

ALAN BRUBAKER, P.E., P.S.

SUMMIT COUNTY ENGINEER

November 01, 2011

Bath Township
James Nelson, TASC President
P.O. Box 1188
Bath, OH 44210-1188

Dear Mr. Nelson,

Attached to this letter is the latest revision of the Summit County Surface Water Improvement and Management Program proposal. As you will see, we have changed the current proposal significantly from that which was circulated earlier this year for your review and comment. In addition to changes responding to the concerns raised by local communities during the initial review process the document has been updated to the form of draft legislation.

The current document will be presented to Council in the form of legislation and will add Section 942 to the County of Summit Codified Ordinances. I am seeking your association's input and support of this plan prior to formally submitting it to County Council. As with the input my office received on the initial draft, we will attempt to address any concerns your organization raises prior to formally submitting legislation to Council, and, if we cannot address your concerns directly, we will submit them as part of the overall report to Council that will accompany the legislation.

As I have said, major revisions have been made to our advisory draft proposal based on input from our local communities. The major highlights include:

- The proposal now requires local community acceptance of all projects within each political subdivision. The county district will not be able to construct improvements within a municipality without receiving the local community's consent. Additionally, the local interpretation prevails in disputes between the district and the local community regarding the regional nature of improvements within the municipality. This provision was added to address community concerns regarding conflicts with existing local storm and/or surface water programs.



- The current proposal provides for a reduced initial service charge that will be used by the Surface Water Management Board to provide limited services and a study of future needs for the County. The Board which is made up of community representatives will have the ability to recommend the level of funding provided to conduct the study. This was added to address community concerns about the level of funding required for the study and will give communities input into the study process through the Board.
- The advisory draft proposed a property tax based solution, whereas, the current proposal is based on a utility service charge. Input received from local governments provided a clear preference for this method of funding.
- The current proposal focuses on a regional collaborative approach between all communities in Summit County and existing governmental agencies rather than creating a separate governmental agency or special district. Communities expressed concern about forming an additional layer of bureaucracy to manage regional surface water issues. This proposal will create a Board to provide for local control of setting regional priorities.
- Whereas the advisory draft proposed creation of a single fund to account for surface water expenditures throughout the County, the current proposal clearly establishes two distinct sub funds that will allocate the resources according to the natural division of the County by the continental divide. Service charges paid by county residents north of the continental divide will be maintained separately from service charges paid by county residents located south of the continental divide. This change addresses the concern presented by communities about whether funding would remain within the major watersheds for programs within those areas.
- The current proposal addresses representational concerns expressed by the local communities to ensure that representation is distributed both geographically and by community size.

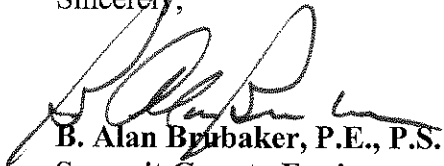
The community input on the advisory draft made it clear that managing surface water issues is important to all of us and I appreciate the level of local involvement we enjoy in Summit County. Unfortunately, many of the issues continue to frustrate our residents and all of us because they are in many ways beyond our ability to control on our own. The County Council and the County Executive recognized the need for regional cooperation in managing surface water issues and mandated my office to develop a proposal to establish a regional countywide effort to help all of us satisfy the growing surface water needs in our communities and region. With this current proposal, we are close to finalizing a collaborative effort to ensure that we are able to address these major concerns for our residents. I would appreciate your association's support of this effort and look forward to your comments on the enclosed document.

ALAN BRUBAKER, P.E., P.S. SUMMIT COUNTY ENGINEER



Please address your comments to David Kelly on or before November 30, 2011. You can contact David at 643-8569 or dkelly@summitengineer.net.

Sincerely,



B. Alan Brubaker, P.E., P.S.
Summit County Engineer

ALAN BRUBAKER, P.E., P.S. SUMMIT COUNTY ENGINEER

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Chapter 942: Surface Water Management Utility

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942.01 PURPOSE.

Article XVIII, Section 4, of the Ohio Constitution authorizes the County to acquire, construct, establish, enlarge, improve, maintain, own, operate, and contract for the operation of a public utility, including structural and natural surface water and drainage systems of all types, to furnish service to the County and its citizens and property owners.

The purpose of this Chapter is to provide for a countywide Surface Water Management Utility to comprehensively address the regional surface water management needs of the County through programs designed to protect and manage water quality and quantity by controlling the level of pollutants in surface water runoff, and the quantity and rate of surface water received and conveyed by structural and natural surface water and drainage systems of all types.

942.02 DEFINITIONS.

For purposes of these rules and regulations, the following words, terms, and phrases shall have the meanings given to them in this Section, except where the context clearly indicates a different meaning:

- (a) "Conventionally developed residential property" shall mean one-, two-, and three-family residential dwellings.
- (b) "Developed land" shall mean a zoning lot or tract of land altered from its natural state to include impervious surface area.
- (c) "Drainage system" shall mean natural and structural channels, swales, ditches, swamps, rivers, streams, creeks, wetlands, branches, reservoirs, ponds, drainage ways, inlets, catch basins, gutters, pipes, culverts, bridges, head walls, storm sewers, lakes, and other physical works, properties, and improvements that transfer, control, convey or otherwise influence the movement of surface water runoff.
- (d) "Equivalent Rate Unit (ERU)" shall mean the measure of impervious surface area that is used by the County as the basis for assessing the surface water management service charge and is equivalent to three thousand (3,000) square feet of impervious surface area.
- (e) "ERU Credits" shall mean on-going reductions in the surface water management service charge applicable to a given zoning lot or tract of land in recognition of private runoff control measures that have a regional impact and are in addition to those surface water management systems required by local or County development regulations.

- (f) "Impervious surface area" shall mean developed areas of land that prevent or significantly impede the infiltration of surface water into the soil. Typical impervious surface areas include, but are not limited to: roofs, sidewalks, walkways, patios, swimming pools, private driveways, parking lots, access extensions, alleys and other paved, engineered, compacted or gravel surfaces containing materials that prevent or significantly impede the natural infiltration of surface water into the soil.
- (g) "Natural state" shall describe existing land, water, soil, and vegetation characteristics that have not been substantially modified or disturbed by the construction or placement of impervious surfaces on the land.
- (h) "Northern District" shall mean all townships and municipalities generally situated north of the Continental Divide, which shall consist of the following: Sagamore Hills Township, Village of Northfield, Northfield Center Township, City of Macedonia, City of Twinsburg, Twinsburg Township, Village of Reminderville, Richfield Township, Village of Richfield, Boston Township, Village of Peninsula, Village of Boston Heights, City of Hudson, Bath Township (part), City of Cuyahoga Falls, City of Stow, Village of Silver Lake, City of Munroe Falls, Copley Township (part), City of Fairlawn (part), City of Akron (part) City of Tallmadge (Summit County portion), Springfield Township (part), Village of Lakemore (part), and Village of Mogadore (Summit County portion). A District map shall be maintained and published by the County Engineer identifying the municipalities and townships wholly or partly within the Northern District, which shall depict all land within those municipalities and townships that is located in the Northern District.
- (i) "Private runoff control measures" shall mean regional surface water facilities and improvements that are constructed and/or maintained by a property owner that provide measurable benefit to regional surface water management.
- (j) "Regional surface water facility and/or improvement" shall mean projects that impact multiple townships or municipalities within the service area due to the fact that the project either contains improvements within multiple townships or municipalities, or contains an improvement within a single township or municipality that has measurable impact on surface water in one or more other townships or municipalities. Provided, however, that a determination by a municipality under Section 942.03(b) of these Codified Ordinances that any facility and/or improvement, or portion thereof, is a local surface water project rather than a regional surface water facility and/or improvement, shall govern and control over this definition.
- (k) "Regional Impact" shall mean the measure to which a surface water facility and/or improvement in one municipality or township influences the surface water of neighboring municipalities or townships as determined by current engineering standards or methods.
- (l) "Service area" shall mean all land within the corporate limits of the County, inclusive of all unincorporated areas and municipal corporations within the corporate limits.
- (m) "Southern District" shall mean all townships and municipalities generally situated south of the Continental Divide, which shall consist of the following: Copley Township (part), Bath Township (part), City of Fairlawn (part), City of Akron (part), City of Norton, City of Barberton, Coventry Township, Springfield Township (part), Village of Lakemore (part), City of New Franklin, City of Green, and Village of Clinton (part). A District map shall be maintained and published by the County Engineer identifying the municipalities and townships wholly or partly within the Southern District, which shall depict all land within those municipalities and townships that is located in the Southern District.
- (n) "Stormwater" shall mean any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snow melt.
- (o) "Surface Water" shall mean any flow, including, but not limited to, stormwater flow or other flow occurring in natural and structural channels, swales, ditches, swamps, rivers, streams, creeks, wetlands, branches, reservoirs, ponds, drainage ways, inlets, catch basins, gutters, pipes, culverts, bridges, head walls,

storm sewers, lakes, and other physical works, properties, and improvements that transfer, control, convey or otherwise influence the movement of water flow.

- (p) "Surface Water Management Board" or "Board" shall mean the board organized and existing pursuant to Section 942.04 of these Codified Ordinances.
- (q) "Surface Water Management Program" shall mean an identified set of regional measures and activities designed to protect, restore, and/or manage surface water quality by controlling and/or reducing pollutants; and to reduce and/or manage surface water quantity by controlling velocity, volume, and/or rate.
- (r) "Surface water management service charge" shall mean a service charge, applicable to a zoning lot or tract of land, that generally reflects the impact on or demand for regional surface water management services provided by the County to properly control and manage surface water runoff quantity and/or quality associated with the zoning lot or tract of land. The surface water management service charge will vary from one zoning lot or tract of land to another, based on the impervious surface area as calculated in ERUs, less any applicable ERU credits.
- (s) "Surface Water Management Utility" shall mean the organizational structure created by this Chapter and governed by the Surface Water Management Board that is responsible for funding, administering, and operating the County's surface water management program, and that is financially supported through the surface water management service charge.
- (t) "Tract" shall mean a parcel of land recorded as a zoning lot.
- (u) "Undeveloped land" shall mean all land that is not altered from its natural state.
- (v) "Zoning lot" shall mean a legally subdivided lot shown on a legally recorded plat or deed, or a combination of such legally subdivided and recorded adjacent lots.

942.03 JURISDICTION.

- (a) The Surface Water Management Utility shall have jurisdiction over the planning, programming, performance, construction and maintenance of all regional surface water improvements within the service area, pursuant to and subject to the provisions of this Section.
- (b) In the event that the Surface Water Management Board proposes a regional surface water improvement in whole or in part within a municipality, and the legislative authority of the municipality adopts a resolution declaring the improvement, or a portion of the improvement, located within the municipality to be a local surface water project, then the Surface Water Management Board shall not proceed with the provision of the improvement, or portion of the improvement, within the municipality, but may proceed with any improvement, or portion of the improvement, within the municipality that is not declared to be a local surface water project and/or that exists outside of that municipality.
- (c) The activities and programs of the Surface Water Management Utility are confined to the planning, programming, performance, construction and maintenance of regional surface water facilities and/or improvements.

942.04 GOVERNANCE

- (a) There is hereby created the Surface Water Management Board. The Board shall consist of the following nine (9) members or their designated alternates, provided that all members and designated alternates shall be appointed by the County Executive, subject to confirmation by County Council:

- (i) One member that is an elected official, employee or resident of a township located within the Northern District that is recommended to the Executive by the Township Association of Summit County, and an alternate meeting those requirements,
 - (ii) One member that is an elected official, employee or resident of a township located within the Southern District that is recommended to the Executive by the Township Association of Summit County, and an alternate meeting those requirements,
 - (iii) One member that is the mayor of the most populous municipality located within the Northern District, other than the mayor of the City of Akron, and an alternate recommended to the Executive by that mayor.
 - (iv) One member that is the mayor of the most populous municipality located within the Southern District, other than the City of Akron, and an alternate recommended to the Executive by that mayor.
 - (v) One member that is an elected official, employee or resident of a municipality located within the Northern District, other than the mayor of the City of Akron and the municipality in subsection (iii), above, that is recommended to the Executive by the Summit County Mayor's Association, and an alternate meeting those requirements.
 - (vi) One member that is an elected official, employee or resident of a municipality located within the Southern District, other than the mayor of the City of Akron and the municipality in subsection (iv), above, that is recommended to the Executive by the Summit County Mayor's Association, and an alternate meeting those requirements.
 - (vii) One member that is the mayor of the City of Akron, and an alternate recommended to the Executive by the mayor of the City of Akron.
 - (viii) One member that is an elected official, resident or employee of the City of Akron, other than the mayor of the City of Akron, whom shall be recommended to the County Executive by the mayor of the City of Akron, and an alternate meeting those qualifications.
 - (ix) One member and an alternate that is appointed at the discretion of the County Executive.
- (b) Each member appointed to the Board shall serve for a term of four years commencing _____, unless otherwise unable to serve due to resignation, incompetency or inability to serve due to loss of an identified elected position. In the event of a resignation, incompetency or inability to serve, the County Executive shall appoint, subject to County Council confirmation, a replacement to serve the balance of the term.
- (c) The Board shall have the following rights and powers:
- (i) The Board shall establish, by resolution, general policy for the Surface Water Management Utility and the Surface Water Management Program and shall generally oversee the planning and programming of all regional surface water improvements within the service area as set forth in Chapter 942 of these Codified Ordinances.
 - (ii) The Board shall establish, by resolution, its program recommendations for implementation by the County Engineer. The Board shall oversee the County Engineer's day-to-day administration of the Surface Water Management Utility and Surface Water Management Program and the Engineer's performance, construction and maintenance of

all regional surface water improvements within the service area.

- (iii) The Board shall take all actions necessary to operate the Surface Water Management Utility and to execute and perform the functions of the Surface Water Management Utility as set forth in Chapter 942 of these Codified Ordinances.
 - (iv) The Board shall appoint such officers as the Board deems necessary to conduct its business.
 - (v) The Board may recommend changes to Chapter 942 of these Codified Ordinances to the County Executive and County Council.
 - (vi) The Board shall establish, by resolution, administrative procedures and regulations necessary to operate the Surface Water Management Utility and Surface Water management Program and to carry out Chapter 942 of these Codified Ordinances, including, but not limited to the adoption of procedures regarding its internal operations, funding applications and project approvals. These administrative procedures and regulations shall govern the conduct of the County Engineer in the day-to-day administration of the Surface Water Management Utility and are not subject to approval by County Council.
 - (vii) The Board shall adopt, by resolution, a recommended annual operating and capital improvement budget and submit the same to the County Executive for review and submittal to County Council for adoption.
 - (viii) The Board shall have such other rights and powers and shall take such other actions as set forth elsewhere in Chapter 942 of these Codified Ordinances.
- (d) The County Engineer shall be responsible for the day-to-day administration of the Surface Water Management Utility and the Surface Water Management Program, which shall include, but not be limited to:
- (i) Overseeing, managing and administering the performance, construction and maintenance of all regional surface water improvements within the service area.
 - (ii) Overseeing, managing and administering all necessary service functions associated with the Surface Water Management Utility.
 - (iii) Overseeing and performing the general administrative functions necessary for the ongoing operation of the Surface Water Management Utility and Surface Water Management Program.
 - (iv) Hiring and assigning staff, as needed, to perform the administrative, engineering, project implementation and service functions of the Surface Water Management Utility. Said staff shall be employees and/or appointees of the County Engineer's Office, and shall be governed by Part One of these Codified Ordinances.
 - (v) Procuring goods and services through contracts necessary for the performance, construction and maintenance of regional surface water improvements and the administration of the Surface Water Management Utility, provided that the same shall be procured in compliance with Chapter 177 of these Codified Ordinances, and are subject to approval by County Council, where applicable, and execution by the Executive.

- (vi) Preparing cost estimates and project priorities for the Board to review and consider in making its program recommendations.
 - (vii) Preparing an annual operating and capital improvement budget for adoption by the Board, to be submitted to the County Executive and approved by County Council.
 - (viii) Performing all other actions specifically assigned to the County Engineer by Chapter 942 of these Codified Ordinances.
- (e) The County Executive shall provide budgetary oversight to the Board, including submittal of an annual operating budget and capital improvement budget to the County Council, following receipt of a recommendation by the Board. County Council shall approve an annual operating budget and capital improvement budget in the same manner in which it approves the budget of other offices within the County. Neither the County Executive nor County Council shall be bound by the recommendation submitted by the Board.
- (f) All contracts for the performance of any actions necessary to implement the Surface Water Management Program with any outside vendor shall be procured and executed in compliance with the requirements and procedures set forth in the County Charter and Part One of these Codified Ordinances. The County may enter into contracts with any public or private entities that are located within or outside of the service area as are necessary to accomplish the objectives of Chapter 942 of these Codified Ordinances.

942.05 IMPERVIOUS SURFACE AREA AND EQUIVALENT RATE UNIT.

- (a) The amount of impervious surface area on a given zoning lot or tract of land shall be the determining factor in calculating the distribution of the cost of services associated with the planning, programming, performance, construction and maintenance of all regional surface water improvements within the service area and the extent of a property owner's obligation to pay for a portion of the same through the surface water management service charge because it (i) relates to the volume, and rate of surface water runoff discharged from that zoning lot or tract of land to the County's structural and natural surface water drainage systems and facilities and (ii) is voluntarily controllable by property owners in the development of their land and therefore provides an equitable and adequate system for determining estimated usage of the regional surface water improvements.
- (b) An impervious surface area of 3,000 square feet shall be designated as one (1) Equivalent Rate Unit (ERU) in order to maintain consistency with the prevailing unit adopted by communities within the County of Summit and northeast Ohio region for local surface water management.
- (c) Each owner of developed land within the service area shall pay a surface water management service charge that is calculated by multiplying the surface water management service charge set forth in Section 942.06 times the number of ERUs that have been assessed against that property.
- (d) The County Engineer shall calculate, in a manner and method approved by the Surface Water Management Board, the number of ERUs to be assessed against each zoning lot or tract of land within the service area based on the amount of impervious surface area on that zoning lot or tract of land prior to the billing and collection of any surface water management service charge as set forth in Sections 942.06 and 942.07, provided, however, that all conventionally developed residential property shall be assessed the equivalent of one (1) ERU.
- (e) Prior to the first billing and collection of any surface water management service charge for a zoning lot or tract of land, other than conventionally developed residential property, the County Engineer shall notify the property owner, in writing, of the calculation of the number of ERUs to be assessed against their property and the total surface water management service charge that will be billed and collected from the property

owner under the then-current version of Section 942.07 of these Codified Ordinances. The property owner may appeal the calculation of the number of ERUs to be assessed against their property in the manner and method set forth in Section 942.12 of these Codified Ordinances. Prior to the first billing and collection of any surface water management service charge for a zoning lot or tract of land that is conventionally developed residential property, the County Engineer shall publish in a newspaper of general circulation a notice that all property owners of conventionally developed residential property shall be assessed a surface water management service charge, the amount of that service charge per ERU and that the surface water management service charge shall be calculated based on one ERU per housing unit, or, in the County Engineer's discretion. Alternatively, the County Engineer may, in his or her discretion, elect to notify owners of conventionally developed residential property in the same manner as owners of property other than conventionally developed residential property.

942.06 SCHEDULE OF CHARGES AND FEES.

- (a) County Council has the authority to establish and revise from time to time a schedule of surface water management service charges and associated fees (i.e. late fees, etc.) to be billed and collected from all owners of zoning lots or tracts of land within the service area to fund the Surface Water Management Program and the operation of the Surface Water Management Utility. In establishing and revising the surface water management service charge schedule, the County Council is not bound to establish a uniform charge for the entire County, and instead may, in its discretion, establish differing charges for the Northern District and Southern District, and/or for different watersheds within those Districts.
- (b) No earlier than January 1, 2012, all zoning lots and tracts of land within the service area, unless specifically exempted as set forth in Section 942.10 of these Codified Ordinances, shall be semi-annually billed a surface water management service charge of \$1.00 per month for each ERU calculated by the County Engineer to be assessed against that property pursuant to Section 942.05 of these Codified Ordinances. The proceeds of this initial surface water management service charge shall be used to fund current County surface water management programs, perform immediately necessary regional surface water improvements, perform a study setting forth the full Surface Water Management Program and future funding requirements for the same, reimburse the County capital improvement fund or general fund for any sums expended from those funds for the purpose of surface water management activities that were expended within five (5) years of the enactment of Chapter 942 of these Codified Ordinances and the administration of the Surface Water Management Utility.
- (c) Effective for the 25th month following the adoption of the surface water management service charge set forth in subsection (b), above, the surface water management service charge per ERU shall be increased to \$3.00 per month, unless, prior to that time, County Council establishes a different charge. The surface water management service charge shall be used to fund and administer the Surface Water Management Utility and Surface Water Management Program and for all other purposes identified in subsection (b), above, to the extent necessary and not otherwise complete. Thereafter, County Council may establish and revise the surface water management service charge as necessary to properly fund and administer the Surface Water Management Utility and Surface Water Management Program.
- (d) In addition to the surface water management service charge, a late penalty of 10% shall be assessed against all surface water management service charges not paid within fifteen (15) days of the date due. When assessed, the late penalty shall be due and owing from the property owner in the same manner and fashion as the surface water management service charge and may be certified delinquent in the same manner as the surface water management service charge.

942.07 BILLING AND COLLECTION.

- (a) Billing and collection of the surface water management service charge and any other fee set forth in Section 942.06 of these Codified Ordinances shall be administered by the County Engineer on behalf of the Surface

Water Management Utility. The County Engineer may perform the billing and collection of the surface water management service charge and other fees as an internal function of that office, or may contract with any other County office, political subdivision or an external vendor, provided that any such contract is subject to the approval of the Surface Water Management Board and County Council and is effective upon execution by the County Executive.

- (b) Prior to the commencement of any billing and collection of the surface water management service charge and any other fees, the County Engineer shall submit a plan setting forth the manner, method and other details for said billing and collection to the Surface Water Management Board. The County Engineer shall not begin the billing and collection of the surface water management service charge or any other fee until said plan is reviewed and approved by the Surface Water Management Board. Any subsequent change to the method, manner or other detail of the billing and collection of the surface water management service charge and any other fees must be approved by the Surface Water Management Board prior to implementation.
- (c) Any surface water management service charge or other fee billed pursuant to this Section that is not paid by the property owner on or before the first day of July of the calendar year following the month that the bill was issued may be certified delinquent pursuant to a Resolution of the County Council. Said Resolution shall (i) contain an itemization of all unpaid charges and fees by property, (ii) declare the unpaid charges and fees to be delinquent, (iii) certify said delinquency to the County Fiscal Officer and (iv) direct the Clerk of County Council to deliver a copy of the Resolution and itemization of all unpaid charges and fees to the County Fiscal Officer. Upon certification, the County Fiscal Officer shall attach the delinquency to any affected property and shall proceed with collection in accordance with State law.

942.08 DISPOSITION OF SERVICE CHARGES AND FEES.

- (e) There is hereby created the Surface Water Management Fund, which shall be a separate enterprise fund in the County budget and accounting system. All revenue generated from the surface water management service charge, any other fees authorized by Section 942.06 of these Codified Ordinances or otherwise generated as a result of the activities of the Surface Water Management Utility shall be deposited solely into the Surface Water Management Fund. The Surface Water Management Fund shall be and remain separate from other funds, and may only be used to fund the purposes, functions and activities set forth in Chapter 942 of these Codified Ordinances. No proceeds deposited into the Surface Water Management Fund may be used for general or other governmental or proprietary purposes of the County, except to pay for costs incurred by the County in rendering services associated with the Surface Water Management Utility, or unless said proceeds were originally deposited into the surface water management fund from the general fund of the County.
- (f) Within the Surface Water Management Fund, separate funds shall be established for the Northern District and Southern District and the revenue generated from the property in each District shall be deposited into the respective District.
- (g) The following costs and expenses shall be charged to and paid from the Surface Water Management Fund:
 - (i) Costs and expenses directly related to the provision of the Surface Water Management Program and regional surface water improvements within the service area, including planning, engineering, construction, right-of-way acquisition, materials and equipment for specific surface water management activities. These costs and expenses shall be allocated between the fund for the Northern District and the fund for the Southern District, to the extent the particular surface water management activity is located in each District.
 - (ii) Costs and expenses for county-wide planning and administration of the Surface Water

Management Utility. These costs and expenses shall be divided between the fund for the Northern District and the fund for the Southern District based on the proportionate share of ERUs in each compared to the total ERUs in the service area.

- (iii) Costs and expenses incurred by the County in rendering services associated with the Surface Water Management Utility. These costs and expenses may be billed to the Surface Water Management Fund based upon the County's cost allocation and recovery system approved by County Council and the County Executive. These costs and expenses shall be divided between the fund for the Northern District and the fund for the Southern District based on the proportionate share of ERUs in each compared to the total ERUs in the service area.
- (iv) Costs and expenses associated with the operation of the County Engineer, provided that the same are only recoverable as they relate to the functions of the Surface Water Management Utility, and shall be allocated to the Northern District and Southern District in the manner provided in either subsection (g)(i) or (g)(ii), above, depending on the nature of the activity.
- (v) Reimbursement to the County capital improvement fund or general fund for any sums expended from those funds for the purpose of surface water management activities that were expended within five (5) years of the enactment of Chapter 942 of these Codified Ordinances. The reimbursement shall be allocated between the fund for the Northern District and the fund for the Southern District based upon whether, and to the extent that, the reimbursed activity was undertaken.

942.09 CREDITS.

- (a) Other than as provided in subsection (f), below, the number of ERUs assessed against a zoning lot or tract of land may be reduced, through the allocation of an ERU credit, as a result of, and in recognition of, private runoff control measures being implemented and maintained for the benefit of the property. For each zoning lot or tract of land in the service area that benefits from a private runoff control measure, the County Engineer shall calculate, in a manner and method approved by the Surface Water Management Board, the number of ERU credits that should be allocated to that property. The number of ERU credits that are allocated to a zoning lot or tract of land shall reduce the number of ERUs assessed against that property under Section 942.05 of these Codified Ordinances, and the owner of the property shall only be billed, and shall only be obligated to pay, the difference between the number of ERUs assessed against the property and the ERU credits allocated to the property.
- (b) The County Engineer shall notify in writing the owner of any zoning lot or tract of land of the calculation of ERU credits in the same manner and method and at the same time as required for the notification of the calculation of ERUs to be assessed against the property, as set forth in Section 942.05 of these Codified Ordinances.
- (c) At any time, the owner of any zoning lot or tract of land that installs a new, or improves an existing, private runoff control measure that benefits that property may apply to the County Engineer for a calculation of ERU credits to be allocated to that property. The County Engineer shall notify the property owner in writing of his or her determination of the number of ERU credits to be allocated to the property.
- (d) In no event shall the number of ERU credits allocated to a zoning lot or tract of land reduce the total number of ERUs assessed against that property below one (1) ERU.
- (e) Any ERU credit may be revoked by the Board if any condition to the granting of the ERU credit no longer exists or the private runoff control measure is not properly maintained and functioning.

- (f) Conventionally developed residential property is not eligible for credits for private runoff control measures.
- (g) Any owner of a zoning lot or tract of land that receives a notice of the calculation of ERU credits by the County Engineer under this Section may appeal the calculation in the manner and method set forth in Section 942.12 of these Codified Ordinances.

942.10 EXEMPTIONS.

The following property shall be exempt from payment of the surface water management service charge set forth in Section 942.06 and shall generally be exempt for any other provision of Chapter 942 of these Codified Ordinances.

- (a) Public road rights-of-way that have been conveyed to and accepted for maintenance by the Ohio Department of Transportation, the Ohio Turnpike Authority or entities contracted by the State of Ohio for the operation of toll roads, and that are available for use by the general public for transportation purposes.
- (b) Public road rights-of-way that have been conveyed to and accepted for maintenance by municipal corporations or townships within the County, and that are available for use by the general public for transportation purposes.
- (c) Public road rights-of-way that have been conveyed to and accepted for maintenance by the County of Summit, and that are available for use by the general public for transportation purposes.
- (d) Railroad rights-of-way used for trackage and related appurtenances.
- (e) Any property specifically exempted from utility fees and charges by the Ohio Constitution, Ohio Revised Code or Ohio Administrative Code.
- (f) Any property specifically exempted from utility fees and charges by the Constitution of the United States, the United States Code or the Code of Federal Regulations.

942.11 LOCAL MATTERS.

- (a) In addition to the surface water management service charge provided for under Chapter 942 of these Codified Ordinances, any township or municipality that has duly enacted a local surface water management fee or charge may contract with the County for the collection of said local fee or charge. The revenue generated by said local fees or charges shall be distributed to the township or municipality following collection. Any agreement entered into pursuant to this Section may provide for a collection fee to be paid by the municipality or township to the County and may further provide that said collection fee may be withheld by the County from the revenue collected by the County on behalf of the township or municipality. The proceeds generated from the collection fee shall be deposited into the Surface Water Management Fund.
- (b) The County may continue to collect surface water assessments from subdivisions as required by Part Eleven of these Codified Ordinances, separate and apart from the surface water management service charge provided under Chapter 942 of these Codified Ordinances. Existing or future subdivision assessments for maintenance of surface water infrastructure are not affected by Chapter 942 of these Codified Ordinances as those assessments pertain to the maintenance of non-regional improvements within the subdivisions and are therefore outside the scope of Chapter 942.

942.12 APPEALS COMMISSION; APPEALS GENERALLY.

- (a) There is hereby created the Surface Water Management Appeals Commission. The Surface Water Management Appeals Commission shall consist of five (5) members, whom shall be appointed by the County Executive, subject to confirmation by County Council. Two of the members shall be appointed from the membership of the Surface Water Management Board. Each member shall serve for a term of four years commencing _____ unless unable to serve due to resignation or incompetency. In the event of resignation or incompetency, the County Executive shall appoint, subject to County Council confirmation, a replacement to serve the balance of the term.
- (b) The Surface Water Management Appeals Commission shall hear appeals concerning the application of Chapter 942 of these Codified Ordinances regarding the following matters:
- (i) Calculation of the number of ERUs to be assessed against a particular zoning lot or tract of land.
 - (ii) Calculation of the number of ERU credits to be allocated to a particular zoning lot or tract of land.
 - (iii) Determinations regarding the number of housing units on a particular zoning lot or tract of land, and determinations as to whether a zoning lot or tract of land constitutes conventionally developed residential property.
 - (iv) Revocation or reduction of ERU credits allocated to a particular zoning lot or tract of land.
 - (v) Errors in the billing of a particular zoning lot or tract of land.
 - (vi) The Appeals Commission shall have the discretion to reduce or eliminate an ERU for any zoning lot or tract which is not a conventionally developed residential property according to the rules and regulations established by the Commission.
- (c) Any appeal must be filed by the owner of the subject zoning lot or tract of land, in writing and with the County Engineer, and must state (i) the name of the property owner, (ii) the address, parcel number and/or any other identifying information about the zoning lot or tract, (iii) a description of the specific matter being appealed and (iv) the reason for the appeal, including the property owners' position on the matter being appealed. The County Engineer may prescribe a form, containing all of the preceding information, to be used by all property owners filing an appeal with the Surface Water Management Appeals Commission.
- (d) Upon receipt of any properly filed appeal, the County Engineer shall schedule a hearing before the Surface Water Management Appeals Commission, and shall provide at least thirty (30) days notice, in writing, of the date, time and location of the hearing. The Surface Water Management Appeals Commission shall conduct the hearing on the appeal, giving the County Engineer and the property owner the ability to present evidence and testimony in support of or contrary to the appeal. Following said hearing, the Surface Water Management Appeals Commission shall enter an order granting, denying or granting in-part and denying in-part the appeal. Any order of the Surface Water Management Appeals Commission is appealable to the Summit County Court of Common Pleas.
- (e) If a property owner is appealing the calculation of ERUs or ERU credits by the Engineer under Sections 942.05 or 942.09, respectively, of these Codified Ordinances, the applicant shall file the appeal with the County Engineer no later than sixty (60) days of receipt of the notice provided for in those Sections. Otherwise, a property owner may file an appeal at any time, provided, however, that a property owner may appeal the same matter only once every thirty-six (36) month period, unless the appeal alleges an error in billing, which may be filed at any time without limitation.

- (f) No owner of conventionally developed residential property shall have the right to appeal the County Engineer's calculation of ERU's unless the County Engineer has assessed more than one ERU against that property, or to challenge the number of housing units that the County Engineer has determined to be located on the property.

942.13 SEVERABILITY

The determination that any part of this Chapter is invalid shall not invalidate or impair the force or effect of any other part hereof, except to the extent that such other part is wholly dependent for its operation upon the part declared invalid.