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33.01 FINDINGS AND DECLARATIONS OF POLICY

The City of Wisconsin Rapids finds that the management of stormwater and other surface water discharges within and beyond the City of Wisconsin Rapids is a matter that affects the health, safety and welfare of the city, its citizens and businesses, and others in the surrounding area. Failure to effectively manage stormwater affects the sanitary sewer utility operations of the city by, among other things, increasing infiltration to the sanitary sewer. In addition, surface water runoff causes erosion of lands, damages to businesses and residences, sedimentation, and other environmental damage in the City of Wisconsin Rapids and the surrounding area. In order to protect the health, safety and welfare of the public, the City of Wisconsin Rapids is exercising its authority to establish a Stormwater Utility for stormwater management services. The city is acting under the authority of Wisconsin Statutes 62.04, 62.11, 61.16, 62.175, 62.18, 66.0101, 66.0621, 66.0627, 66.0809, 66.0811, and 66.0821.

33.02 ESTABLISHMENT

There is hereby established a stormwater utility in the City of Wisconsin Rapids. The operation of the stormwater utility shall be under the supervision of the city engineer.

33.03 AUTHORITY

- (1) The city, acting through the stormwater utility, may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such facilities, operations and activities, as are deemed 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, sewers, watercourses, retaining walls, ponds, streets, roads, ditches and such other facilities as will support a stormwater management system.
- (2) The common council hereby designates the city engineer to administer and enforce the provisions of this ordinance.

33.04 INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be interpreted liberally to secure the ends sought hereby and shall not be deemed a limitation or repeal of any other power granted to the city by the Wisconsin Statutes.

33.05 SEVERABILITY OF ORDINANCE PROVISIONS

If any section, provisions or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

33.06 DEFINITIONS

The following terms, whenever they occur in this Ordinance, are defined as follows:

- (1) Charge means the fee imposed under this chapter for the rendering of stormwater utility services by the city.

- (2) **City Engineer** means the individual or the firm appointed or retained by the common council to routinely provide engineering services for the city, or the individual's or firm's designee or representative.
- (3) **Developed Property.** A property shall be considered to be developed if:
 - (a) 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
 - (b) Construction of an improvement on the property is at least fifty percent (50%) completed and such construction has ceased for a period of at least 3 months, whether consecutive or not.
- (4) **Equivalent Residential Unit or "ERU"** means the basic unit by which the Stormwater Utility charge is calculated under this section. It is the statistical average of the horizontal impervious area of residential living units within the City of Wisconsin Rapids on the date of the establishment of the stormwater utility. The horizontal impervious area includes, but is not limited to, all areas covered by structures, roof extensions, patios, porches, driveways, sidewalks, pavement, gravel, compacted clay, and loading docks.
- (5) **Impervious Area** means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rainwater. The term includes, without limitation due to enumeration, all areas covered by structures, roof extensions, patios, porches, driveways, sidewalks, parking lots, pavement, gravel, compacted clay, and loading docks, all as measured on a horizontal plane.
- (6) **Living 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.
- (7) **Multifamily Residential** means a residential property comprised of two or more attached living units, including but not limited to duplexes, apartments, flats, and condominiums.
- (8) **Nonresidential Property** means a lot or parcel of land, with improvements such as a building, structure, or other impervious areas as defined in Section 33.06(5), grading or substantial landscaping, which is not exclusively residential as defined herein, including, but not limited to, commercial, industrial, institutional, mixed-use, and governmental property, and excluding publicly-owned right-of-way and publicly-owned or privately-owned rail beds.
- (9) **Residential Property** means a lot or parcel of land developed exclusively for residential purposes, regardless of zoning classification, including but not limited to single-family homes, duplexes, condominiums, manufactured homes, trailers and multifamily apartments.
- (10) **Single-Family Residential** means a residential property comprised of one living unit, and/or multiple living unit(s) that are not physically attached to other living unit(s). This includes but is not limited to single-family homes, manufactured homes, trailers, and condominiums.
- (11) **Stormwater Utility** means the utility established under this chapter for the purpose of managing stormwater and imposing charges for the recovery of costs connected with such stormwater management.
- (12) **Undeveloped Property** means property that is not developed by the addition of an improvement such as a building, structure, other impervious area as defined in Section 33.06(5), grading or substantial landscaping which increases stormwater runoff.

33.07 BASIS OF CHARGE

- (1) By this ordinance, the common council is establishing the rate classification and basis for computation of charges for stormwater services for each lot and parcel within the City of Wisconsin Rapids. The actual charges to be imposed pursuant to these rate classifications, and any future changes in the charges, shall be made by resolution. A schedule of current rates, following approval by the common council, shall be maintained and on file in the office of the city engineer. All charges established pursuant to this chapter shall be fair and reasonable.
- (2) The rate classifications used to distribute the costs of the Stormwater Program among utility customers shall be based on the Equivalent Residential Unit (ERU). The charge assigned to each parcel shall be assessed based upon the impervious area or living units as reasonably determined by the city, except for undeveloped properties, which shall be assessed the charge for one ERU, and public right-of-way, which shall be exempt from the utility charge.

33.08 CUSTOMER CLASSIFICATION

- (1) **Customer Classes.** For the purposes of imposing the stormwater charges, all lots and parcels within the city are classified into the following five (5) customer classes.
 - (a) Residential, Single-Family & Mobile Home
 - (b) Residential, Multi-Family
 - (c) Nonresidential
 - (d) Undeveloped
 - (e) Right-of-way
- (2) **Parcel Classification.** The city engineer shall assign a customer classification to each lot and parcel within the City of Wisconsin Rapids.
- (3) **ERU.** The ERU is established to be 2,620 square feet.

33.09 CHARGE FORMULAS

- (1) (a) Residential, Single Family, and Double Wide Mobile Homes. The charges imposed for residential properties comprised of living units that are unattached to other living unit(s) shall be the charge for one ERU times the number of living units, i.e.

$$\text{Residential parcel charge} = \text{ERU charge} \times \text{number of living units (MC\#1085)}$$

- (b) Residential, Single Wide Mobile Homes. The charges imposed for residential properties comprise of living units that are unattached to other living unit(s) shall be the fee of 0.65 of one ERU per living unit existing on the property, i.e.

$$\text{Single wide mobile home charge} = 0.65 \times \text{ERU fee} \times \text{number of dwelling units (MC\#1085)}$$

- (2) Residential, Multi-Family. The charges imposed for residential properties with two (2) or more attached living units shall be the fee of 0.65 of one ERU per living unit existing on the property, i.e.

$$\text{Multi-family parcel charge} = 0.65 \times \text{ERU fee} \times \text{number of dwelling units}$$

- (3) Non-Residential. The charges imposed for non-residential properties shall be the charge for one ERU times the numerical factor obtained by dividing the total square footage of impervious area of the property by the square footage of one ERU. The factor shall be rounded down to the nearest one-tenth (0.1), i.e.

$$\text{Non-residential parcel charge} = \text{ERU charge} \times \text{parcel impervious area} \div 2,620 \text{ feet}$$

- (4) Undeveloped. The charges imposed for undeveloped parcels as defined herein shall be the fee of 0.65 of one ERU.

$$\text{Undeveloped parcel charge} = 0.65 \times \text{ERU charge}$$

- (5) Right-of-Way. Public highway, road, and rail right-of-way shall be exempt from the stormwater utility charge.
- (6) Minimum Charge. The minimum charges for any customer assessed a charge shall be equal to the charge for 0.65 of one ERU.
- (7) Impervious Area Measurement. The city engineer shall be responsible for determining the impervious area of nonresidential parcels based on the best available information, including, but not limited to, data supplied by the city assessor, city building inspector, aerial photography, property owner, tenant, or developer. The city engineer may require additional information as necessary to make the determination. The number of ERU's shall be updated by the city engineer based on any additions to the impervious area as approved through the building permit process.

33.10 CHARGES

The common council shall, by resolution, set or adjust the ERU charge to reflect the costs of the stormwater management program. Stormwater charges will be kept on file with the city clerk and city engineer.

33.11 CREDITS AND ADJUSTMENTS

The common council shall adopt, by separate resolution, criteria recommended by the city engineer for providing adjustments. The city engineer shall develop a manual that explains the criteria for granting adjustments and that provides application materials. It shall be the responsibility of the property owner to prove, using adjustments manual, that a parcel is eligible.

- (1) Credits.

- (a) Eligibility. Customer may be eligible for a credit, in the form of a reduced ERU multiplier for properties where all of the following conditions apply:

- (1) The city's cost of providing service or making service available to the property has been lessened.
- (2) The property conforms to all applicable ordinances and standards of the City of Wisconsin Rapids in effect at the time of parcel development.
- (3) The property has been assigned a nonresidential user classification by the city engineer.

- (b) Maximum Credit. The maximum aggregate credit for any individual property is 50% of its ERU charge, regardless of how many types of credits the property qualifies.

- (c) **Credit Types.** The following credits may be available to customers for properties meet all of the eligibility criteria of Section 33.11(1)(a).
 - (1) **Zero Discharge Credit.** Credits shall be considered for properties that discharge stormwater directly into a water body not maintained in any way by the city, or directly into a water body downstream of where it is maintained by the city, or is otherwise contained entirely upon the property.
 - (2) **Peak Discharge Control Credit.** Credits shall be considered for customers who own and maintain stormwater management facilities such as retention or detention basins that exceed state and local peak discharge rate requirements applicable to the site.
 - (3) **Water Quality Credit.** Credits shall be considered for customers who own and maintain stormwater management facilities that improve the quality of runoff from the property to a degree that exceeds state and local water quality requirements applicable to the site.
- (2) **Adjustments.** A customer may be eligible to have the number of ERU's assigned to their property adjusted under the conditions described below:
 - (a) **Undeveloped Property.** Properties which have been assigned an undeveloped user classification may be eligible to reduce the number of ERU's assigned to the property if either of the following conditions exist:
 - (1) The property owner can show that the cumulative impervious area on the parcel is less than half of the impervious area of one ERU, in which case the number of ERU's assigned to the property shall be reduced to zero.
 - (2) The property owner can show that the parcel assigned an undeveloped user classification is adjacent to another owned residential parcel with an assessed ERU, and that any impervious area or living units associated with the undeveloped property have been assessed to the adjacent parcel. In this case the number of ERU's assigned to the property shall be reduced to zero.
 - (b) **Nonresidential Property.** Nonresidential customers who believe the number of ERU's assigned to their property to be incorrect may submit an adjustment request to the city engineer. The allocated ERU's may be adjusted if the owner can provide information showing the square footage calculation as determined in Section 33.09(8) is incorrect.
- (3) **Review Procedure.**
 - (a) Within thirty (30) days of the submission of a request to the city engineer for an adjustment to the number of ERU's allocated to the property, the city engineer shall issue a written recommendation as to whether the request for adjustment should be granted, denied or granted in part. The written recommendation shall also set forth the reason or reasons for such recommendation. The recommendation shall be sent to the customer by certified mail, and shall be provided to the Public Works Committee and the common council.
 - (b) Within thirty (30) days of receipt of the written recommendation from the city engineer, the Public Works Committee shall review the recommendation. The customer shall be notified of the review by certified mail. The customer shall be allowed to present evidence at a hearing to be scheduled by the Public Works Committee. Upon review, the Public Works Committee shall determine whether the recommendation should be approved, rejected, or modified. The final determination of the Public Works Committee shall be in writing and set forth the reason or reasons for its decision. The Public Works Committee shall inform the customer of its decision by certified mail. The decision of the Public Works Committee shall be final.
 - (c) In reviewing a recommendation, the Public Works Committee shall apply the considerations set forth in Wis. Stat. § 66.0821(4)(c).
- (4) **Effective Date.** Any ERU adjustment granted shall thereafter be used to calculate the customer's user charges. The reduction shall only apply for the period of time subsequent to the filing of the request for adjustment. There shall be no retroactive adjustment for user charges imposed prior to the filing of the request.

33.12 BUDGET-EXCESS REVENUES

The city shall separately account for the stormwater utility finances. The city engineer shall prepare an annual budget, which is to include capital, borrowing and other costs related to the operation of the utility. The budget is subject to approval by the common council. Any excess of revenues over expenditures in a year will be deposited in a stormwater maintenance fund, which shall only be only be used to defer the costs of capital improvements, retire debt or other stormwater management expenses approved by the city engineer.

33.13 BILLING

- (1) **Bills.** Stormwater utility charges shall be billed monthly first to the occupied property owner or tenant with utility accounts and secondary to the owner of each unoccupied property through the city's Water Works and Lighting

utility. The property owner shall be ultimately responsible for payment of the Stormwater Utility charge. (MC#1141)

- (2) Late Payment. Failure to pay the charges within 20 days of the billing date will be subject to a late payment charge of three (3) percent of the most recent past due charge. (MC#1134)
- (3) Unpaid Charges. Unpaid charges shall be assessed as a lien against the property pursuant to Wisconsin Statutes 66.0821.