

ORDINANCE NO. 01-289

ORDINANCE TO ESTABLISH STORMWATER DRAINAGE UTILITY

**SEC. 3.50. ESTABLISHMENT OF STORMWATER DRAINAGE UTILITY**

Pursuant to Minnesota Statutes, Section 444.075, the City establishes a storm water drainage utility, authorizes the imposition of just and reasonable charges for the use and availability of storm sewer facilities, and establishes a Storm Water Fund. The Storm Water Fund shall be a separate account and shall be used solely for storm water drainage purposes, as outlined in the above referenced Statute.

**Sub. 1. Definitions**

- A. Pollutant Loading – The amount of total suspended solids delivered to the storm water drainage system, measured in pounds per acre per year, that is generated from a given land use.
- B. Total Suspended Solids (TSS) – The sum of all suspended matter, described by the dry weight of the suspended matter found in a specific volume of water (milligrams per liter, for example).

**Sub. 2. Findings and Determinations**

A. In the exercise of its governmental authority and in order to promote the public health, safety, convenience and general welfare, the City has constructed, operated and maintained a storm sewer system (“the system”). This Ordinance is adopted in the further exercise of such authority and for the same purposes.

B. The system, as constructed, heretofore has been financed and paid for through the imposition of special assessments and ad valorem taxes. It is now necessary and desirable to provide an alternative method of recovering some or all of the future costs of improving, maintaining and operating the system through the imposition of charges as provided in this Ordinance.

C. In imposing charges, it is necessary to establish a methodology that undertakes to make them just and equitable. Taking into account the status of completion of the system, past methods of recovering system cost, the topography of the City and other relevant factors, it is determined that it would be just and equitable to assign responsibility for some or all of the future costs of operating, maintaining and improving the system on the basis of the expected volume of storm water runoff from the various parcels of land within the City during a standard rainfall event. For the purposes of this Ordinance, a standard rainfall event is defined as the one-year storm of one-day duration. In addition, it is determined that it would be just and equitable to assign responsibility for some or all of the future costs of operating, maintaining and improving the system on the basis of the expected pollutant loading from the various parcels of land within the City.

D. Assigning costs and making charges based upon expected typical storm water runoff volume and pollutant loading cannot be done with mathematical precision but can only be accomplished within reasonable and practical limits. The provisions of this Ordinance undertake to establish a reasonable and practical methodology for making such charges.

**Sub. 3. Rates and Charges**

A. Residential Equivalent Factor. Rates and charges for the use and availability of the system shall be determined through the use of a “Residential Equivalent Factor” (“REF”). A REF has been developed for the storm water runoff volume (Volume REF), the storm water runoff pollutant loading (Quality REF) and a composite that is used for the final utility fee calculation (Utility REF). For the purposes of this Ordinance, the Volume REF is defined as the ratio of the average volume of surface water runoff coming from one acre of land subjected to a particular use, to the average volume of runoff coming from one acre of land subjected to typical single-family residential use within the City during a standard rainfall event. The Quality REF is defined as the ratio of the pollutant loading (measured as total suspended solids) coming from land subjected to a particular use, to the pollutant loading come from land subject to typical sing-family residential use with the City. The Utility REF is defined as the ratio of the sum of the volume and quality portions of the total annual storm water drainage utility fee for a given land use classification (as computed using the Volume REF and the Quality REF for that land use classification), to the sum of the volume and quality portions of the total annual storm water drainage utility fee for the single-family residential land use classification (as computed using the Volume REF and the Quality REF for the single family residential land use classification).

The Utility REF for each of the land use classifications will be revised at such time in the future when there is a shift in the percentage of utility expenditures related to storm water runoff volume and storm water runoff quality treatment. The revision shall be determined by the Director of Public Works, who shall notify the City Council of the action.

B. Storm water drainage charges. In determining charges the City Council shall by resolution establish a basic system rate to be charged against one acre of land having a Utility REF of one. The charge to be made against each parcel of land shall then be determined by multiplying the Utility REF for the parcel’s land use classification times the parcel’s acreage times the basic system rate. The Volume, Quality and Utility REFs for the following land uses within the City and the billing classifications for such land uses are as follows:

<u>CLASSIFI- CATION</u>	<u>LAND USES</u>	<u>Volume REF</u>	<u>Quality REF</u>	<u>Utility REF</u>
1	Golf Course, Park, Open Space	0.41	0.50	0.43
2	Single-family and Duplex Residential	1.00	1.00	1.00
3	Public and Private Schools and Institutional Uses	1.36	3.05	1.67
4	Multiple-family Residential and Churches	2.18	3.21	2.37
5	Commercial and Industrial	3.79	6.10	4.22

For the purposes of calculating storm water drainage charges, all developed single-family and duplex parcels less than one (1) acre in size per unit shall be considered to have an acreage of one-third (1/3) acre per unit. Double bungalows or duplexes shall be considered to be two units. Single-family parcels over one (1) acre in size or Duplex Residential parcels over one (1) acre per unit in size shall be billed at a higher rate. These rates shall be included in the resolution approved by the City Council.

C. Storm Water Utility rates shall be established by a resolution of the City Council as amended from time to time. Fee rates may be included as part of the fee schedule included within the annual budget resolution. Fees shall be structured to reasonably reflect the cost of constructing, maintaining and operating storm water drainage systems as outlined in Minnesota Statutes, Section 444.075.

**Subd. 4. Other Land Uses**

The Director of Public Works shall classify other land uses not listed in the foregoing table by assigning them to classes most nearly like the listed uses, from the standpoint of runoff volume for the standard rainfall event and the pollutant loading. An appeal from the Director of Public Works' determination of the property classification may be made to the City Council.

**Subd. 5. Adjustment of Charges**

The City Council may by resolution adopt policies providing for the adjustment of charges or credits to charges for parcels or groups of parcels, based upon land use data supplied by affected property owners, which data demonstrates a runoff volume for the standard rainfall event or a pollutant loading substantially different from that being used for the parcel or parcels. The Director of Public Works shall make such adjustment or credit. An appeal from the Director of Public Work's determination may be made in writing to the City Council. No adjustments shall be made retroactively.

**Subd. 6. Public Hearing and Notice**

The City shall hold a hearing prior to determining whether to build, construct, enlarge or improve storm sewer facilities financed in whole or in part by the imposition of storm sewer drainage charges. Notice of such hearing shall be published in the official City newspaper at least ten days prior to the date of hearing. Owners of all property adjoining a proposed improvement shall be mailed or served with a notice at least ten days in advance of the hearing. However, failure to give mailed notice or any defects in the notice shall not invalidate the proceedings.

**Subd. 7. Exemptions**

Public street rights-of-way, railroad rights-of-way and lands used exclusively for agricultural purposes are exempt from storm water drainage charges.

**Subd. 8. Payment of Charge**

Storm water bills shall be mailed to the owner or other account holder with their city water/sewer statement and shall specify the charges.

**Subd. 9. Delinquent Accounts**

A. Penalties. Any bill not paid in full ten (10) days after the due date will be considered delinquent. At that time the City shall require the delinquent owner/occupant to pay a penalty in addition to the original bill. The penalty shall be computed as five percent (5%) of the original bill. If delinquent bills are not paid they may be deemed delinquent and may be placed, together with such penalties as provided by statute, on the next year's tax roll and be collected as other taxes are collected. Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these penalties.

B. Delinquent Bills. Payment of charges and/or penalties is the ultimate responsibility of the property owner. The City reserves the right to trace the delinquent bill or penalty to the new address of the delinquent occupant.

C. Additional Penalties. In addition to the above listed penalties, the City may impose any and all of the penalties outlined in Section 1.18 of the City of Hutchinson Policy Handbook if a storm water utility account is found to be delinquent.

D. Assessment of Delinquent Accounts. All delinquent accounts shall be certified to the City Assessor who shall prepare an assessment roll for each year providing for assessment of the delinquent amounts against the respective properties served. The assessment shall include the amount of the delinquent account and the administrative charge due under subdivision (d), together with interest thereon at the maximum lawful rate. This assessment roll shall be delivered to the City Council for adoption on or before October first of each year. Such action may be optional or subsequent to taking legal action to collect delinquent accounts.

E. Administrative Assessment Charge. An administrative charge of \$25.00 shall be due upon the mailing of the notice of the proposed assessment.

#### **Subd. 10. Recalculation of Charges**

If a property owner or person responsible for paying the storm water drainage charge questions the correctness of such a charge, such person may have the determination of the charge recomputed by written request to the Director of Public Works. Such request shall be made within thirty (30) days of the mailing of the billing in question.

#### **Subd. 11. Adjustments and/or Credits to the Storm Water Drainage Charges**

A. The municipal storm water drainage utility uses a rate structure based on the anticipated relative contribution of storm water drainage runoff volume and pollutant loading to the storm water drainage system. A parcel's contribution is determined by that parcel's size and its land use, under the principle that more intensively developed land uses typically have a larger percentage of impervious surface and contribute a much greater volume of water to the system for the standard rainfall event of 2.3 inches in 24 hours and/or larger pollutant loading.

It is recognized that some parcels, due either to their unique topographic, vegetative, geologic and other characteristics have a hydrologic response substantially different from that of similarly sized parcels of the same land use.

To provide for an equitable assessment of storm water drainage charges, based on reasonably expected contribution of flows, provisions need to be made to permit adjustments to the storm water drainage charge for those parcels with unique or unusual characteristics, or credits to the storm water drainage charge for those parcels with storm water runoff volume and/or quality treatment facilities.

B. The basis of the city of Hutchinson's storm water drainage charges is the anticipated relative contribution of storm water runoff volume and pollutant loading to the storm water drainage system from a given parcel. Where unique or unusual conditions exist where the actual contributions of storm water runoff volume or pollutant loading from a given parcel is substantially different from those anticipated by the storm water drainage rate structure, the Director of Public Works, or designee thereof, may adjust or credit the storm water drainage charge for said parcel to an appropriate level in accordance with the guidelines specified herein.

The ordinance establishing the Storm Water Drainage Utility provides for the Director of Public Works to make adjustments and/or credits to the charges when (1) the property owner supplies data demonstrating a storm water runoff volume for the standard rainfall event substantially different from

that being used for the parcel, or (2) the property owner supplies data demonstrating that storm water runoff from the parcel is being treated to provide the required removal efficiency for total suspended solids (TSS).

C. Property Owner to Provide Detailed Information

It is the responsibility of the property owner or agent thereof to present to the Director of Public Works, or designee thereof, sufficient information concerning a parcel's hydrologic characteristics to permit an accurate assessment of the conditions that exist. This information may include, but is not limited to:

- 1) Site plan showing locations of all buildings, paved areas and other development relative to lot lines.
- 2) The total lot area and area of impervious surfaces, in square feet.
- 3) Site topography or contours of sufficient detail to ascertain flow directions, rates and volumes.
- 4) Hydraulic calculations specifying outflow volumes and rates for various rainfall events.
- 5) Calculation of total suspended solids removal efficient of any on-site storm water runoff treatment facility.

Failure to provide this information within thirty (30) days after delivery of a written request shall result in the assignment of the highest classification level for volume, quality and utility REF.

D. Adjustments Where Parcel Runoff is Significantly Different From Land Use Standard

Where the unit runoff generated by a parcel differs from the assigned amount for that land use category by more than 20 percent, the Director of Public Works, or designee thereof, may adjust the parcel's storm water drainage charge in accordance with the following procedure:

- 1) Calculation of unit runoff for the parcel shall be determined by the methods outlined in the Natural Resources Conservation Service Technical Release No. 55, utilizing a one-year event of 24-hour duration as the standard rainfall event.
- 2) If the calculated unit runoff is shown to differ from the assigned amount for that land use category by 20 percent or more, the volume portion of the fee for that parcel shall be adjusted by multiplying it by the ratio of the calculated unit runoff to the standard unit runoff.
- 3) A parcel's storm water drainage charge shall be subject to increases as well as decreases by this procedure.
- 4) For parcels with ponds covered by public easements, the area used for the calculation of the charge shall be reduced by the size of the easement area.

- 5) Because single family and duplex fees are not based upon actual parcel acreage, no adjustments for unit runoff differences will be made for those land uses except for totally vacant unimproved fully turfed parcels.
- 6) Adjustments shall not be retroactive. They become effective from the date they are approved.

E. Procedures for Calculation of Storm Water Credits

Procedures for calculation of Storm Water Detention Credits for Volume Charges and for calculation of Water Quality Treatment Credits for Quality Charges shall be based on standards prepared by the Director of Public Works and approved by the City Council.

F. City's Right to Inspect Facilities and Initiate Fee Adjustments and/or Credits

The Director of Public Works, or designee thereof, reserves the right to inspect periodically all storm drainage control facilities to ascertain that they are operating properly. If such a system, due to improper maintenance or other reason, fails to detain or cleanse storm water runoff in an effective manner, the Director of Public Works, or designee thereof, may eliminate or reduce detention or water quality credits to an appropriate level. Any such facility shall not be eligible to apply for storm drainage charge adjustments and/or credits for a period of 12 months following any adjustment and/or credit. Adjustments and/or credits shall not be made retroactively. An appeal from the Director of Public Works' determination may be made to the City Council.

The issuance of any building permit or other action that changes or intensifies an existing land use shall be cause for an adjustment of storm water drainage charges to an appropriate level.

Adopted by the City Council this 23<sup>rd</sup> day of January, 2001

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Marlin Torgerson  
Mayor

ATTEST:

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Gary D. Plotz  
City Administrator

## Procedures for Calculation of Storm Water Credits

### A. Procedure for Calculation of Storm Water Detention Credits for Volume Charges

A parcel may be credited for up to 31 percent of the storm water drainage charge for on-site measures that are owned and maintained by the applicant, which limit storm water outflow rates from the site in accordance with the following procedure:

- 1) 14 percent credit for parcels which limit peak outflow rates during a 5-year, 24-hour rainfall event to pre-developed rates.
- 2) 18 percent credit for parcels which limit peak outflow rates during a 10-year, 24-hour rainfall event to pre-development rates.
- 3) 24 percent credit for parcels which limit peak outflow rates during a 25-year, 24-hour rainfall event to pre-development rates.
- 4) 27 percent credit for parcels which limit peak outflow rates during a 50-year, 24-hour rainfall event to pre-development rates.
- 5) 31 percent credit for parcels which limit peak outflow rates during a 100-year, 24-hour rainfall event to pre-development rates.
- 6) No detention credits will be given for parcels that do not at least limit 5-year events to pre-development rates.

Runoff rates shall be determined using TR-55.

Only one of the above credits (1-6) may be applied to each parcel. Detention ponds, which operate between the steps described above, will receive the lower credit.

### B. Procedure for Calculation of Water Quality Treatment Credits for Quality Charges

A parcel may be credited for up to 19 percent of the storm water drainage charge for on-site measures, which are owned and maintained by the applicant, which effectively reduce the outflow of pollutants from the site. Credit percentage shall be based on the actual percentage of total suspended solid (TSS) removal efficiency, as determined by the following procedure, except that no credit will be given for sediment removal efficiencies of less than 55 percent.

The TSS removal efficiency shall be calculated using one of the following methodologies:

1. **“Methodology of Analysis of Detention Basins for Control of Urban Runoff Quality,”** Office of Water, Non-Point Source Division, U.S. E.P.A., September 1986.
2. **“Detpond,”** Robert Pitt and John Voorhees.
3. **“P8 Urban Catchment Model,”** IEP, Inc., William W. Walker, Jr.

Credit shall range from 13 percent, for parcels with a water quality treatment facility providing a TSS removal efficiency of 55 percent, to 19 percent, for parcels with a water quality treatment facility providing a TSS removal efficiency of 80 percent or greater.

- C. Credits shown in (A) and (B) above (for volume charges and quality charges, respectively), and adjustments, may be cumulative.