

Public Hearing Date: 09, 05, 2006

ORDINANCE CREATING CHAPTER 7 OF TITLE 8 OF THE MONROE CITY CODE:
STORM WATER UTILITY

THE COMMON COUNCIL of the city of Monroe does ordain as follows:

SECTION 1: Chapter 7 of Title 8 of the Monroe City Code is hereby created to read as follows:

CHAPTER 7
STORM WATER UTILITY

SECTION:

- 8-7-1: Findings and Declarations of Policy.
- 8-7-2: Establishment.
- 8-7-3: Authority.
- 8-7-4: Definitions.
- 8-7-5: Basis of Storm Water Utility Charges.
- 8-7-6: Equivalent Runoff Unit.
- 8-7-7: Classifications.
- 8-7-8: Storm Water Utility Charge Formulas.
- 8-7-9: Credits and Adjustments.
- 8-7-10: Billing Procedures.
- 8-7-11: Budget and Excess Revenues.
- 8-7-12: Interpretation.
- 8-7-13: Severability.

8-7-1: FINDINGS AND DECLARATIONS OF POLICY. The City of Monroe finds that the management of storm water and other surface water discharges within and beyond 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. Failure to effectively manage storm water 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 and surrounding area. In order to protect the health, safety and welfare of the public, the City is exercising its authority to establish a storm water utility for storm water management services.

8-7-2: ESTABLISHMENT. There is hereby established a storm water utility in the City. The operation of the storm water utility shall be under the supervision of the storm water utility manager.

8-7-3: AUTHORITY. The City, acting through the storm water 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 storm water management system.

8-7-4: DEFINITIONS. The following terms, whenever they occur in this chapter, are defined as follows:

DEVELOPED PROPERTY means a property for which (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 50 percent completed and such construction has ceased for a period of at least 3 months, whether consecutive or not.
EQUIVALENT RUNOFF UNIT OR "ERU":	means the basic unit by which the storm water utility charge is calculated under this chapter. It is the statistical average impervious area of residential units within the City.
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, sidewalks, parking lots, pavement, gravel, compacted clay, and loading docks, all as measured on a horizontal plane.
LIVING UNIT:	means a room or group of rooms including cooking accommodations, which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others
MULTI-FAMILY UNIT:	means any residential property comprised of 2 or more living units, including without limitation duplexes, apartments and condominiums.
NONRESIDENTIAL PROPERTY:	means a lot or parcel of land, with improvements such as a building, structure, other impervious area, grading or substantial landscaping, which is not a residential property, 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.
RESIDENTIAL PROPERTY:	means a lot or parcel of land, regardless of zoning classification, developed exclusively for living units, including single-family units and multi-family units.
SINGLE-FAMILY UNIT:	means any residential property, including manufactured homes, trailers, and condominiums, consisting of one living unit.
STORM WATER UTILITY:	means the utility established under this chapter for the purpose of managing storm water and imposing charges for the recovery of costs connected with such storm water management.
STORM WATER UTILITY CHARGE:	means the fee imposed under this chapter for the rendering of storm water utility services by the City.
STORM WATER UTILITY MANAGER:	means the City's director of public works or such other person appointed by resolution of the Common Council to manage the storm water utility.
UNDEVELOPED	means property that is not developed by the addition of an improvement

PROPERTY: such as a building, structure, other impervious area, grading or substantial landscaping which increases storm water runoff.

8-7-5: BASIS OF STORM WATER UTILITY CHARGES. Storm water utility charges shall be based on the actual and necessary cost of operating the storm water utility apportioned among tax parcels in the City based on the number of ERUs assigned to each parcel pursuant to this chapter.

8-7-6: EQUIVALENT RUNOFF UNIT.

- (A) **Statistical Average Square Feet.** The ERU is hereby established as 2,667 square feet.
- (B) **ERU Fee.** The Common Council shall by resolution set or adjust the ERU fee to reflect the costs of the storm water management program.

8-7-7: CLASSIFICATIONS.

(A) **Rate Classification.** For the purposes of imposing the storm water utility charge, all lots and parcels within the City shall be classified into the following rate classes.

1. Residential - Single Family Unit
2. Residential - Multi-Family Unit
3. Nonresidential Property
4. Undeveloped Property
5. Right-of-Way

(B) **Parcel Classification.** The storm water utility manager shall assign a rate classification to each lot and parcel within the City.

8-7-8: STORM WATER UTILITY CHARGE FORMULAS. Storm water utility charges assessed to a parcel in the City shall be determined as follows:

- (A) **Residential - Single Family Unit.** The storm water utility charge imposed for single family unit on a residential property shall be the fee established for one ERU.
- (B) **Residential - Multi-family Unit.** The storm water utility charge imposed for a Multi-family unit on a residential property shall be the fee established for one ERU multiplied by the number of living units on the property multiplied by 0.5.
- (C) **Non-Residential Property.** The storm water utility charge imposed for a non-residential property shall be the fee established for one ERU, multiplied by a numerical factor obtained by dividing the total square footage of impervious area of the property by the square footage of one ERU rounded down to the nearest 1/10 of an ERU.
- (D) **Undeveloped Property.** The storm water utility charge imposed for an undeveloped property shall be the fee established for one ERU multiplied by 0.5.
- (E) **Right-of-Way.** A publicly owned or controlled street, alley, highway, road, recreational trail and rail right-of-way shall be exempt from the storm water utility charge.

- (F) **Minimum Charge.** The minimum storm water utility charge for any property that is not exempt shall be the fee established for one ERU multiplied by 0.5.
- (G) **Impervious Area Measurement.** The storm water utility manager shall be responsible for determining the impervious area of nonresidential property based on the best available information, including, but not limited to, data from aerial photography or data supplied by the City assessor, property owner, tenant, or developer. The storm water utility manager may require additional information as necessary to make the determination. The number of ERUs shall be updated by the storm water utility manager based on any changes to the impervious area.

8-7-9: CREDITS AND ADJUSTMENTS. The Common Council shall adopt, by separate resolution, criteria for establishing adjustments to the storm water utility charge imposed for any parcel. The storm water utility manager shall develop a manual explaining the criteria for calculating such adjustments and an adjustment application.

(A) **Credits.**

1. **Eligibility.** A property owner may be eligible for a credit, in the form of a reduced ERU multiplier for a property where all of the following conditions apply:

- a. The City's cost of providing service or making service available to the property has been lessened.
- b. The property conforms to all applicable codes and standards of the City in effect at the time of parcel development.
- c. The property has been assigned a nonresidential or multi-family residential user classification by the storm water utility manager.

2. **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 may otherwise be qualified to receive.

3. **Credit Types.** The following credits may be available for a property that meets all eligibility requirements.

a. **Zero Discharge Credit.** Credits shall be considered for properties that discharge storm water 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.

b. **Peak Discharge Control Credit.** Credits shall be considered for owners who maintain private storm water management facilities such as retention or detention basins that exceed state and local peak discharge rate requirements applicable to the site.

c. **Water Quality Credit.** Credits shall be considered for owners who maintain private storm water 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.

(B) **Adjustments.** An owner may be eligible to have the number of ERUs assigned to the owner's property adjusted under the following conditions:

1. **Undeveloped Property.** Properties which have been assigned an undeveloped user classification may be eligible to reduce the number of ERUs assigned to the property if either of the following conditions exist:

a. 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 ERUs assigned to the property shall be reduced to zero.

b. The property owner can show that the parcel assigned an undeveloped user classification is adjacent to another owned residential parcel with an assessed ERU.

2. **Nonresidential Property.** The owner of a nonresidential property who believes the number of ERUs allocated to such property to be incorrect may submit an adjustment request to the storm water utility manager. The allocated ERUs may be adjusted if the owner can provide information showing that the impervious area measurement is incorrect.

(C) **Review Procedure.**

1. **Storm Water Utility Manager Administrative Decision.** Within 30 days following submission of a request to the storm water utility manager for an adjustment to the number of ERUs allocated to a property, the storm water utility manager shall issue a written administrative decision as to whether the request for adjustment should be granted, denied or granted in part. The written administrative decision shall also set forth the reason or reasons for such decision. The administrative decision shall be delivered to the property owner by certified mail or personal delivery, and a copy thereof shall be provided to the Board of Public Works.

2. **Board of Public Works Appeal.** Within 30 days following delivery of the administrative decision of the storm water utility manager, the affected property owner may file with the City Clerk a written appeal of such decision. Such appeal shall be heard by the Board of Public Works within 30 days following the filing thereof. Notice of the meeting at which the appeal will be considered shall be delivered to the property owner by certified mail or personal delivery not less than 5 days prior to such meeting.

3. **Board of Public Works Review.** The Board of Public Works may at any time on its own initiative review a decision of the Storm Water Utility Manager, provided however, that notice of the meeting where such decision will be reviewed shall be delivered to the affected property owner in the same manner as is required for an appeal.

4. **Board of Public Works Decision.** Upon appeal or independent review, the Board of Public Works shall decide whether the administrative decision should be approved, rejected, or modified. The affected property owner shall be afforded an opportunity to be heard prior to the Board's final decision. The final decision shall be in writing and shall set forth the reason or reasons for its decision. Minutes of the Board of Public Works meeting where such decision was made shall be a sufficient record of the Board's decision. A copy of such decision shall be delivered to the affected property owner by certified mail or personal delivery.

5. **Review Considerations.** In rendering an administrative decision by the storm water utility manager or reviewing such decision by the Board of Public Works, the considerations set forth in Section 66.0821(4)(c) of the Wisconsin Statutes shall be applied.

- (D) **Effective Date.** Any ERU adjustment or reduced multiplier granted shall thereafter be used to calculate the storm water utility charge for the affected property. 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.

8-7-10: BILLING PROCEDURES.

- (A) **Bills.** Storm water utility charges shall be billed to the owner of each property in the City. The property owner shall be responsible for payment of the storm water utility charge.
- (B) **Late Payment.** Failure to pay the charges when due will be subject to a late payment charge of 1 percent per month that will be added to bills not paid within 20 days of issuance.
- (C) **Unpaid Charges.** Unpaid charges shall be assessed as a lien against the property pursuant to Section 66.0821 of the Wisconsin Statutes.

8-7-11: BUDGET AND EXCESS REVENUES. The City shall separately account for the storm water utility finances. The storm water utility manager shall prepare an annual budget, which is to include all operation and maintenance costs, costs of borrowing and other costs related to the operation of the storm water utility. The budget is subject to approval by the Common Council. Any excess of revenues over expenditures in a year shall be deposited in a storm water maintenance fund, which will be used to defer the costs of capital improvements or to retire debt.

8-7-12: INTERPRETATION. The provisions of this Chapter shall be interpreted liberally to secure the ends sought hereby and shall not be deemed a limitation or repeal of any other power granted by law.

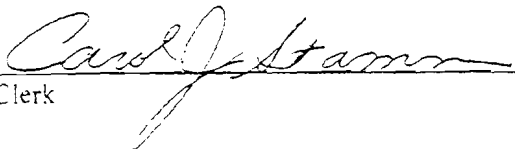
8-7-13: SEVERABILITY. If any section, provisions or portion of this chapter is adjudged unconstitutional or invalid by a court, the remainder of this chapter shall not be affected thereby.

SECTION 2: This ordinance shall be in full force on the day following its passage and official publication.

Dated the 5th day of September, 2006
Passed the 5th day of September, 2006
Published the 11th day of September, 2006



Mayor



City Clerk