STATE OF MICHIGAN

MACOMB COUNTY CIRCUIT COURT

MACOMB RETAIL CENTER, LLC,
a Michigan limited liability company, and

TWELVE MILE COMMERCIAL, LLC,
a Michigan limited liability company,

individually, and as representatives
of a class of similarly-situated persons
and entities,

Plaintiffs,

v.

CITY OF ROSEVILLE,
a Michigan municipal corporation,

Defendant.

Case No. 19-5299-CZ
Hon. EDWARD A. SERVITTO

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There is no other pending or resolved civil action between these parties arising out of the transaction or occurrence alleged in the complaint.

PLAINTIFFS' CLASS ACTION COMPLAINT

Plaintiffs Macomb Retail Center, LLC and Twelve Mile Commercial, LLC ("Plaintiffs"), by their attorneys, Kickham Hanley PLLC, individually and on behalf of a class of similarly situated persons and entities, state as follows for their Complaint against Defendant City of Roseville (the "City"):

INTRODUCTION

1. "When virtually every person in a community is a 'user' of a public improvement, a municipal government's tactic of augmenting its budget by purporting to charge a 'fee' for the 'service' rendered should be seen for what it is; a subterfuge to evade constitutional limitations on its power to raise taxes." *Bolt v. City of Lansing*, 459 Mich. 152, 166, 587 N.W.2d 264 (1998).

2. This is an action challenging the City's creative yet impermissible financing of its stormwater management obligations through purported "user fees" foisted upon a particularized subset of its citizenry. Plaintiffs challenge the City's mandatory "Stormwater System Utility Fee" (hereinafter, the "Stormwater Charge") imposed by the City on all owners of real property in the City. The City persists in the exaction of this charge even though "the nature of a stormwater management system, which benefits the public without providing any individualized, measurable benefit to individual property owners, does not lend itself to a system of funding based on user fees." *Dekalb County v. U.S.*, 108 Fed. Cl. 681 (U.S. Court of Claims 2013).

3. The Stormwater Charge generates over $1.8 million in annual revenues for the City.

4. The Stormwater Charge constitutes an unlawful tax under the *Bolt* decision because it imposes upon one subset of residents (i.e., property owners) the financial burden of a governmental activity which benefits the community at large (i.e., stormwater management).

5. Indeed, through payment of the Stormwater Charges, Plaintiffs and the Class are paying the City's entire cost of stormwater management.

6. However, through the end of 2018, the City's general fund paid the cost of stormwater management. The City only began imposing the Stormwater Charge on property owners in January 2019.

7. The Stormwater Charge is motivated by a revenue-raising and not a regulatory purpose; the charges to Plaintiffs and the Class are not proportionate to the City's actual costs of providing to Plaintiffs and the Class the purported benefits for which the Charges are purportedly

imposed; and payment of the charges is not voluntary. These are relevant indicia of a tax under *Bolt v. City of Lansing.*

8. As a tax, the Stormwater Charge is unlawful because the Charge violates Article 9, Section 31 of the Headlee Amendment to the Michigan Constitution and the Prohibited Taxes By Cities and Villages Act (MCL 141.91).

9. Plaintiffs, individually and on behalf of a class of similarly situated persons and entities, seek, among other remedies, a refund of all Stormwater Charges received by the City since January 1, 2019 and all such Charges collected during the pendency of this action.

JURISDICTION AND VENUE

10. Plaintiffs own improved real property situated in the City of Roseville, Macomb County, Michigan; have incurred and paid the Charges at issue in this case at all relevant times; and seek to act as class representatives for all similarly situated persons and entities.

11. Defendant City of Roseville (the "City") is a municipality located in Macomb County, Michigan.

12. Venue and jurisdiction are proper with this Court because all parties are present here and the actions which give rise to Plaintiffs' claims occurred in this County. Venue and jurisdiction also are proper with this Court under Article 9, § 31 of the Michigan Constitution of 1963, and MCL 600.308a.

GENERAL ALLEGATIONS

13. The City maintains and operates a sanitary sewer system to provide sanitary sewage treatment and disposal services to inhabitants of the City.

14. The City maintains a separate stormwater disposal system to collect surface runoff from snowmelt and rainwater ("stormwater").

15. The City has a "separated" sewer system, meaning that the City has one set of sewer pipes which collects and conveys sanitary sewage for ultimate treatment and another separate set of pipes (i.e., storm drains) that collect stormwater.

16. The Stormwater Charges are purportedly imposed to collect funds to pay stormwater management expenses incurred from Macomb County and to repair, maintain and replace the City's storm sewer infrastructure.

17. Plaintiffs, at all relevant times, have paid the Stormwater Charges imposed by the City. The City's ordinances require Plaintiffs to pay the Stormwater Charges.

18. The City establishes the Rates for the Stormwater Charges from time to time through legislative action, and revenues generated by Stormwater Charge are deposited into the City's Stormwater Fund. A copy of the City's ordinance governing Stormwater System Utility Fees, Ordinance § 256-67 *et seq.* (the "Ordinance"), is attached hereto as Exhibit A.

19. Pursuant to the Ordinance, the owner of each parcel of property is assessed Stormwater Charges along with the owner's other utility bills. *See* Ordinance § 256-67 ("All users shall pay a stormwater utility fee proportional to the volume of stormwater which is projected to discharge into the combined sewer system and/or stormwater sewer system from their property."); Ordinance § 256-70 ("The billing for the stormwater utility may be combined with the billing for any other utility services.").

20. The City charges single-family residential property owners for stormwater management on the basis of equivalent stormwater units ("ESWU"). *See* City Ordinance § 256-68.

21. Ordinance §256-68 assigns each parcel of single-family residential property an ESWU based on its overall surface area and the **average** impermeable area that is present on single-family residential parcels in the City. *See* Ordinance §256-68(A) ("All single-family residential properties in each of the lot-size categories are assigned the same ESWU for that category.").

22. So, for example, an owner of **any** single-family residential property with an overall area of 0.125 acres or less is assigned to Single Family Residential ("SFR") Class A and pays 0.8 ESWUs, **regardless of the amount of impervious area that is actually present on that particular parcel.**

23. By contrast, the City charges **non**-single family residential property owners, including commercial property owners, for stormwater management based on the number of ESWUs applicable to the subject property as calculated using a formula set forth in Ordinance § 256-68(B). This formula does not take into account relevant factors, such as the property's elevation, that affect how much runoff a particular property contributes to the system.

24. The City Council sets the value of an ESWU. *See* City Ordinance § 256-67(B). The current fee for one ESWU is $14.39 per quarter. *See* City Ordinance § 133-20(B).

25. The City's method for determining the amount of each property's Stormwater Charges under the Ordinance is not closely calibrated to the amount of that user's particular use of the City's stormwater disposal services or the cost incurred by the City for disposing of the stormwater that originates on that user's property.

26. The Michigan Court of Appeals recently upheld the Wayne County Circuit Court's determination that the City of Harper Woods had violated the Headlee Amendment when it imposed similarly-imprecise stormwater management charges. *See Gottesman v. City of Harper Woods*, No. 344568, 2019 Mich. App. LEXIS 7657, at *18-19 (Dec. 3, 2019) ("The ordinance does not consider the individual characteristics of the property, such as pollutants, the type or extent of improvements thereon, or how said improvements affect the amount of runoff flowing from the property. Indeed, all residential properties that are not exempt from the Charge pay either one-third, one-half, or a full billing unit based strictly on the square footage of the property, regardless of how much of the property is actually impervious or pervious. . . . Although mathematical precision is not

required . . . defendant's inflexible approximation approach is a far cry from the more particularized method involving individual measurements of impervious areas this Court found acceptable . . .") (citations omitted).

27. The Stormwater Charges are being used to fund costs for services which provide a benefit to the City and all its citizens.

28. The City's stormwater charges do not correspond to the benefits conferred for at least two reasons. First, stormwater disposal services do not confer a unique benefit upon Plaintiffs or the Class based upon their status as property owners. Stormwater collects on land, roads and other physical surfaces, and the runoff enters the combined sewer system through catch-basins and other collection devices. Indeed, the storm waters collected in a separated sewer system are not "used" in any meaningful sense by any particular landowner or user.

29. Any "benefit" of stormwater disposal conferred on the City's water and sanitary sewage disposal customers is no different than the benefit conferred on the general public. Stormwater systems help prevent erosion, collect contaminated water for cleansing, keep roadways from flooding, and prevent the formation of standing pools of stagnant water. The benefits resulting from this management are shared by nearly every member of the public.

30. The City's use of the revenues generated by the Stormwater Charges to pay for stormwater management has the effect of forcing one subset of the citizenry, property owners, to bear all of the costs of a public service, even though there are other "users" of those services and even though the services benefit the general public. Accordingly, the Stormwater Charges do not reflect the actual costs of stormwater disposal services, metered with relative precision in accordance with available technology and including an appropriate capital investment component.

31. Second, imposing the stormwater disposal costs only on property owners also allows other "users" of those facilities and services, including more intensive "users," to receive the benefit

of those facilities and services without cost or at a cost that does not reflect the burdens placed upon the storm drain system by those "users." In fact, the City's method of financing these costs fails to distinguish at all between those responsible for greater and lesser levels of runoff, which determine the volume of stormwater which enters the storm sewer system. The City's method of financing these costs also fails to take into account the high volumes of rainwater run-off generated by public and private road surfaces. For these reasons, "the actual use of [stormwater disposal services] by each [water and sanitary sewage disposal user] is not accounted for with the requisite level of precision necessary to support a conclusion that the charge is proportionate to the costs of the services provided." *See County of Jackson v. City of Jackson*, 302 Mich. App. 90, 111; 836 N.W.2d 903 (2013).

32. The Stormwater Charge does not reflect the actual costs of use of the City's storm sewer system, metered with relative precision in accordance with available technology and including an appropriate capital investment component.

PAYMENT OF THE CHARGES IS MANDATED BY THE CITY'S ORDINANCES

33. Payment of the Stormwater Charges is not voluntary because the City's ordinances require to pay the Stormwater Charges. *See* City Ordinance § 256-67(A) ("All users shall pay a stormwater utility fee proportional to the volume of stormwater which is projected to discharge into the combined sewer system and/or stormwater sewer system from their property.")

34. City Ordinance § 256-71 provides: "Unpaid stormwater utility fees shall constitute a lien against the property affected. Fees which have remained unpaid for a period of six months prior to April 30 may be certified to the City Treasurer who shall place the fees on the next tax roll of the City. In the alternative, the City Council may direct the City Attorney to take appropriate legal action to collect unpaid fees."

CLASS ALLEGATIONS

35. Plaintiffs bring this action as a class action, pursuant to MCR 3.501, individually and on behalf of a proposed class consisting of all persons or entities which have paid or incurred the Stormwater Charges during the relevant class periods.

36. The members of the Class are so numerous that joinder of all members is impracticable.

37. Plaintiffs' claims are typical of the claims of members of the Class. Plaintiffs are members of the Class they seek to represent, and Plaintiffs were injured by the same wrongful conduct that injured the other members of the Class.

38. The City has acted wrongfully in the same basic manner as to the entire Class.

39. There are questions of law and fact common to all Class Members that predominate over any questions, which, if they exist, affect only individual Class Members, including:

a. whether the Stormwater Charges imposed by the City are taxes;

b. whether the Stormwater Charges imposed by the City violate the Headlee Amendment;

c. whether the Stormwater Charges have a revenue-raising purpose;

d. whether the Stormwater Charges are disproportionate to the benefits conferred upon the payers of those charges;

e. Whether the Stormwater Charges are voluntary; and

f. Whether the Stormwater Charges are prohibited by MCL 141.91.

40. Plaintiffs will fairly and adequately protect the interests of the Class, and Plaintiffs have no interests antagonistic to those of the Class. Plaintiffs are committed to the vigorous prosecution of this action, and have retained competent and experienced counsel to prosecute this action.

41. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. The prosecution of separate actions would create a risk of inconsistent or varying adjudications. Furthermore, the prosecution of separate actions would substantially impair and impede the ability of individual class members to protect their interests. In addition, since individual refunds may be relatively small for most members of the class, the burden and expense of prosecuting litigation of this nature makes it unlikely that members of the class would prosecute individual actions. Plaintiffs anticipate no difficulty in the management of this action as a class action.

COUNT I
VIOLATION OF THE HEADLEE AMENDMENT

42. Plaintiffs incorporate each of the preceding allegations as if fully set forth herein.

43. The City is bound by the Michigan Constitution of 1963, including those portions commonly known as the Headlee Amendment.

44. In particular, the City may not disguise a tax as a fee under Article 9, § 31 of the Michigan Constitution of 1963, which provides:

> Units of Local Government are hereby prohibited from levying any tax not authorized by law or charter when this section is ratified or from increasing the rate of an existing tax above that rate authorized by law or charter when this section is ratified, without the approval of a majority of the qualified electors of that unit of Local Government voting thereon. [Const. 1963, art. 9, § 31.]

45. The Stormwater Charges are disguised taxes and intended to avoid the obligations of the Headlee Amendment, including the requirement that the Stormwater Charges, as taxes, be approved by a majority of the electorate. The Stormwater Charges were not "authorized by law or charter" when the Headlee Amendment was ratified in 1978.

46. The Stormwater Charges have all relevant indicia of a tax:

a. They have no relation to any service or benefit actually received by the taxpayer;

b. The amount of the Stormwater Charges is disproportionate to the cost incurred by the City in providing water and sewage disposal services;

c. The Stormwater Charges are designed to generate revenue;

d. The payers of the Stormwater Charges benefit in no manner distinct from any other taxpayer or the general public;

e. Payment of the Stormwater Charges are not discretionary, but actually or effectively mandatory;

f. Various other indicia of a tax described in *Bolt v. City of Lansing* are present.[1]

47. As a direct and proximate result of the City's implementation of the Stormwater Charges, Plaintiffs and the Class have been harmed.

48. Plaintiffs seeks their attorneys' fees and costs as allowed by Article 9, § 32 of the Michigan Constitution of 1963 and MCL 600.308a.

49. Plaintiffs seek a refund of all amounts to which they and the Class are entitled, including all Stormwater Charges they paid to the City during the Class Period, as defined below.

COUNT II
ASSUMPSIT FOR MONEY HAD AND RECEIVED – VIOLATION OF THE PROHIBITED TAXES BY CITIES AND VILLAGES ACT, MCL 141.91

50. Plaintiffs incorporate each of the preceding allegations as if fully set forth herein.

51. The Prohibited Taxes by Cities and Villages Act, MCL 141.91, provides: "Except as otherwise provided by law and notwithstanding any provision of its charter, a city or village shall not impose, levy or collect a tax, other than an ad valorem property tax, on any subject of taxation, unless the tax was being imposed by the city or village on January 1, 1964."

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[1] Pursuant to MCR 2.1112(M), Plaintiffs identify subparts (a) through (f) of Paragraph 46 as "factual questions that are anticipated to require resolution by the Court."

52. The City did not impose the Stormwater Charges on or before January 1, 1964.

53. In fact, the City did not begin to impose the Stormwater Charges until 2019.

54. The Stormwater Charges are not ad valorem property taxes.

55. Because the Stormwater Charges are taxes that were not being imposed on January 1, 1964, they are unlawful under MCL 141.91.

56. As a direct and proximate result of the City's unlawful and improper conduct in collecting the Stormwater Charges, the City has collected millions of dollars to which it is not entitled.

57. A claim to recover amounts paid to a governmental unit in excess of the amount allowed under law is properly filed as an equitable action in assumpsit for money had and received.

58. By virtue of the City's imposition of the Stormwater Charges, the City has collected amounts in excess of the amounts it was legally entitled to collect. Therefore, Plaintiffs is entitled to maintain an equitable action of assumpsit to recover back the amount of the illegal exaction. *See, e.g., Bond v. Public Schools of Ann Arbor*, 383 Mich. 693, 704, 178 N.W.2d 484 (1970).

59. As a direct and proximate result of the City's improper conduct, the City has collected millions of dollars to which it is not entitled. By paying the Charges, Plaintiffs and the Class have conferred a benefit upon on the City.

60. Under equitable principles, the City should be required to disgorge the amounts it unlawfully collected.

COUNT III
UNJUST ENRICHMENT –
VIOLATION OF THE PROHIBITED TAXES BY
CITIES AND VILLAGES ACT, MCL 141.91

61. Plaintiffs incorporate each of the preceding allegations as if fully set forth herein.

62. The Prohibited Taxes by Cities and Villages Act, MCL 141.91, provides: "Except as otherwise provided by law and notwithstanding any provision of its charter, a city or village shall not

impose, levy or collect a tax, other than an ad valorem property tax, on any subject of taxation, unless the tax was being imposed by the city or village on January 1, 1964."

63. The City did not impose the Stormwater Charges on or before January 1, 1964.

64. In fact, the City did not begin to impose the Stormwater Charges until 2019.

65. The Stormwater Charges are not ad valorem property taxes.

66. Because the Stormwater Charges are taxes that were not being imposed on January 1, 1964, they are unlawful under MCL 141.91.

67. As a direct and proximate result of the City's unlawful and improper conduct in collecting the Stormwater Charges, the City has collected millions of dollars to which it is not entitled.

68. As a direct and proximate result of the City's improper conduct, the City has collected millions of dollars to which it is not entitled. By paying the Charges, Plaintiffs and the Class have conferred a benefit upon the City and it would be inequitable for the City to retain that benefit.

69. Under equitable principles, the City should be required to disgorge the amounts it unlawfully collected.

PRAYER FOR RELIEF

Plaintiffs requests that the Court grant the following relief:

A. Certify this action to be a proper class action with Plaintiffs certified as Class Representatives and Kickham Hanley PLLC designated Class Counsel;

B. With respect to Counts I through III, define the Class to include all persons or entities who have paid or incurred the Stormwater Charge at any time after December 31, 2018 and/or at any time during the pendency of this action (the "Class Period");

C. With respect to Counts I through III, enter judgment in favor of Plaintiffs and the Class and against the City, and order and direct the City to disgorge and refund all Stormwater Charges collected from the Class during the Class Period, and order the City to pay into a common fund for the benefit of Plaintiffs and all other members of the Class the total amount of Stormwater Charges to which Plaintiffs and the Class are entitled;

D. Appoint a Trustee to seize, manage and distribute in an orderly manner the common fund thus established;

E. Find and declare that the Stormwater Charges violate the Headlee Amendment and the Prohibited Taxes By Cities and Villages Act and enjoin the City from imposing the Stormwater Charges in the future;

F. Award Plaintiffs and the Class the costs and expenses incurred in this action, including reasonable attorneys', accountants', and experts' fees; and

G. Grant any other appropriate relief.

KICKHAM HANLEY PLLC

By: Edward F. Kickham Jr. (KAP)

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Date: December 30, 2019
KH161619

EXHIBIT A

ARTICLE V
Stormwater System Utility Fees[1]
[Adopted 5-7-2018 by Ord. No. 1302]

§ 256-67. Fees established.

A. All users shall pay a stormwater utility fee proportional to the volume of stormwater which is projected to discharge into the combined sewer system and/or stormwater sewer system from their property.

B. The City Council shall, by resolution, set stormwater utility fees at a rate which will recover from each user its share of the costs of the stormwater sewer system attributable to the discharge of stormwater from the users' property to the stormwater system. The City shall use the revenues of the stormwater utility fees to pay the costs of the water treatment operation and maintenance of the stormwater sewer system and for necessary improvements and additions to the stormwater sewer system.

C. The City may also collect from users fees imposed to pay the implementation and operation of any of the following:

(1) Monitoring, inspection and surveillance procedures;

(2) Reviewing discharge procedures and construction;

(3) Discharge permit applications; or

(4) Other fees as the City may deem necessary to operate the stormwater sewer system.

§ 256-68. Calculation of fees; appeals.

A. Single-family residential ESWU. All single-family residential properties in each of the lot-size categories are assigned the same ESWU for that category. The ESWU values for the single-family residential categories are summarized in the fee schedule.

Property Type	SFR Class
Single-family residential, 0.125 acre or less	Class A
Single-family residential, 0.126 acre to 0.250 acre	Class B

1. **Editor's Note: Ordinance No. 1311, adopted 6-28-2019, renumbered former §§ 256-63 through 256-67 as §§ 256-67 through 256-71, respectively.**

Property Type	SFR Class
Single-family residential, 0.251 acre to 0.500 acre	Class C
Single-family residential, 0.501 acre to 0.750 acre	Class D
Single-family residential, 0.751 acre to 1.000 acre	Class E
Single-family residential, 1.001 acres or larger	Class F

B. Non-single-family ESWU. The stormwater utility fee for non-single-family lots shall equal the number of ESWUs for a given lot, multiplied by the annual rate established by the City Council per ESWU per year. The formula for determining the number of ESWUs per non-single-family lot shall be calculated from the amount of pervious and impervious lot area as follows:

Number of ESWU = 0.15 (TA 0 IA) + 0.90 (IA) average runoff potential of the standard unit/ESWU where TA = total area of each lot (reported in square feet); IA = impervious area of each lot (reported in square feet).

C. Any non-single-family residential property owner liable for a stormwater utility fee may appeal the determination that the property utilizes the stormwater system or the amount of a stormwater utility fee, including a determination on a reduction in or the elimination of the fee. An appeal may be based on the quantity of stormwater runoff generated, the reductions established, the reductions allocated, or any other matter relating to the determination of the stormwater utility fee.

D. A single-family residential property owner may appeal the determination that the property utilizes the stormwater system; however, such an appeal shall be limited to the following reasons:

(1) The size of the lot has been miscalculated, or

(2) All or part of the stormwater runoff drains to an open drainage course, such as a river, lake or creek, which affects the quantity of the stormwater runoff generated that gets into the stormwater sewer system; or

(3) Eligibility for credits.

E. An appeal under Subsection C shall be heard by a stormwater utility appeals board appointed by the local unit of government.

The appeals board shall consist of three members, one of whom shall have plan review experience.

F. An appeal of a stormwater utility fee shall not be brought more than one year after the fee was billed.

G. To prevail in an appeal of a stormwater utility fee, the appellant shall demonstrate in accordance with the requirements of the plan for a non-single-family residential property that the use of the system by the property is less than the amount used by the local unit of government in the calculation of that property's stormwater utility fee, or for all properties the classification of the property type is in error, or there was a mathematical error in the calculation of the fee.

H. The sole remedy for a property owner who prevails in an appeal of a stormwater utility fee is a prospective correct recalculation of the stormwater utility fee.

I. If in an appeal of a stormwater utility fee the appeals board finds that the requirements of Subsection G have not been met, that finding is conclusive until the property is modified to either increase or decrease the utilization of the system. The property owner remains eligible for reduction or elimination of fees under the Stormwater Utility Ordinance.

J. A property owner making an appeal shall provide the appeals board with information necessary to make a determination.

K. A person aggrieved by a decision of the appeals board on an appeal under this section may appeal to the circuit court in which the property is located. An appeal to the circuit court must be filed within 30 days of the appeals board's decision.

§ 256-69. Credits.

A. The purpose of this section is to provide for each property owner's control over contributions of storm flows to the stormwater utility system and the related stormwater utility fees and to advance protection of the public health, safety, and welfare.

B. The City shall offer credits on an annual basis that will enable any property owner, through voluntary action, to reduce the stormwater utility fees calculated for that property owner's property and will provide a meaningful reduction in the cost of service to the stormwater system or that shall be reasonably related to a benefit to the stormwater system.

(1) Credits will only be applied if requirements outlined in this chapter and other applicable sections of the City Code are met, including, but not limited to: completion of ongoing maintenance, guaranteed right of entry for inspections, and submittal of annual self-certification reports.

(2) Credits will be defined as either set fee reduction or percent reductions applied as a credit adjustment to the fee calculation equation.

(3) Credits are additive to each credit category.

(4) As long as the stormwater facilities or management practices are functioning as approved, the credit reduction will be applied to the fee. If the approved practice is not functioning as approved or is terminated, the credit reduction will be cancelled and the fee will return to the baseline calculation. Once the credit reduction has been cancelled, a customer may not reapply for credit for a period of 12 months and only then if the deficiency has been corrected, as determined by City inspection.

(5) Credits will be applied to the next complete billing cycle after the application has been approved.

C. The Director of the Department of Public Services, or his/her designee, shall define a method for applying and granting credits on an annual basis, as well as criteria for determining the credits a property owner may receive. The Director may, by regulation, establish credits for one or more of the following:

(1) Installation and maintenance of rain barrels, rain gardens, bioswales, cisterns, dry wells, infiltration trenches, porous pavement or pavers, or disconnecting footing drains;

(2) Installation and maintenance of a stormwater control facility or other water quantity controls; and

(3) Other actions of the property owner that, in the judgment of the Director of the Department of Public Services, or his/her designee, result in a measurable reduction in stormwater runoff.

§ 256-70. Billing.

The billing for the stormwater utility may be combined with the billing for other utility services. Final determinations on

measurements per ESWU will be determined by the Director of the Department of Public Services or his/her designee.

§ 256-71. Collection of unpaid fees.

Unpaid stormwater utility fees shall constitute a lien against the property affected. Fees which have remained unpaid for a period of six months prior to April 30 may be certified to the City Treasurer who shall place the fees on the next tax roll of the City. In the alternative, the City Council may direct the City Attorney to take appropriate legal action to collect unpaid fees.