property; and
4. Errors in the identification of the owner of a parcel subject to the fee.

B. The Village Manger shall make a determination within 30 days after receipt of the property owner's completed written request for correction of the fee. The Village Manager's decision on a request for correction of the fee shall be final.

C. Any owner of a parcel who submits a request for correction of a fee shall comply with all rules and procedures adopted by the Village and must provide all information necessary for the Village Manager to make a determination on the request for correction of the fee. Failure to comply with the provisions of this subsection shall be grounds for denial of the request.

D. If an adjustment or correction is approved by the Village, the adjustment will be incorporated into the stormwater utility fee calculation for the specified parcel and will apply to the next regularly generated bill.

**Section 13.16.110 Stormwater utility fund.**

A. Revenues. All revenues from the stormwater utility fee shall be deposited in the stormwater utility enterprise fund and shall be used solely for the operation, maintenance, expansion and rehabilitation of the stormwater infrastructure as deemed appropriate by the Village Council.

B. Financial records. The Finance Director shall maintain and report on the financial records of the stormwater utility in accordance with generally accepted government accounting principles.

**Section 13.16.120 Impervious area database.**

The impervious area for all parcels in the Village is established by the Village. The Village shall maintain an impervious area database for all parcels within the Village which will serve as the basis for determination of the number of ERUs associated with each parcel. The database will be based on available information, including geographic information systems analysis, aerial photographs, mapping information, site examination and other available information, and will be periodically updated based on available information.

**Section 13.16.130 Exemptions from stormwater utility fee.**

Dedicated public rights-of-way, such as roadways, sidewalks and alleys, shall not be subject to the stormwater utility fee.

**Section 13.16.140 Credits.**

A. Partnership Credits.

1. The Village Council recognizes that, in certain unique circumstances, some institutions in the Village, such as schools, parks and churches, have sufficient resources that, in addition to complying with applicable stormwater detention requirements, they are also able to provide significant stormwater management assistance to the Village, through such actions as the donation of land for use in the stormwater system, significant capital contributions for the stormwater system or other such activities. The Village Council reserves the sole and exclusive right and discretion to enter into agreements with

such owners to provide for such contributions to the Village's stormwater system, and to grant a credit to such owners for all or part of the stormwater utility fee in exchange for such contribution.

2. To avoid delay in the design and construction of stormwater projects, and to assure that a proposed partnership credit will not shift the costs of stormwater compliance from the party proposing the partnership to the other users of the stormwater system, the Village reserves the sole and exclusive right to limit the time period during which requests or proposals for partnerships for any stormwater project may be submitted and considered.

#### B. Individual Credits.

1. Any property owner whose property does not impact on the Village stormwater utility system to the extent of the stormwater utility fee charged to that property pursuant to section 13.16.070 may apply for one of the following credits against the stormwater utility fee:

a. A credit of up to 50% if not less than one half of the stormwater emanating from the relevant property for the 100-year design storm is detained and cleaned, in accordance with effective engineering practices and techniques, prior to discharge into the Village stormwater utility system; or

b. A credit of 100% if none of the stormwater emanating from the parcel in question discharges into the Village stormwater utility system, either directly or indirectly.

2. Applications for credits against the stormwater utility fee filed pursuant to this subsection shall be filed in writing with the Village Manager or his or her designee, along with documentation that the Rules and Regulations of the Village of Winnetka Stormwater Utility require for the assessment of the application, which documentation shall include, but not be limited to:

a. Detailed specifications of any on-site cleaning of stormwater performed prior to discharge into the Village stormwater utility system, along with sufficient evidence that any on-site cleaning system is in good working order and is maintained on a regular basis;

b. Topographical depictions of the runoff patterns and directions of all stormwater emanating from the relevant property that does not impact the Village stormwater utility system; and

c. Relevant photographic evidence in support of the application.

3. The Village Engineer shall review an application for a credit against the stormwater utility fee, and shall either grant or deny the requested credit, within 60 days after the date on which the application is received. The Village Engineer shall only grant the requested credit upon determining, in the exercise of his professional judgment that the applicant meets the criteria for the credit, as defined in paragraph 1 of this subsection.

4. The owner of any parcel granted a credit under this subsection shall be responsible for keeping the qualifying private stormwater management facilities in good working order, and shall provide an annual report of maintenance and repair activities to

the Village Engineer, and the Village shall have the right to enter on the property to inspect the private stormwater maintenance facilities to confirm that they remain in good working order. Failure by the owner to maintain the private stormwater management facilities will result in the loss of stormwater utility fee credits.

5. Provided the owner has continued to maintain the private stormwater maintenance facilities as required by paragraph 4 of this subsection, a stormwater utility fee credit granted under this subsection shall remain in effect for 5 years from the date of approval. The owner of the property in question may apply for renewal of the credits for successive 5-year periods, subject to meeting all of the applicable conditions then in effect. The approval of a stormwater fee credit shall not create a property right to renew or be granted a credit upon the expiration of the credit's 5-year term.

C. Application of credits; refund of overpayments. The Finance Director shall apply approved credits to the applicant's account, and shall refund to the applicant any overpayments made from the date of the application. If the amount overpaid is less than the full amount of the customer's bill, the refund shall be in the form of a credit against the customer's next bill. If the amount overpaid equals or exceeds the full amount of the customer's prior bill, then the overpayment shall be refunded directly to the customer within 30 days after the date the credit is approved.

#### **Section 13.16.150 Stormwater service connections.**

A. No stormwater service connection shall be installed, repaired, maintained or replaced except by a licensed plumber who has first notified the Public Works Department. All such work shall be subject to the approval of the Public Works Department and shall be performed in accordance with the rules, regulations, standards and practices of the Public Works Department.

B. Any person who performs any work on a stormwater service connection shall first obtain a permit from the Village as provided in Title 15 of this Code. All such work shall be done in accordance with the terms of the permit authorizing the work and with the rules, regulations, standards and practices of the Public Works Department.

C. Penalties. Any person who engages in any work on a stormwater service connection that requires a permit, without first obtaining such permit, shall be subject to such additional fines, fees and penalties as may be set by the Village Council from time to time pursuant to Title 15 of this Code.

D. Responsibility of Owner. The installation, connection, alteration, maintenance, repair and replacement of stormwater service connections shall be at the sole expense of the owner of the premises to which the water service is supplied.

E. This section does not apply to work performed by employees of the Village.

#### **Section 13.16.160 Interference with stormwater system.**

A. No person shall alter, interfere with or disturb the stormwater system or appurtenances thereto without the permission of the Village Manager or his/her designee.

B. No person shall willfully or negligently break, injure or deface such stormwater system and appurtenances, or commit any act which is intended to or which shall obstruct or impair the intended use thereof.

**Section 13.16.170 Responsibility for damage to stormwater system.**

A. Damage to stormwater utility system. Any person who causes damage to any part of the Village's stormwater utility system shall be responsible for the cost of repairing such damage. The Village shall have the sole discretion and authority to determine the nature and extent of the damage and necessary repairs, the manner in which such repairs shall be done, and the persons who shall perform such repairs.

B. Damage to stormwater service connections. Any person who causes damage to any part of any service connection in the Village's stormwater utility system shall be responsible for the cost of repairing such damage. The Village shall have the sole discretion and authority to determine the nature and extent of the damage and necessary repairs, the manner in which such repairs shall be done, and the persons who shall perform such repairs. All such repairs shall be made by a licensed plumber in accordance with all applicable provisions of the rules, regulations, standards and practices of the Public Works Department.

C. Village rights reserved. The Village reserves all rights to recover the cost of repairing any damage to any part of the Village's stormwater utility system or to any part of any service connection in the Village's stormwater utility from the person or persons that caused the damage necessitating the repairs.

**SECTION 3:** Subsection A of Section 1.04.140, "Delinquent accounts," of Chapter 1.04, "General Provisions," of Title 1 of the Winnetka Village Code, "General Provisions," is hereby amended to provide as follows:

A. Delinquent Account Defined. For purposes of this section, any account that is not current and for which the person owing the account has not entered into and remained in compliance with an enforceable payment plan pursuant to subsection C of this section, shall be considered to be a delinquent account. Such accounts shall include, but not be limited to, accounts with unpaid stormwater, water and electric fees, accounts with unpaid fees for false alarms, accounts with unpaid parking tickets, accounts with unpaid license or permit fees, and accounts with unpaid late fees or collection charges.

**SECTION 4:** Chapter 2.48, "Finance Department," of Title 2 of the Winnetka Village Code, "Administration and Personnel," is hereby amended in its entirety to provide as follows:

**Chapter 2.48**  
**FINANCE DEPARTMENT**

**Sections:**

- 2.48.010**      **Creation of Finance Department.**
- 2.48.020**      **Finance Director.**
- 2.48.030**      **Bond.**
- 2.48.040**      **Compensation.**
- 2.48.050**      **Powers and Duties.**
- 2.48.060**      **Purchasing Agent.**
- 2.48.070**      **Requisitions for Supplies, Services and Materials.**
- 2.48.080**      **Approval of Village Bills.**
- 2.48.090**      **Local Tax Administrator.**

**Section 2.48.010**      **Creation of Finance Department.**

There is created the Finance Department, an administrative department of the Village. The Finance Department shall consist of a Finance Director and such other officers and employees as may be provided from time to time by the Council.

**Section 2.48.020**      **Finance Director.**

There is created the office of Finance Director, an administrative office of the Village. The Finance Director shall be appointed by the Village Manager.

**Section 2.48.030**      **Bond.**

Before entering upon the duties of the office of Finance Director, the Finance Director shall execute and file with the Village Clerk a bond with security to be approved by the Council. The bond shall be payable to the Village in the penal sum directed by resolution of the Council, and shall be conditioned upon the faithful performance of the duties of the office of Finance Director, according to law and the ordinances of the Village. The premiums for such bond shall be paid by the Village.

**Section 2.48.040**      **Compensation.**

The compensation of the Finance Director shall be fixed by the Village Council, upon the recommendation of the Village Manager.

**Section 2.48.050**      **Powers and Duties.**

The Finance Director shall be subject to the control and direction of the Village Manager and shall be head of the Finance Department. Subject to the approval of the Village Manager, the Finance Director shall have both control over all of the property and employees of the Finance Department and the power to appoint and remove such employees as may be required for the efficient operation of the Department. In addition to the duties required by state law, the Finance Director shall have the following duties, functions and responsibilities:

1. To assist the Budget Officer in the preparation of the annual budgets, and to prepare tax levy and tax abatement ordinances;

2. To supervise all expenditures of the Village and to maintain accurate records of such expenditures;
3. To keep the financial records of the Village;
4. To oversee all purchases made by the Village and to develop and recommend procedures for such purchases;
5. To prepare financial reports and statements;
6. To issue bills and collect fees for water, electric, sewer, refuse, stormwater and other services rendered by the Village;
7. To invest Village funds with the approval of the Treasurer;
8. To collect, and to maintain accurate records of, the following: all special assessments; all cash deposits required by the Village, including deposits for electric, sewer, water and stormwater service; all fees for licenses and permits issued by the Village; and all payments of fines and fees, as provided in this code;
9. To collect late fees and to recover costs related to the collection of any unpaid or delinquent fees, fines, deposits or other payments due and owing to the Village;
10. To retain deposits and excess payments that may otherwise be subject to refunds, for the sole purpose of applying the retained amount to pay all or part of a delinquent account owed by the person making the deposit;
11. To develop and implement procedures to detect, prevent, and mitigate the impact of identity theft in accordance with section 4.04.020 of this Code and applicable federal laws, rules and regulations; and
12. To perform such other services as may be required by the Village Manager.

**Section 2.48.060 Purchasing Agent.**

The Finance Director shall be ex officio Purchasing Agent for the Village, and shall purchase all supplies, services and materials for use in all departments of the Village, pursuant to the written purchasing policy developed by the Village Manager as provided in this code.

**Section 2.48.070 Requisitions for Supplies, Services and Materials**

Upon the receipt of a requisition made by the proper officer of any Village department in conformity with the purchasing policy for the purchase of any supplies, services or materials for use in that department, the Purchasing Agent shall issue a purchaser order, which shall be numbered and approved in accordance with the purchasing policy.

**Section 2.48.080 Approval of Village Bills.**

All bills rendered against the Village will be certified as correct by the Finance Director and approved for payment by the Village Manager before being submitted to the Treasurer and the Council.

(Ord. MC-228-99 § 1 (part), 1999: prior code § 3.05)

**Section 2.48.090 Local Tax Administrator.**

The Finance Director shall be ex-officio Local Tax Administrator for the Village, and shall be responsible for administering and collecting all locally imposed and administered taxes, as provided in the Local Taxpayers' Rights and Responsibilities Ordinance, Chapter 4.44 of this Code.

(MC-7-2008 § 2, Amended, 11/6/2008; MC-9-2000, Amended, 01/02/2001, Paragraph I added, Local Tax Administrator)

**SECTION 5:** Chapter 2.64, "Department of Public Works," of Title 2 of the Winnetka Village Code, "Administration and Personnel," is hereby amended in its entirety to provide as follows:

**Chapter 2.64  
DEPARTMENT OF PUBLIC WORKS**

**Sections:**

- 2.64.010 Creation of Department of Public Works.**
- 2.64.020 Director of Public Works.**
- 2.64.030 Compensation.**
- 2.64.040 Powers and Duties.**

**Section 2.64.010 Creation of Department of Public Works.**

There is created the Department of Public Works, an administrative department of the Village. The Department of Public Works shall consist of a Director of Public Works and such other officers and employees as may be provided from time to time by the Council.

**Section 2.64.020 Director of Public Works.**

There is created the office of Director of Public Works, an administrative office of the Village. The Director of Public Works shall be appointed by the Village Manager.

**Section 2.64.030 Compensation.**

The compensation of the Director of Public Works shall be fixed by the Village Manager, with the approval of the Council.

**Section 2.64.040 Powers and Duties.**

The Director of Public Works shall be subject to the control and direction of the Village Manager and shall be head of the Department of Public Works. Subject to the approval of the Village Manager, the Director of Public Works shall have both control over all of the

property and employees of the Department of Public Works and the power to appoint and remove employees as required for the efficient operation of the Department. In addition, the Director of Public Works shall have the following duties, functions and responsibilities:

1. To maintain all public streets, alleys, roads, bridges, culverts, sidewalks and other structures pertaining to such public streets, alleys, roads, bridges, culverts, sidewalks and other structures in the Village;
2. To operate and maintain all public sewers and drains in the Village;
3. To maintain and protect trees located in the public streets and upon other public property;
4. To maintain all buildings, grounds and equipment belonging to the Village, except that which is expressly delegated to the supervision of other officers and departments;
5. To operate the municipal waste system in accordance with the provisions of Chapter 8.16 of this code.
6. To operate and maintain the stormwater utility system in accordance with the provisions of Chapter 13.16 of this code.

(Ord. MC-228-99 § 1 (part), 1999; Ord. MC-192-97 § 3, 1997; prior code § 3.09)

**SECTION 6:** This Ordinance is passed by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

**SECTION 7:** This Ordinance shall take effect immediately upon its passage, approval and publication as provided by law.

**PASSED** this 18<sup>th</sup> day of February, 2014, pursuant to the following roll call vote:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**APPROVED** this 18<sup>th</sup> day of February, 2014.

Signed:

\_\_\_\_\_  
Village President

Countersigned:

\_\_\_\_\_  
Village Clerk

Published by authority of the  
President and Board of Trustees

of the Village of Winnetka,  
Illinois, this \_\_\_\_\_ day of  
\_\_\_\_\_ 2014.

Introduced: February 4, 2014

Passed and Approved:

**ATTACHMENT 1**

**MC-2-2014**

**Original Partnership Credit Provision**

**Excerpted from February 4, 2014 Draft**

**MC-2-2014**

**Original Credit Provision, from February 4, 2014 Draft**

**Section 13.16.130 Exemptions from stormwater utility fee.**

A. Public Rights-of-Way. Dedicated public rights-of-way, such as roadways, sidewalks and alleys, shall not be subject to the stormwater utility fee.

B. The Village Council recognizes that, in certain unique circumstances, some institutions in the Village, such as schools, parks and churches, have sufficient resources that, in addition to complying with applicable stormwater detention requirements, they are also able to provide significant stormwater management assistance to the Village, through such actions as the donation of land for use in the stormwater system, significant capital contributions for the stormwater system or other such activities. The Village Council reserves the sole and exclusive right and discretion to enter into agreements with such owners to provide for such contributions to the Village's stormwater system, and to grant an exemption to such owners from all or part of the stormwater utility fee in exchange for such contribution.

**ATTACHMENT 2**

**City of Highland Park  
Stormwater Credit Provision**

## **Highland Park Credit Provisions**

### **E. Credits and Reimbursement.**

1. Any property owner whose property does not impact on the Village stormwater utility system to the extent of the Stormwater Utility Fee charged to that property by this Section may apply for a credit against the Stormwater Utility Fee.

2. Applications for credits against the Stormwater Utility Fee filed pursuant to this Subsection shall be filed in writing with the City Engineer, along with documentation required by the City Engineer for the assessment of the application, which documentation shall include, without limitation:

a. Detailed specifications of any on-site cleaning of stormwater performed prior to discharge into the City stormwater utility system, along with sufficient evidence that any on-site cleaning system is in good working order and is maintained on a regular basis;

b. Topographical depictions of the runoff patterns and directions of all stormwater emanating from the relevant property that does not impact the City stormwater utility system; and

c. Relevant photographic evidence in support of the application.

3. The Village Engineer shall review an application for a credit against the Stormwater Utility Fee, and shall either grant or deny the requested credit, within 30 days after the date on which the application is received. The amount of the credit shall be in the amount set forth in the Annual Fee Resolution. The Village Engineer shall only grant the requested credit upon determining, in his or her discretion, that either:

a. Not less than one half of the stormwater emanating from the relevant property is detained and cleaned, in accordance with effective engineering practices and techniques, prior to discharge into the Village stormwater utility system; or

b. The emanation of stormwater from the relevant property has no impact on the Village stormwater utility system.

4. The Finance Director shall apply credits granted by the Village Engineer to the applicant's account, and shall refund any overpaid monies to the applicant within 30 days of receipt of the Village Engineer's review of the application.

**ATTACHMENT 3**

**ORDINANCE MC-2-2014**

**(with red-line tracking of changes since introduction)**

**AN ORDINANCE  
ADDING A NEW CHAPTER 13.16 TO TITLE 13  
AND MAKING RELATED AMENDMENTS  
TO THE WINNETKA VILLAGE CODE  
TO ESTABLISH A STORMWATER UTILITY**

**WHEREAS**, the Village of Winnetka (“Village”) is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970 and, pursuant thereto, has the authority, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the government and affairs of the Village, including the power to regulate for the protection of the public health, safety and welfare; and

**WHEREAS**, the Village owns and operates a system of storm sewers, drains, pipes, pump stations and outlets that collects stormwater that drains from properties located within the corporate limits of the Village and transports that stormwater for delivery into open watercourses (“Stormwater System”); and

**WHEREAS**, the principal watercourses that drain stormwater runoff from the Village are the Skokie River and Lake Michigan; and

**WHEREAS**, in response to a series of storms that inundated numerous areas of the Village, the Village has embarked on the development and implementation of a stormwater management plan that provides for a series of capital improvements, upgrades and additions to the Stormwater System throughout the Village (“Stormwater Projects”); and

**WHEREAS**, the Winnetka Village Council (“Village Council”) finds and determines that, due to the high cost of some of the Stormwater Projects and the long life of stormwater facilities once they are in place, it is in the best interests of the Village and its residents that the cost of the Stormwater Projects be spread over a long period of time, so that, to the extent reasonably possible, the Stormwater Projects are paid for as the improvements are used and current users of the Stormwater System do not pay for the use of the Stormwater System by future users; and

**WHEREAS**, the Village Council finds and determines that, in order to provide an effective and long term approach to stormwater management within the Village, it is necessary to provide an adequate and stable revenue stream for the Stormwater Projects and for the operation and maintenance of the Stormwater System; and

**WHEREAS**, the Village Council finds and determines that all land in the Village contributes to stormwater runoff and either uses or benefits from the maintenance of the Stormwater System; and

**WHEREAS**, the Village Council finds and determines that it is in the best interests of the health, safety and general welfare of the Village and its residents that the Stormwater System be operated as a municipal utility that is funded through user fees rather than property taxes; and

**WHEREAS**, the Village Council finds and determines that owning and operating the Stormwater System, and financing the operation, maintenance and improvement of the

Stormwater System through user fees, are matters pertaining to the government and affairs of the Village.

**NOW, THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Winnetka, as follows:

**SECTION 1:** The foregoing recitals are hereby incorporated as the findings of the Council of the Village of Winnetka, as if fully set forth herein.

**SECTION 2:** Title 13 of the Winnetka Village Code, “Municipal Utility Services,” is hereby amended by adding a new Chapter 13.16, which shall be titled “Stormwater Utility System” and shall provide as follows:

### **Chapter 13.16 Stormwater Utility System**

**Sections:**

- |                         |   |
|-------------------------|---|
| <b>13.16.010</b>        | <b>Legislative findings, policy and purpose.</b>              |
| <b>13.16.020</b>        | <b>Definitions.</b>   |
| <b>13.16.030</b>        | <b>Stormwater utility established.</b>                        |
| <b>13.16.040</b>        | <b>Scope of responsibility of stormwater utility.</b>         |
| <b>13.16.050</b>        | <b>Rules and regulations.</b>                                 |
| <b>13.16.060</b>        | <b>Charges for stormwater utility service.</b>                |
| <b>13.16.070</b>        | <b>Stormwater utility fee.</b>                                |
| <b>13.16.080</b>        | <b>Billing and collection procedures.</b>                     |
| <b>13.16.090</b>        | <b>Effect of nonpayment of bill.</b>                          |
| <b>13.16.100</b>        | <b>Requests for adjustment of the stormwater utility fee.</b> |
| <b>13.16.110</b>        | <b>Stormwater utility fund.</b>                               |
| <b>13.16.120</b>        | <b>Impervious area database.</b>                              |
| <b>13.16.130</b>        | <b>Exemptions from stormwater utility fee.</b>                |
| <b><u>13.16.140</u></b> | <b><u>Credits.</u></b>  |
| <b><u>13.16.150</u></b> | <b><u>Stormwater service connections.</u></b>                 |
| <b><u>13.16.160</u></b> | <b><u>Interference with stormwater system.</u></b>            |
| <b><u>13.16.170</u></b> | <b><u>Responsibility for damage to stormwater system.</u></b> |

**Section 13.16.010 Legislative findings; policy and purpose.**

A. Legislative findings. The Village Council finds:

1. that all real property in the Village contributes to runoff and either uses or benefits from the maintenance of the stormwater system;
2. that, in order to provide an effective and long term approach to stormwater management within the Village, it is necessary to provide an adequate and stable revenue stream for the construction, maintenance, operation and improvement of the Village of Winnetka stormwater system; and

3. that it is in the best interests of the health, safety and general welfare of the Village, its residents and property owners, that the Village of Winnetka stormwater system be operated as a municipal utility that is funded through user fees.

B. Statement of policy.

1. It is the policy of the Village of Winnetka to provide a dedicated funding source for the construction, maintenance, operation and improvement of stormwater facilities in the Village, so that the Village is able to proactively manage stormwater for the benefit of all residents and owners of real property within the Village.

2. It is the policy of the Village of Winnetka that, except as provided in this chapter, the owner or owners of any real property in the Village that uses or benefits from the Village's stormwater system be charged a stormwater utility fee, whether or not the owner or parcel is exempt from taxation.

C. Purpose. The purpose of this chapter is to establish a stormwater utility to protect the public health, safety and welfare of the residents of the Village of Winnetka from damage to property and local waterways from stormwater runoff and floods, through the construction and operation of flood reduction and control facilities, and through water quality management and floodplain management. It is also the purpose of this chapter to provide an effective and long-term approach to stormwater management within the Village by identifying and providing an adequate and stable funding source for stormwater management.

**Section 13.16.020 Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

*Credit means a conditional, recurring reduction in the amount of a stormwater user fee to an individual property that meets the qualification standards established in this Chapter and the Rules and Regulations of the Village of Winnetka Stormwater Utility.*

*Developed Land* means a parcel within the corporate limits of the Village that has been altered from its natural state by the addition of impervious area.

*Direct Discharge* means the conveyance of stormwater runoff directly from a parcel of property to a receiving stream or Lake Michigan, without using any part of the stormwater system.

*Equivalent Runoff Unit (ERU)* means the base billing unit for the stormwater utility fee, used as an index to compare runoff generated by different types and uses of parcels with different stormwater runoff characteristics. One ERU is defined as the runoff generated by a typical single family residential parcel and shall equal three thousand four hundred (3,400) square feet of impervious area or any fraction thereof.

*Impervious Area* means the area within a parcel that prevents or significantly impedes the infiltration of stormwater into the soil. Impervious areas shall include, but are not limited to buildings, roofed structures, paved areas, walkways, driveways, parking lots, patios, decks, swimming pools, and similar non-porous areas.

*NPDES* or *National Pollutant Discharge Elimination System* means the national permitting program implemented under the Clean Water Act.

*Parcel* means an area of land within the corporate limits of the Village that has been established by a plat or other legal means and has been assigned a Property Index Number (PIN) by the County of Cook, Illinois.

*Stormwater Service Connection* means such pumps, pipes, drains and other appurtenances necessary to drain and channel runoff from any parcel into the Village of Winnetka stormwater system.

| *Stormwater System*, or *Village ~~of Winnetka~~ Stormwater System*, means the system of conveyances owned and operated by the Village and designed for or used in the collection, control, transportation, treatment or discharge of stormwater, including but not limited to storm sewers, storm drains, curbs, gutters, ditches, detention ponds or basins, dams, river impoundment, manmade channels or storm drains, and flood control facilities, and any appurtenances thereto.

| *Stormwater Utility, or Village Stormwater Utility*, means the Village of Winnetka stormwater utility established by this chapter for the management, operation, maintenance, engineering, planning and capital investments related to the stormwater system.

*Undeveloped Parcel* means a parcel of land that remains in its natural state with no impervious area.

*User* means the owner of a parcel that uses, benefits from or connects to the Village's stormwater system.

**Section 13.16.030 Stormwater utility established.**

A. Stormwater Utility. The Village hereby establishes a stormwater utility to provide for the management, operation, maintenance, engineering, planning, construction, enhancement and rehabilitation of the Village's stormwater system, as defined in this chapter.

B. Terms and Conditions of Service. All stormwater management service within the Village shall be provided in accordance with the provisions of this chapter and the rules and regulations promulgated pursuant to this chapter.

**Section 13.16.040 Scope of responsibility of stormwater utility.**

A. The stormwater utility shall be responsible for the operation, maintenance, management and improvement of the stormwater system owned by the Village in accordance with all applicable permits, licenses and regulations, including all activities required by the NPDES Stormwater Permit.

B. The Village of Winnetka stormwater utility shall be operated by the Department of Public Works established in Chapter 2.64 of this code.

**Section 13.16.050 Rules and regulations.**

The Village Manager shall adopt such rules and regulations as may be necessary to give effect to and explain the provisions of this chapter. The Director of Public Works shall make recommendations to the Village Manager regarding the content of the rules and regulations and shall enforce the rules and regulations once they are adopted.

**Section 13.16.060 Charges for stormwater utility service.**

A. Establishing Rates and Fees. Effective July 1, 2014, the owner of any parcel that uses, benefits from or connects to the stormwater utility shall be charged for such service in accordance with rates, fees and charges established from time to time by resolution of the Village Council. All resolutions setting or amending rates, fees and other charges for stormwater utility service shall be introduced at one meeting and adopted at a subsequent meeting.

B. Basis of Rates and Fees. The stormwater utility fee shall be based on the extent to which each parcel creates a need for stormwater management; the amount of impervious area on each parcel; and the cost of operating, maintaining, and improving the stormwater system.

**Section 13.16.070 Stormwater utility fee.**

A. Fee Imposed. A stormwater utility fee is hereby imposed on the owners of property in the Village. The stormwater utility fee for all parcels in the Village shall be based on the measured number of ERUs on the parcel, rounded to the nearest 10<sup>th</sup> of an ERU. Parcels with an impervious area of 170 square feet or less shall not be subject to the stormwater utility fee.

B. Fee Resolution. The stormwater utility fee shall be set by resolution as provided in section 13.16.060 of this Chapter.

C. Fee components. The stormwater utility fee shall consist of the sum of the following:

1. Base Fee. The base fee shall be the amount to be charged each month per ERU in order to produce the amount of principal and interest on any outstanding stormwater utility system debt that is due and payable during the fiscal year for which the Base Fee is calculated. ~~Notwithstanding the foregoing, the Base Fee for 2014 shall be that portion of principal and interest on outstanding stormwater utility system debt that will become due and payable in the second half of the 2014 Fiscal Year.~~

2. Such other rates, fees and charges that the Village Council determines are necessary to recover all costs related to operating, maintaining and improving the stormwater system utility.

**Section 13.16.080 Billing and collection procedures.**

A. Issuance of bill. The Finance Department shall issue all bills for stormwater utility fees.

1. For users of the stormwater system that have an existing utility account with the Village, the Finance Department may include the stormwater utility fee on the same statement issued for such other utility service.

2. The Finance Department may issue a separate bill to the owner of any parcel that does not have an existing utility account with the Village. If the owner of such parcel has not provided the Finance Department with a billing address, then the Finance Department may mail the stormwater utility bill to the same person who receives property tax bills for that parcel.

B. Responsibility for payment. The owner of any parcel, building or premises and the occupant thereof and the customer of the utility service of said system shall be jointly and severally liable to pay for such stormwater utility fee for said premises.

C. Application of payments. If the stormwater utility fee is included on a common statement and the user does not pay the total amount due on the statement, the payment shall be applied first to the stormwater utility fee. If any amount on a utility bill is past due, the payment will first be applied to such past due amounts.

**Section 13.16.090 Effect of nonpayment of bill.**

A. Additional Charges for Failure to Pay Bill. If any bill for stormwater service is not paid by the date due, as shown on the utility bill, a late payment penalty of five percent shall be added to the bill and collected from the user.

B. Collection Costs. Any unpaid bill that is turned over for collection shall be subject to an additional charge, the amount of which shall be established by the Village Manager, upon the recommendation of the Finance Director, in an amount sufficient to recover the Village's costs of carrying and collecting the debt.

C. Unpaid Accounts Constitute Lien. All unpaid amounts of rates, fees and charges for stormwater utility service shall constitute a lien against the property to which service was provided, to the extent such lien is authorized by law.

D. Effect of Delinquent Accounts. All delinquent stormwater utility accounts shall be subject to the provisions of Section 1.04.140 of this code. In addition, no person with a delinquent stormwater utility account shall be allowed either a new utility service at another location in the Village, or a change or upgrade of the service at the premises for which the delinquent account has accrued, unless the account is paid in full.

**Section 13.16.100 Requests for adjustment of the stormwater utility fee.**

A. The owner of a parcel, or the owner's authorized agent, may request correction of the stormwater utility fee by submitting a written request to the Village Manager or his or her designee on or before the date payment is due. The owner of the parcel is solely responsible for initiating any review of the amounts of the stormwater utility fee. Grounds for correction of the stormwater utility fee include:

1. Incorrect classification of the property for purposes of determining the fee;
2. Errors in the square footage of the impervious surface area of the property;
3. Mathematical errors in calculating the fee to be applied to the property; and

4. Errors in the identification of the owner of a parcel subject to the fee.

B. The Village Manger shall make a determination within 30 days after receipt of the property owner's completed written request for correction of the fee. The Village Manager's decision on a request for correction of the fee shall be final.

C. Any owner of a parcel who submits a request for correction of a fee shall comply with all rules and procedures adopted by the Village and must provide all information necessary for the Village Manager to make a determination on the request for correction of the fee. Failure to comply with the provisions of this subsection shall be grounds for denial of the request.

D. If an adjustment or correction is approved by the Village, the adjustment will be incorporated into the stormwater utility fee calculation for the specified parcel and will apply to the next regularly generated bill.

**Section 13.16.110 Stormwater utility fund.**

A. Revenues. All revenues from the stormwater utility fee shall be deposited in the stormwater utility enterprise fund and shall be used solely for the operation, maintenance, expansion and rehabilitation of the stormwater infrastructure as deemed appropriate by the Village Council.

B. Financial records. The Finance Director shall maintain and report on the financial records of the stormwater utility in accordance with generally accepted government accounting principles.

**Section 13.16.120 Impervious area database.**

The impervious area for all parcels in the Village is established by the Village. The Village shall maintain an impervious area database for all parcels within the Village which will serve as the basis for determination of the number of ERUs associated with each parcel. The database will be based on available information, including geographic information systems analysis, aerial photographs, mapping information, site examination and other available information, and will be periodically updated based on available information.

**Section 13.16.130 Exemptions from stormwater utility fee.**

~~—A. Public Rights of Way.—~~Dedicated public rights-of-way, such as roadways, sidewalks and alleys, shall not be subject to the stormwater utility fee.

**Section 13.16.140 Credits.**

**A. Partnership Credits.**

1. The Village Council recognizes that, in certain unique circumstances, some institutions in the Village, such as schools, parks and churches, have sufficient resources that, in addition to complying with applicable stormwater detention requirements, they are also able to provide significant stormwater management assistance to the Village, through such actions as the donation of land for use in the stormwater system, significant capital contributions for the stormwater system or other such activities. The Village

Council reserves the sole and exclusive right and discretion to enter into agreements with such owners to provide for such contributions to the Village's stormwater system, and to grant a credit to such owners for all or part of the stormwater utility fee in exchange for such contribution.

2. To avoid delay in the design and construction of stormwater projects, and to assure that a proposed partnership credit will not shift the costs of stormwater compliance from the party proposing the partnership to the other users of the stormwater system, the Village reserves the sole and exclusive right and discretion to limit the time period during which requests or proposals for partnerships for any stormwater project may be submitted and considered.

#### B. Individual Credits.

1. Any property owner whose property does not impact on the Village stormwater utility system to the extent of the stormwater utility fee charged to that property pursuant to section 13.16.070 may apply for one of the following credits against the stormwater utility fee:

a. A credit of up to 50% if not less than one half of the stormwater emanating from the relevant property for the 100-year design storm is detained and cleaned, in accordance with effective engineering practices and techniques, prior to discharge into the Village stormwater utility system; or

b. A credit of 100% if none of the stormwater emanating from the parcel in question discharges into the Village stormwater utility system, either directly or indirectly.

2. Applications for credits against the stormwater utility fee filed pursuant to this subsection shall be filed in writing with the Village Manager or his or her designee, along with documentation that the Rules and Regulations of the Village of Winnetka Stormwater Utility require for the assessment of the application, which documentation shall include, but not be limited to:

a. Detailed specifications of any on-site cleaning of stormwater performed prior to discharge into the Village stormwater utility system, along with sufficient evidence that any on-site cleaning system is in good working order and is maintained on a regular basis;

b. Topographical depictions of the runoff patterns and directions of all stormwater emanating from the relevant property that does not impact the Village stormwater utility system; and

c. Relevant photographic evidence in support of the application.

3. The Village Engineer shall review an application for a credit against the stormwater utility fee, and shall either grant or deny the requested credit, within 60 days after the date on which the application is received. The Village Engineer shall only grant the requested credit upon determining, in the exercise of his professional judgment that the applicant meets the criteria for the credit, as defined in paragraph 1 of this subsection.

4. The owner of any parcel granted a credit under this subsection shall be responsible for keeping the qualifying private stormwater management facilities in good

working order, and shall provide an annual report of maintenance and repair activities to the Village Engineer, and the Village shall have the right to enter on the property to inspect the private stormwater maintenance facilities to confirm that they remain in good working order. Failure by the owner to maintain the private stormwater management facilities will result in the loss of stormwater utility fee credits.

5. Provided the owner has continued to maintain the private stormwater maintenance facilities as required by paragraph 4 of this subsection, a stormwater utility fee credit granted under this subsection shall remain in effect for 5 years from the date of approval. The owner of the property in question may apply for renewal of the credits for successive 5-year periods, subject to meeting all of the applicable conditions then in effect. The approval of a stormwater fee credit shall not create a property right to renew or be granted a credit upon the expiration of the credit's 5-year term.

C. Application of credits; refund of overpayments. The Finance Director shall apply approved credits to the applicant's account, and shall refund to the applicant any overpayments made from the date of the application. If the amount overpaid is less than the full amount of the customer's bill, the refund shall be in the form of a credit against the customer's next bill. If the amount overpaid equals or exceeds the full amount of the customer's prior bill, then the overpayment shall be refunded directly to the customer within 30 days after the date the credit is approved.

**Section 13.16.150-13.16.140 Stormwater service connections.**

A. No stormwater service connection shall be installed, repaired, maintained or replaced except by a licensed plumber who has first notified the Public Works Department. All such work shall be subject to the approval of the Public Works Department and shall be performed in accordance with the rules, regulations, standards and practices of the Public Works Department.

B. Any person who performs any work on a stormwater service connection shall first obtain a permit from the Village as provided in Title 15 of this Code. All such work shall be done in accordance with the terms of the permit authorizing the work and with the rules, regulations, standards and practices of the Public Works Department.

C. Penalties. Any person who engages in any work on a stormwater service connection that requires a permit, without first obtaining such permit, shall be subject to such additional fines, fees and penalties as may be set by the Village Council from time to time pursuant to Title 15 of this Code.

D. Responsibility of Owner. The installation, connection, alteration, maintenance, repair and replacement of stormwater service connections shall be at the sole expense of the owner of the premises to which the water service is supplied.

E. This section does not apply to work performed by employees of the Village.

**Section 13.16.160-13.16.150 Interference with stormwater system.**

A. No person shall alter, interfere with or disturb the stormwater system or appurtenances thereto without the permission of the Village Manager or his/her designee.

B. No person shall willfully or negligently break, injure or deface such stormwater system and appurtenances, or commit any act which is intended to or which shall obstruct or impair the intended use thereof.

**Section ~~13.16.170-13.16.160~~ Responsibility for damage to stormwater system.**

A. Damage to stormwater utility system. Any person who causes damage to any part of the Village's stormwater utility system shall be responsible for the cost of repairing such damage. The Village shall have the sole discretion and authority to determine the nature and extent of the damage and necessary repairs, the manner in which such repairs shall be done, and the persons who shall perform such repairs.

B. Damage to stormwater service connections. Any person who causes damage to any part of any service connection in the Village's stormwater utility system shall be responsible for the cost of repairing such damage. The Village shall have the sole discretion and authority to determine the nature and extent of the damage and necessary repairs, the manner in which such repairs shall be done, and the persons who shall perform such repairs. All such repairs shall be made by a licensed plumber in accordance with all applicable provisions of the rules, regulations, standards and practices of the Public Works Department.

C. Village rights reserved. The Village reserves all rights to recover the cost of repairing any damage to any part of the Village's stormwater utility system or to any part of any service connection in the Village's stormwater utility from the person or persons that caused the damage necessitating the repairs.

**SECTION 3:** Subsection A of Section 1.04.140, "Delinquent accounts," of Chapter 1.04, "General Provisions," of Title 1 of the Winnetka Village Code, "General Provisions," is hereby amended to provide as follows:

A. Delinquent Account Defined. For purposes of this section, any account that is not current and for which the person owing the account has not entered into and remained in compliance with an enforceable payment plan pursuant to subsection C of this section, shall be considered to be a delinquent account. Such accounts shall include, but not be limited to, accounts with unpaid stormwater, water and electric fees, accounts with unpaid fees for false alarms, accounts with unpaid parking tickets, accounts with unpaid license or permit fees, and accounts with unpaid late fees or collection charges.

**SECTION 4:** Chapter 2.48, "Finance Department," of Title 2 of the Winnetka Village Code, "Administration and Personnel," is hereby amended in its entirety to provide as follows:

**Chapter 2.48**  
**FINANCE DEPARTMENT**

**Sections:**

**2.48.010      Creation of Finance Department.**

**2.48.020      Finance Director.**

**2.48.030      Bond.**

**2.48.040      Compensation.**

**2.48.050      Powers and Duties.**

**2.48.060      Purchasing Agent.**

**2.48.070      Requisitions for Supplies, Services and Materials.**

**2.48.080      Approval of Village Bills.**

**2.48.090      Local Tax Administrator.**

**Section 2.48.010      Creation of Finance Department.**

~~—A. Creation.~~ There is created the Finance Department, an administrative department of the Village. The Finance Department shall consist of a Finance Director and such other officers and employees as may be provided from time to time by the Council.

**Section 2.48.020      Finance Director.**

~~—B. Finance Director.~~ There is created the office of Finance Director, an administrative office of the Village. The Finance Director shall be appointed by the Village Manager.

**Section 2.48.030      Bond.**

~~—C. Bond.~~ Before entering upon the duties of the office of Finance Director, the Finance Director shall execute and file with the Village Clerk a bond with security to be approved by the Council. The bond shall be payable to the Village in the penal sum directed by resolution of the Council, and shall be conditioned upon the faithful performance of the duties of the office of Finance Director, according to law and the ordinances of the Village. The premiums for such bond shall be paid by the Village.

**Section 2.48.040      Compensation.**

~~—D. Compensation.~~ The compensation of the Finance Director shall be fixed by the Village Council, upon the recommendation of the Village Manager.

**Section 2.48.050      Powers and Duties.**

~~—E. Powers and Duties.~~ The Finance Director shall be subject to the control and direction of the Village Manager and shall be head of the Finance Department. Subject to the approval of the Village Manager, the Finance Director shall have both control over all of the property and employees of the Finance Department and the power to appoint and remove such employees as may be required for the efficient operation of the Department. In addition to the duties required by state law, the Finance Director shall have the following duties, functions and responsibilities:

1. To assist the Budget Officer in the preparation of the annual budgets, and to prepare tax levy and tax abatement ordinances;
2. To supervise all expenditures of the Village and to maintain accurate records of such expenditures;
3. To keep the financial records of the Village;
4. To oversee all purchases made by the Village and to develop and recommend procedures for such purchases;
5. To prepare financial reports and statements;
6. To issue bills and collect fees for water, electric, sewer, refuse, stormwater and other services rendered by the Village;
7. To invest Village funds with the approval of the Treasurer;
8. To collect, and to maintain accurate records of, the following: all special assessments; all cash deposits required by the Village, including deposits for electric, sewer, ~~and~~ water and stormwater service; all fees for licenses and permits issued by the Village; and all payments of fines and fees, as provided in this code;
9. To collect late fees and to recover costs related to the collection of any unpaid or delinquent fees, fines, deposits or other payments due and owing to the Village;
10. To retain deposits and excess payments that may otherwise be subject to refunds, for the sole purpose of applying the retained amount to pay all or part of a delinquent account owed by the person making the deposit;
11. To develop and implement procedures to detect, prevent, and mitigate the impact of identity theft in accordance with section 4.04.020 of this Code and applicable federal laws, rules and regulations; and
12. To perform such other services as may be required by the Village Manager.

**Section 2.48.060 Purchasing Agent.**

~~F. Purchasing Agent.~~ The Finance Director shall be ex officio Purchasing Agent for the Village, and shall purchase all supplies, services and materials for use in all departments of the Village, pursuant to the written purchasing policy developed by the Village Manager as provided in this code.

**Section 2.48.070 Requisitions for Supplies, Services and Materials**

~~G. Requisitions for Supplies, Services and Materials.~~ Upon the receipt of a requisition made by the proper officer of any Village department in conformity with the purchasing policy for the purchase of any supplies, services or materials for use in that department, the Purchasing Agent shall issue a purchaser order, which shall be numbered and approved in accordance with the purchasing policy.

**Section 2.48.080 Approval of Village Bills.**

~~H. Approval of Village Bills.~~ All bills rendered against the Village will be certified as correct by the Finance Director and approved for payment by the Village Manager before being submitted to the Treasurer and the Council.

(Ord. MC-228-99 § 1 (part), 1999: prior code § 3.05)

**Section 2.48.090 Local Tax Administrator.**

~~I. Local Tax Administrator.~~ The Finance Director shall be ex-officio Local Tax Administrator for the Village, and shall be responsible for administering and collecting all locally imposed and administered taxes, as provided in the Local Taxpayers' Rights and Responsibilities Ordinance, Chapter 4.44 of this Code.

(MC-7-2008 § 2, Amended, 11/6/2008; MC-9-2000, Amended, 01/02/2001, Paragraph I added, Local Tax Administrator)

**SECTION 5:** Chapter 2.64, "Department of Public Works," of Title 2 of the Winnetka Village Code, "Administration and Personnel," is hereby amended in its entirety to provide as follows:

**Chapter 2.64  
DEPARTMENT OF PUBLIC WORKS**

**Sections:**

- 2.64.010 Creation of Department of Public Works.**
- 2.64.020 Director of Public Works.**
- 2.64.030 Compensation.**
- 2.64.040 Powers and Duties.**

**Section 2.64.010 Creation of Department of Public Works.**

~~A. Creation.~~ There is created the Department of Public Works, an administrative department of the Village. The Department of Public Works shall consist of a Director of Public Works and such other officers and employees as may be provided from time to time by the Council.

**Section 2.64.020 Director of Public Works.**

~~B. Director of Public Works.~~ There is created the office of Director of Public Works, an administrative office of the Village. The Director of Public Works shall be appointed by the Village Manager.

**Section 2.64.030 Compensation.**

~~C. Compensation.~~ The compensation of the Director of Public Works shall be fixed by the Village Manager, with the approval of the Council.

**Section 2.64.040 Powers and Duties.**

~~D. Powers and Duties.~~ The Director of Public Works shall be subject to the control and direction of the Village Manager and shall be head of the Department of Public Works. Subject to the approval of the Village Manager, the Director of Public Works shall have both control over all of the property and employees of the Department of Public Works and the power to appoint and remove employees as required for the efficient operation of the Department. In addition, the Director of Public Works shall have the following duties, functions and responsibilities:

1. To maintain all public streets, alleys, roads, bridges, culverts, sidewalks and other structures pertaining to such public streets, alleys, roads, bridges, culverts, sidewalks and other structures in the Village;
2. To operate and maintain all public sewers and drains in the Village;
3. To maintain and protect trees located in the public streets and upon other public property;
4. To maintain all buildings, grounds and equipment belonging to the Village, except that which is expressly delegated to the supervision of other officers and departments;
5. To operate the municipal waste system in accordance with the provisions of Chapter 8.16 of this code.

6. To operate and maintain the stormwater utility system in accordance with the provisions of Chapter 13.16 of this code.

(Ord. MC-228-99 § 1 (part), 1999; Ord. MC-192-97 § 3, 1997; prior code § 3.09)

**SECTION 6:** This Ordinance is passed by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

**SECTION 7:** This Ordinance shall take effect immediately upon its passage, approval and publication as provided by law.

**PASSED** this 18<sup>th</sup> day of February, 2014, pursuant to the following roll call vote:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**APPROVED** this 18<sup>th</sup> day of February, 2014.

Signed:

\_\_\_\_\_  
Village President

Countersigned:

\_\_\_\_\_

Village Clerk

Published by authority of the  
President and Board of Trustees  
of the Village of Winnetka,  
Illinois, this \_\_\_\_\_ day of  
\_\_\_\_\_ 2014.

Introduced: February 4, 2014

Passed and Approved: