City of Stoughton
Chapter S.XX
Stormwater Utility and Management Services

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S.XX.010 Purpose and necessity; Authorization

The Common Council of the City of Stoughton hereby find that the management of stormwater and other surface water discharges within and beyond the Yahara River, and other bodies of water within the City is a matter that affects the health, safety and welfare of the City, its citizens and businesses and others in the surrounding area. All real property in the City, including property owned by public and tax-exempt entities contributes runoff and either uses or benefits from the stormwater system.

Failure to effectively manage stormwater affects the sanitary sewer utility operations of the City by, among other things, increasing the likelihood of infiltration and inflow into the sanitary sewer system. Surface water runoff may cause nonpoint source pollution, erosion of lands, threaten residences and businesses with water damage, and create environmental damage to the rivers, streams and other bodies of water within and adjacent to the City. A system for the collection and disposal of stormwater provides services to all properties within the City of Stoughton and surrounding areas, including those properties not currently served by the system. The cost of operating and maintaining the City stormwater management system and financing necessary repairs, replacements, improvements and extensions thereof should, to the extent practicable, be allocated in relationship to the services received from the system. In order to protect the health, safety and welfare of the public, the Common Council hereby exercises its authority to establish a Stormwater Utility and establish the rates for stormwater management services.

In promulgating the regulations contained in this chapter, the City is acting pursuant to authority granted by Chapters 62 and 66 of the Wisconsin Statutes, including, but not limited to, Sections 62.04, 62.11, 62.16(2), 62.18, 66.0101, 66.0621, 66.080, 66.0811, 66.0813, 66.0703, and 66.0627.

S.XX.020 Creation

There is hereby created and established a Stormwater Utility within the City of Stoughton, effective Month __, Year. The entire operation, charge and management of the Stormwater Utility is vested in the Mayor, subject, however, to the general control and supervision of the Common Council, pursuant to applicable State law.

S.XX.030 Authority.

The City, acting through the Stormwater Utility, may, without limitation due to enumeration, acquire by gift, purchase, eminent domain, condemnation or otherwise, construct, lease, own, operate, maintain, improve, update, modify, extend, expand, replace, clean, dredge, repair, conduct, manage, finance, borrow monies, assess and/or levy

fees for such facilities, operations, maintenance and activities as are deemed, from time to time, by the City to be proper and reasonably necessary for a system of storm and surface water management. These facilities may include, without limitation due to enumeration, surface and underground drainage facilities, inlets, manholes, sewers, channels, ditches, retention and detention basins, infiltration facilities, retaining walls, streets, roads, natural drainageways, and such other facilities as will support a stormwater management system.

S.XX.040 Definitions.

For purposes of this chapter, the following definitions shall apply. Words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense; the word "shall" is mandatory and not discretionary; the word "may" is permissive.

A. "Charge" means the periodic or other fee imposed under this chapter for the rendering of stormwater utility services by the City.

B. "Director" means the Director of Department of Planning and Development or his/her designee.

C. "Equivalent runoff unit" or "ERU" is the basic unit by which a storm sewer charge is calculated under this chapter and is based upon the impervious area reasonably determined by the City. The term "ERU" means the statistical average horizontal impervious area of single family homes and duplexes within the City of Stoughton on the date of adoption of this Ordinance.

D. "Impervious area" means a surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rain water. The term includes, without limitation due to enumeration, all areas covered by structures, roof extensions, patios, porches, driveways, loading docks and sidewalks, and semi-impervious surfaces such as compacted gravel, all as measured on a horizontal plane.

E "Duplex" means any residential property having two dwelling units.

F. "Dwelling unit" means a room or group of rooms including cooking accommodations, occupied by one family, and in which not more than two persons, other than members of the family, are lodged or boarded for compensation at any one time.

G. "Multifamily unit" means any residential property comprised of three or more dwelling units, including condominiums and manufactured homes

H. "Nonresidential property" means a lot or parcel of land, with improvements such as a building, structure, grading or substantial landscaping, which is not residential property, excluding publicly-owned rights of way, recreational trails, and publicly-owned or privately-owned rail beds utilized for railroad transportation.

I. "Person" means each and every property owner and includes, but is not limited to, natural persons, partnerships, corporations, limited liability companies, limited liability partnerships, joint ventures, and all other legal entities of whatever kind or nature.

J. "Residential property" means a lot or parcel of land developed exclusively for residential purposes, including single-family units, duplexes, and multifamily units. The term includes condominiums and manufactured homes.

K. "Single family unit" means any residential property consisting of one dwelling unit.

L. "Stormwater Utility" means the City owned and operated utility established under this chapter for the purpose of managing stormwater and imposing charges for the recovery of costs connected with such stormwater management.

M. "Undeveloped property" means real property that is not developed by the addition of an improvement such as a building, structure, grading or substantial landscaping. A property shall be considered to be developed if:

1. A certificate of occupancy has been issued for a building or structure on the property or, if no certificate of occupancy has been issued, upon substantial completion of construction or final inspection; or
2. Construction of an improvement on the property is at least fifty per cent (50%) completed and such construction has ceased for a period of at least three (3) months, whether consecutive or not.

S.XX.050 Income and Revenue.

The Stormwater Utility finances shall be accounted for in a separate Stormwater Utility Enterprise Fund by the City. All income and revenues shall be retained by the Stormwater Utility Enterprise Fund. The Stormwater Utility shall prepare an annual budget, which includes operation and maintenance costs, debt service and other costs related to the operation of the Stormwater Utility. The annual budget is subject to approval by the Common Council.

S.XX.060 Transfer of assets and outstanding debt.

A. The land rights and improvements of the City, or such rights determined to exist, for the following components of the public stormwater system are hereby transferred to the land assets of the Stoughton Stormwater Utility.

1. Stormwater sewers;
2. Inlets, catch basins, retention ponds and related stormwater control features;
3. Access structures;
4. Greenways.
5. Fees collected for stormwater management and fees collected in lieu of land dedication.

B. Upon adoption of this ordinance codified in this chapter, the Stormwater Utility shall assume the responsibility for debt obligation on all outstanding general debt issued for storm drainage purposes

S.XX.070 Rates and charges.

A. Every person shall pay the applicable Stoughton stormwater service charge when due for each property owned by that person.

B. The basis for computation of the charge for stormwater services to lots and parcels of land within the City is established under this section. The amount of charge to be imposed, the establishment of formulas for the calculation of charges, the creation of customer classifications for the imposition of charges, and changes in such charges, formulas and customer classifications shall be consistent with this Ordinance. Each year the Director shall determine the value of one ERU based upon the applicable year's adopted City Budget and this Ordinance, and shall certify such value to the Finance Director/Treasurer and Common Council. All charges established pursuant to this Ordinance shall be fair and reasonable. A schedule of current charges shall be maintained and on file in the office of the Finance Director/Treasurer.

C. Charges shall be imposed to recover all or a portion of the costs of the Stormwater Utility. Such charges may include, but are not limited to, the following components:

1. Base Component

The Base Component shall include the Stormwater Utility's estimated annual administrative and management costs, water quality costs, and other costs not in the components described below. The Base Rate shall be calculated by taking the sum of all Base Component costs and dividing that by the estimated number of billable ERUs.

2. Operation and Maintenance Component

The Operation and Maintenance Component shall include the Stormwater Utility's estimated annual operation and maintenance costs for the City's stormwater management system. The Operation and Maintenance Rate shall be determined by: (1) taking the sum of the Operation and Maintenance Component costs, (2) dividing that amount by the ERUs remaining after the ERUs that the City, upon user application, has determined need not pay Operation and Maintenance Component costs, and (3) making appropriate adjustments to the Rate to account for factors such as changes in stormwater reserves.

3. Capital and Debt Service Component

The Capital and Debt Service Component cost shall include the capital costs and debt service payments for the City's stormwater conveyance system, including retention and detention facilities. The Capital and Debt Service Rate shall be determined by: (1) taking the sum of the Capital and Debt Service Component costs, (2) dividing that amount by the ERUs remaining after the ERUs which the City, upon user application, has determined need not pay Capital and Debt Service Component costs, and (3) making appropriate adjustments to the Rate to account for factors such as changes in stormwater reserves.

D. Credits or adjustments may be available to individual property owners in the nonresidential and multifamily customer classes. It shall be the burden of the property owner to request such a credit and to demonstrate to a reasonable degree of certainty with evidence that a fee adjustment is warranted. The credits or adjustments shall be applied to the Operation and Maintenance Component Costs and the Capital and Debt Service Component Costs. The Base Component shall be charged to all properties regardless of credits unless the property is regulated by a separate municipal Stormwater Discharge Permit (WPDES). A Stormwater Credit System credit policy has been approved by the City Council for applicants to refer to. All applications for credit or adjustments shall be reviewed by the Director and the Director may reduce the measured impervious area after taking into consideration the demonstrated reduction in stormwater volume. Credits or adjustments may be applied to applicable properties based upon two criteria:

1. An adjustment may be applicable if some or all of a customer's property provided, (1) stormwater runoff from the property does not discharge directly or indirectly to or through any form of conveyance system owned or operated by the Stormwater Utility, and (2) the drainage from the property is not in violation of any environmental code or Federal, State or local surface water drainage requirements.

2. Credits may be granted to owners of properties who have significantly reduced the impacts of stormwater discharge on the stormwater utility system. Owners of property which discharge all or a portion of their stormwater into privately owned and maintained retention and detention ponds shall receive a prorated credit to the number of ERUs assigned to their property as determined by the Director. No owner may be given a credit in excess of fifty percent (50%) of their total number of ERUs.

3. Prior to receiving a credit or adjustment, the Director or designee shall be allowed access to the property to determine the amount of credit or exemption to be granted.

S.XX.080 Classifications of customers.

The Common Council, from time to time, by budget adoption may establish classifications other than the customer classifications set forth in this Ordinance, as may be likely to provide a reasonable and fair distribution of the costs of the stormwater utility to all users.

S.XX.090 Billing.

The Stormwater Utility billing schedule shall be set by the City Manager and approved by the Common Council.

S.XX.100 Payment of charge; lien; penalty.

A. Stormwater Utility charges shall be payable upon receipt, subject to the provisions of this section.
B. Stormwater Utility charges shall not be payable in installments.
C. Charges remaining unpaid for a period of thirty (30) days or more from the date of the utility bill shall be assessed a late payment penalty charge. All delinquent utility charges shall be subject to a penalty of one percent (1%) computed every thirty (30) days upon the unpaid balance and will be added thereto, in addition to all other charges, penalties or interest, when the delinquent charge is extended upon the tax roll.

D. If a charge and/or late penalty remains unpaid for a period of thirty (30) days after the date of the utility bill, such charge and penalty shall become a lien upon the real property to which it applies, as provided in Sections 66.0821 and 66.0809, and other applicable provisions of the Wisconsin Statutes, as from time to time amended or renumbered.

E. Delinquent charges and penalties shall be automatically extended upon the next available tax roll as a delinquent tax against the real property, and all proceedings relating to the collection, return and sale of property for delinquent real estate taxes shall apply to such charges.

S.XX.110 Customer classifications.

A. For the purposes of imposing the stormwater utility charge, all lots and parcels within the City are classified into the following customer classes:

1. Residential -- single family unit
2. Residential -- duplex
3. Residential–multifamily: (including apartments greater than or equal to 3 Units, Condominiums, and Mobile Homes)
4. Nonresidential
5. Undeveloped and Agricultural

B. The Director shall prepare and maintain an updated current list of all lots and parcels of real property (land) within the City of Stoughton and assign the appropriate customer classification to each customer account. This list shall include the number of ERUs assigned to each customer account.

C. The average square footage of impervious area of the ERU as of the date of adoption of this ordinance is hereby established to be equivalent to 3,105 square feet.

D. The ERU charges for the foregoing customer classifications shall be established as follows:

1. Residential–single family unit–1.0 ERU
2. Residential–duplex: 0.5 ERU multiplied by each dwelling unit.
3. Residential–multifamily: (including apartments greater than or equal to 3 Units, Condominiums, and Mobile Homes). The charge per unit shall be calculated by dividing the number of ERUs calculated for the entire property by the number of units existing on the property.
4. Nonresidential–one ERU times a factor obtained by dividing the total impervious area of the property by the square footage equivalent for one ERU. Such impervious area shall be determined based upon the best information reasonably available. The result shall be rounded down to the nearest one-tenth (0.1).
5. Undeveloped and Agricultural–no stormwater charge shall be assigned to undeveloped or agricultural land.

E. The Director shall be responsible for determining the impervious area based on the best available information, including, but not limited to, data supplied by the City Assessor, aerial photography, the property owner, tenant, or developer. The billing amount shall be updated by the Director based on any additions to the impervious area as approved through the building permit process. Individual property owners may submit site and building surveys to the Director that help more accurately determine the total area and impervious area.

F. The minimum charges for any parcel shall be equal to the rate for four tenths (0.4) ERU, unless it contains no impervious surface.

G. All unoccupied developed lots and parcels with impervious surfaces shall be subject to a stormwater utility charge.

S.XX.120 New construction.

A property owner shall be responsible for timely submitting a fully completed and accurate stormwater utility service application at the time a building permit is issued or a site plan review is conducted. The application shall be made on a form prescribed by the City and provided with each application for a building permit or application for site plan review. Failure to submit such stormwater utility service application or providing false information on such form shall constitute a violation of this Chapter. The implementation of stormwater charges shall commence as set forth in this Chapter.

S.XX.130 Appeal.

A. The amount of a particular stormwater utility charge may be appealed to the Director by filing a written appeal with the Finance Director/Treasurer prior to the due date of the charge or within thirty (30) days of payment. The written appeal shall specify all grounds for challenge to the amount of the charge and shall state the amount of charge that the appellant considers to be inappropriate. Failure to timely appeal waives all rights to later challenge the charge.

B. In considering an appeal, the Director shall determine whether the stormwater utility charge is fair and reasonable under the particular facts and circumstances pertaining to that specific property and, in the event the appeal is granted, whether or not a refund is due the appellant and the amount of the refund. The Director shall notify the appellant in writing of his determination.

C. The customer has thirty (30) days from the date of the written decision of the Director to file a written appeal with the Mayor.

D. If the Mayor determines that a refund is due the customer, the refund will be applied as a credit towards the customer's next stormwater billing charge, if the refund will not exceed the customer's next stormwater billing charge, or it may be refunded at the discretion of the Mayor.

S.XX.140 Alternative method to collect stormwater charges.

A. The Common Council hereby find and determine that the stormwater utility charges established under this Chapter reasonably reflect the services rendered to real property and may be, and are hereby authorized to be, assessed, charged, levied, imposed and a collected upon property as a special charge in accord with all applicable Wisconsin Statutes.

B. The mailing of the bill for stormwater utility charges to a property owner shall serve as notice to the property owner that failure to pay the charges when due may result in the charges being levied upon the owner's applicable real property.

C. In addition, the City may provide notice each October of any unpaid charges to the Stormwater Utility and such charges, if not paid by November 15, may be placed upon the tax roll and collected in the manner provided by this Chapter and/or the applicable provisions of the Wisconsin Statutes. The collection method provided in this section is in addition to the collection method provided for in this Chapter.

S.XX.150 Conflict with other ordinances, laws

A. In the event of any conflict between any provision set forth in this Chapter and any other City ordinance, the competing provisions shall be harmonized to the fullest extent possible so as to facilitate the intent and proper effect of the separate areas of regulation.

S.XX.160 Penalty.

A. Any person who violates or causes to be violated any provisions set forth in this Chapter shall, upon conviction thereof, pay a forfeiture to the City in the amount of not less than Fifty Dollars ($50.00) nor more than One Thousand Dollars ($1,000.00), together with the costs of prosecution thereof. Upon default

in payment of the imposed forfeiture, the violator shall be committed to the Dane County Jail for a term of not more than ninety (90) days.

B. The payment of such imposed forfeiture shall be in addition to the payment of any and all stormwater service charges, fees and penalties imposed by the Chapter.

C. Each day's continuance of a violation shall constitute a separate offense to which a separate forfeiture may be imposed.

D. It shall be the responsibility of the violator to cease and abate the violation immediately.

E. In addition to the forfeitures set forth above and payment of the charges, the City may seek, obtain and enforce injunctive relief.

S.XX.170 Severability

If any provision of this chapter is found to be illegal, the remaining provisions shall remain in effect.

Ordinance introduced by Councilmember ____, who moved its adoption. Seconded by Councilmember ____. AYES: _____. ADOPTED: _____, 20__. Motion carried by unanimous consent agenda roll call vote.

Donna Olson, Mayor Kelly Michaels, City Clerk