

CHAPTER 40

REEDSBURG STORMWATER UTILITY

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40.01 STORMWATER UTILITY ESTABLISHED

The Reedsburg Stormwater Utility is hereby established as a separate utility of the City to operate and maintain the stormwater management facilities and functions of the City in accordance with the policies and directives of the City Council and this chapter.

40.02 AUTHORITY

The Stormwater Utility is created pursuant to the authority provided in Chapter 66 of the Wisconsin Statutes including, without limitation, the authority granted in the following sections: §§66.0621, 66.0627, 66.0701, 66.0703, 66.0809, 66.0811, 66.0813 and 66.0821.

40.03 MANAGEMENT AND OPERATIONS

The operation of the Stormwater Utility shall be under the general supervision of the Utility Director and the City Council. The Utility Director will also oversee and be in charge of the day-to-day operations of the Utility. Currently the Utility Director will be the City Engineer/Director of Public Works.

40.04 POWERS AND DUTIES.

- (1) Facilities. The City, through the Stormwater Utility, may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, manage and finance such facilities as are deemed proper and reasonably necessary for a system of storm and surface water management. Such facilities may include, without limitation by enumeration, surface and underground drainage facilities, sewers, watercourses, retaining walls, ponds, basins, streets, roads, ditches and such other facilities as will support a stormwater management system.
- (2) Rates and Charges. The City Council shall establish such rates and charges as are necessary to finance any necessary property or easement acquisition and the planning, design, construction, maintenance and operation of stormwater management facilities in accordance with the procedures set forth in this subchapter for the Stormwater utility. The City may advance funds or services to the Stormwater Utility from time to time and the Utility shall reimburse the actual amount or value of such advances as determined by the City Council.
- (3) Budgeting Process. The Utility Director shall prepare an annual budget for the stormwater utility, which shall include all operation, maintenance and capital costs, debt service and other costs related to the operation of the utility. The costs shall be allocated among the various rate classifications as determined by the City Council. The budget shall be approved by the Council in accordance with the procedures and requirements of Wis. Stats. §65.90.
- (4) Excess Revenues. All stormwater fees collected, and any other revenues appropriated to, or attributable to the operation of, the stormwater utility shall be maintained in a segregated Stormwater Utility Enterprise Fund. Any excess of revenues over expenditures from stormwater utility operations in a given year shall be maintained in the Enterprise Fund and shall be used in future years exclusively for purposes consistent with this subchapter.

40.05 DEFINITIONS

As used in this subchapter, the following terms have the meanings set forth below:

- (1) "Director" shall mean the Utility Director or his or her designee.

40.05 Definitions

- (2) "Equivalent Runoff Unit" or "ERU" shall mean the estimated average horizontal measurement of impervious area of a fully developed single-family parcel within the City as determined from time to time by the City Council. One ERU is determined on the effective date of this subchapter to be equivalent to 3,024 square feet.
- (3) "Impervious Area" or "Impervious Surface" shall mean a horizontal surface, or the horizontal area included in a sloped surface, that is compacted or covered with a layer of material such that it significantly reduces the ability of rainwater or other surface water to penetrate the ground below. The term includes, but is not limited to, semi-impervious surfaces such as compacted clay, as well as streets, roofs, sidewalks, patios, parking lots, driveways and other similar surfaces.
- (4) "Duplex" shall mean a residential building containing two dwelling units.
- (5) "Duplex Unit" shall mean a dwelling unit within a duplex.
- (6) "Dwelling Unit" shall mean one or more rooms within a building that are arranged, designed or used as living quarters for one group of individuals living as a single housekeeping unit.
- (7) "Farmstead Home Site" shall mean that portion of any agricultural property that contains a single-family home, duplex unit or multifamily unit, regardless of whether the dwelling unit is on a separate lot or parcel.
- (8) "Lot" shall have the meaning defined in §15.02(43) of this Code.
- (9) "Multifamily Property" shall mean a residential building consisting of three or more dwelling units.
- (10) "Multifamily unit" shall mean a dwelling unit within a multifamily property.
- (11) "Non-residential Property" shall mean any developed lot or parcel other than residential property as defined herein, and includes, but is not limited to, transient rentals (such as hotels and motels), mobile-home parks, commercial, industrial, institutional, governmental property and parking lots.
- (12) "Residential Property" shall mean any lot, parcel or farmstead home site developed for residential purposes including single-family homes, duplex units, multifamily units, but not including transient rentals (such as hotels and motels) and mobile-home parks.
- (13) "Single Family Home" shall mean any residential building containing only one single dwelling unit.
- (14) "Undeveloped Property" shall mean property that has not been altered by the addition of any improvements such as a building or other structure, paving or the installation of substantial impervious landscaping; A property shall be considered developed pursuant to this chapter, upon issuance of a certificate of occupancy, or upon substantial completion of construction if no such certificate is issued or where construction is at least 50% complete and construction is halted for a period of three (3) months.

40.06 RATES AND CHARGES

- (1) The rates charged by the Stormwater Utility shall be established from time to time by City Council resolution at sufficient levels to fund the capital, operating and other expenses set forth in the adopted budget which is not funded by other sources of revenue. Service charges so established shall be in addition to any assessments or charges imposed under any other provision of this Code.
- (2) A copy of the current rates shall be maintained at all times on file with the City Clerk and available to the public during normal business hours.
- (3) Service charges established by the Council may include the following components:

40.06 Rates and Charges

- (A) Base Charge (BC). A Base Charge may be charged to each property in the City based upon its total area determined from annual tax records.
 - (B) Equivalent Runoff Unit Charge (ERU). The ERU charge shall be the basic service fee charged to each property in the City based upon the amount of impervious area as reasonably determined by the Director.
 - (C) Special Charge (SC). A special charge may be imposed on property located in an area specially benefited by a particular stormwater management facility or service. Any special charge will be developed to reflect the benefits and/or services in a particular area which the Council determines cannot equitably be charged to all property throughout the City.
 - (D) Connection Charge. A one-time charge may be imposed when a property is converted from undeveloped to developed property or otherwise becomes connected to the City stormwater management system. The charge shall be determined by the City Council from time to time, and may vary based on the size of the parcel of property or other factors determined appropriate by the City Council.
- (4) The City Council may make such other classifications of properties or customers in order to achieve a reasonable and fair allocation of the costs of the Stormwater Utility among the properties benefited.

40.07 CREDITS

- (1) The City Council may grant credits against the BC, ERU, SC, and connection charges as provided in this section. The total of all credits may not exceed the total of all applicable charges.
- (2) Any property owner requesting a credit shall file with the Utility Director an application therefore on a form provided by the City, together with a review fee established by the City Council, identifying the storm water facilities, management practices or services for which the credit is claimed and the financial benefit to the utility. The review fee shall be deposited into the Stormwater Utility Fund. If the Utility Director determines that additional engineering analysis is necessary to properly complete his or her review and to make an appropriate recommendation thereon, the Utility Director may deny the application unless the applicant agrees to pay the cost of the necessary engineering services.
- (3) Credits may be granted under any of the following circumstances:
 - (A) Any property owner may seek a credit against the ERU charge where the owner has installed and maintained facilities that result in the detention, retention, or infiltration of stormwater on site and such facilities demonstrably reduce the financial obligations of the stormwater utility. The property owner must satisfactorily demonstrate the financial savings to the utility from the practice for which a credit is desired.
 - (B) For residential SWMU customers, a credit of 25 percent of the annual stormwater utility fee may be provided for the construction of a rain garden that is installed according to University of Wisconsin and WDNR standards and maintained by the owner. To obtain this credit, a qualifying property owner must self certify that the rain garden has been installed using the above standards and it will be maintained for the duration of the credit.
 - (C) For non-residential SWMU customers, a credit up to 50 percent of the utility fee could be obtained by detaining excess storm water. **For example**, if an on-site detention pond on a newly developed site detains the 100-year storm and releases a peak discharge equal to the 2-year storm during pre-developed site conditions, a 50 percent credit would be possible. The table below defines possible credits for non-residential properties assuming

that the peak discharge for the storm size in the table during post developed conditions is reduced to the two-year storm peak discharge for pre-developed conditions.

**Possible Credits for
Non-Residential Properties**

<u>Storm Size (years)</u>	<u>Credit</u>
5 to 2	10%
10 to 2	20%
25 to 2	30%
50 to 2	40%
100 to 2	50%

- (D) Any nonresidential property owner may seek a credit against the ERU charge for that portion of the property that does not drain into any stormwater conveyance or facility operated or maintained by the stormwater utility.
- (E) Any property owner may seek a credit against the SC charge if stormwater from the property does not drain into any stormwater conveyance or facility that is the subject of the special charge.
- (4) The Utility Director shall evaluate the quantifiable benefits in both quantity and quality management measures in reviewing requests for credits, where applicable. In all cases, the Utility Director shall submit a written recommendation to the City Council as to whether a request for credit should be granted, denied, or granted in part and denied in part. The written recommendation shall also set forth the reason or reasons for such recommendation.
- (5) Credit applications shall be decided by the Utility Director and shall be either one-time credits or may be continuing credits against recurring charges as determined appropriate by the Director. The Director shall grant a credit under sub. (3)(a) Only if it finds all of the following:
 - (A) If the credit is based on special facilities or management practices under sub. (3)(A):
 1. The facilities installed or practices undertaken will reduce the expenses incurred by the utility by limiting the quantity and/or improving the quality of discharges into the facilities of the utility from the property;
 2. The property owner has, by contract, deed restriction or other method approved by the Utility Director, ensured that the City may legally enforce any operational or maintenance programs necessary to assure that the facilities or practices will continue to provide the benefits on which the credit is based;
 3. The investment of the property owner in the facilities or management practices exceeded the investment that would otherwise be necessary in order to comply with any other City ordinance, State or Federal regulations or to obtain any land division or development approval from the City;
 4. The investment of the property owner in such facilities or management practices is disproportionate to the investment made by the average property owner subject to the same normal charges such that it would be inequitable to charge the applicant on the same basis; and
 5. The amount of the credit does not exceed the cost savings to the utility from the facilities and management practices maintained by the applicant.
 - (B) If the credit is based on sub. (3)(B) or (C):
 1. That the absence of drainage from the property or a portion thereof into the facilities of the Utility results in financial savings to the Utility.
 2. Adequate assurances are provided that the area of the property for which the credit is given will not be altered in such a way as to allow drainage into the facilities operated by the Utility.
 3. The drainage from the property is managed in a way that complies with all City

40.07 Credits

- ordinances and does not cause a nuisance condition.
4. The amount of the credit does not exceed the cost savings to the utility determined under subpar. 1.
 - (6) The Utility Director may revoke the credit in any case where the circumstances forming the basis for the credit have materially changed. The Committee shall provide at least 30 days advance written notice of any proposed credit revocation.
 - (7) A denial or revocation of any credit may be appealed under Section 40.10.

40.08 CUSTOMER CLASSIFICATIONS *(Rev. 01-26-09)*

- (1) For purposes of imposing the ERU charges, all lots and parcels within the City shall be classified into the following five (5) customer classes:
 - (A) Residential – Single Family
 - (B) Residential – Duplex
 - (C) Residential – Multifamily, including condominiums
 - (D) Non-residential
 - (E) Undeveloped
- (2) The City Utility Director shall prepare a list of properties within the City and assign a customer classification to each lot or parcel.
- (3) ERU's shall be calculated for each property classification as follows:
 - (A) Residential – Single Family 1 ERU.
 - (B) Residential – Duplex: 2 ERU.
 - (C) Residential – Multifamily: 1 ERU per dwelling unit.
 - (D) For non-residential parcels the Director shall be responsible for determining the impervious area from available information, including, but not limited to, data supplied by the City Assessor, the property owner, tenant or developer, aerial photography, or by actual on site measurement. The Director may require additional information from the property owner as necessary to make the determination. The ERU value for a nonresidential property shall be determined by dividing its impervious area by the number of square feet per ERU and rounding the quotient to the next higher 0.1 ERU. The minimum ERU charge to non-residential properties will be 1 ERU. The billing amount shall be updated by the Director as necessary based on changes to the amount of impervious area on the property.
 - (E) Undeveloped Properties - 0 ERU.

40.09 BILLING AND PENALTIES *(Rev. 01-26-09)*

- (1) Stormwater Utility charges can be billed with the utility billing or with the annual tax rate as determined by the City Council. All charges shall be due and payable twenty (20) days from the bill date.
- (2) Billings for Stormwater Utility charges shall be the responsibility of the designated property owner or tenant. The owner of the property shall be liable for all stormwater utility charges in the even payment is not made as required in this subchapter.
- (3) Any Stormwater Utility charges remaining unpaid more than thirty (30) days from the date of billing shall be deemed delinquent and shall accrue a late charge of not less than one (1) percent or greater than ten (10) percent in addition to all other charges. All delinquent charges shall be collected as provided in Wis. Stats. §§66.0821(4) and 66.0809.

40.10 APPEALS

- (1) Any stormwater utility charge, determination of ERUs, or ERU credits for any individual property may be appealed by filing a written appeal with the City Clerk not later than thirty (30) days after the date the payment is due. The appeal shall specify all bases for the appeal and the amount of the stormwater charge the appellant asserts is inappropriate. Any appeal not filed within the time permitted by this section shall be deemed waived. As a condition to maintaining an appeal, the appellant shall pay all charges billed under protest prior to filing the appeal.
- (2) The Director shall review the appeal and determine whether the challenged determination is fair and reasonable and consistent with the provisions of this subchapter, and whether a refund is due the customer. The Director shall determine its procedure for deciding such appeals which, at a minimum, shall provide the appellant with written notice by certified return receipt mail at least 10 days prior to the meeting at which the appeal will be reviewed, and an opportunity to present evidence and be heard on the appeal at such meeting. The Director shall provide the appellant with its decision in writing within 15 days after the date of the decision.
- (3) The appellant may appeal the decision of the Director within thirty (30) days from the date of mailing the Director's decision. An appeal to the City Council shall be limited to the evidence presented to the Director, but the appellant shall be afforded the opportunity to present arguments based on that evidence.
- (4) If the Council or the Director determines that the decision appealed from should be reversed or modified, it shall determine whether a refund is due the customer. Any refund ordered shall be applied as a credit against the customer's next stormwater billing if the refund will not exceed the customer's next stormwater billing, and otherwise will be refunded by the City Treasurer from the Stormwater Utility fund.

40.11 SPECIAL ASSESSMENT AND CHARGES

- (1) In addition to any other method for collection of the charges established pursuant to this subchapter for Stormwater Utility costs, the City Council may order that the charges be levied against the property as a special charge pursuant to Wis. Stat. § 66.0627. The mailing of an invoice reflecting the charges due to the owner shall be notice to the owner that failure to pay the charges when due may result in such charges being placed upon the tax roll.
- (2) In addition to any other method of charging for Stormwater Utility expenses, the City Council may by resolution levy special assessments on property in a limited and determinable area for special benefits conferred upon property by any public improvements pursuant to Wis. Stat. § 66.0703. The failure to pay such special assessments shall result in a lien on the property and shall be enforced pursuant to Wis. Stat. §66.0703(13).

40.12 SEVERABILITY

If any provision of this subchapter is found to be invalid or unenforceable for any reason, such determination shall not affect the validity or application of, the remaining provisions. A determination of invalidity or unenforceability of any provision as applied to any specific property or circumstance shall not affect the validity and application of such provisions to any other property or circumstances.