

## Title II – Chapter 7

### Utility – Stormwater

- § 7.01 Findings and Declarations of Policy
- § 7.02 Establishment
- § 7.03 Authority
- § 7.04 Interpretation
- § 7.05 Severability of Ordinance Provisions
- § 7.06 Definitions
- § 7.07 Basis of Charge
- § 7.08 Customer Classifications
- § 7.09 Charge Formulas
- § 7.10 Fees
- § 7.11 Credits and Adjustments
- § 7.12 Budget-Excess Revenues
- § 7.13 Billing

- 7.01 **Findings and Declarations of Policy.** The Village of Poynette finds that the management of stormwater and other surface water discharges within and beyond the Village of Poynette is a matter that affects the health, safety and welfare of the Village, its citizens and businesses and others in the surrounding area. Failure to effectively manage stormwater affects the sanitary sewer utility operations of the Village 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 Village of Poynette and/or surrounding area. In order to protect the health, safety and welfare of the public, the Village of Poynette is exercising its authority to establish a Stormwater Utility for stormwater management services. The Village is acting under the authority of Wis. Stats. § 61.34, 61.36, 62.04, 62.11, 62.16, 62.175, 62.18, 66.0621, 66.0627, 66.0809, 66.0811, and 66.0821.
- 7.02 **Establishment.** There is hereby established a stormwater utility in the Village of Poynette. The operation of the stormwater utility shall be managed by the Utility Manager, under the supervision and control of the Village Board.
- 7.03 **Authority.** The Village, 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 Village 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.

- 7.04 **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 by the Wisconsin Statutes.
- 7.05 **Severability of Ordinance Provisions.** If any section, provisions or portion of this Ordinance is adjudged unconstitutional or invalid by a court, the remainder of this Ordinance shall not be affected thereby.
- 7.06 **Definitions.** The following terms, whenever they occur in this Ordinance, are defined as follows:
- (1) **Charge.** Charge means the fee imposed under this chapter for the rendering of stormwater utility services by the Village.
  - (2) **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 (50) percent completed and such construction has ceased for a period of at least 3 months, whether consecutive or not.
  - (3) **Dwelling unit.** 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.
  - (4) **Equivalent Runoff Unit or ("ERU").** ERU means the basic unit by which the Stormwater Utility charge is calculated under this section. It is the statistical average horizontal impervious area ("impervious area") of all single-family residential parcels within the Village of Poynette with an overall impervious area of less than 6000 square feet on the date of the establishment of the Stormwater Utility. The 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.** 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.

- (6) Multifamily unit. Multifamily unit means any residential property comprised of three or more dwelling units, including apartments and condominiums.
- (7) Nonresidential property. Nonresidential property means a lot or parcel of land, with improvements such as a building, structure, other impervious areas as defined in Sec. 7.06(4), 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.
- (8) Residential property. Residential property means a lot or parcel of land developed exclusively for residential purposes, regardless of zoning classification, including single-family units, duplexes, and multifamily units and condominiums. The term includes manufactured homes.
- (9) Single-family unit. Single-family unit means any residential property, including manufactured homes and condominiums, consisting of one dwelling unit.
- (10) Stormwater Utility. 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.
- (11) Two-Family Residential. Two-family residential means any residential property, including manufactured homes and condominiums, consisting of two dwelling units.
- (12) Undeveloped Property. 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 Sec. 21.6(4), grading or substantial landscaping which increases stormwater runoff.
- (13) Utility Manager. Utility Manager means the person appointed by the Village Board to manage the Stormwater Utility.

#### 7.07 **Basis of Charge**.

- (1) By this ordinance, the Village Board is establishing the rate classification and basis for computation of charge for stormwater services for each lot and parcel within the Village of Poynette. The actual charges to be imposed pursuant to these rate classifications, and any future changes in those rates, shall be made by resolution. A schedule of current rates, following approval by the Village Board shall be maintained and on file in

the office of the Utility Manager. 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 amount utility customers shall be based on the Equivalent Runoff Unit (ERU). The number of ERUs assigned to each parcel shall be assessed based upon the impervious area or dwelling units as reasonably determined by the Utility Manager, except for undeveloped properties, which shall be charged the fee for one ERU and public right-of-way, which shall be exempt from the utility charge.

**7.08 Customer Classification.**

- (1) Customer Classes. For the purposes of imposing the stormwater charges, all lots and parcels within the Village are classified into the following seven (7) customer classes.
  - (a) Residential, Single-Family, Average –single family parcels less than 6000 square feet of impervious area
  - (b) Residential, Single-Family, Large – single family parcels with 6000 square feet or more of impervious area
  - (c) Residential, Two-Family – residential parcels with two (2) dwelling units
  - (d) Residential, Multi-Family – residential parcels with three (3) or more dwelling units
  - (e) Nonresidential
  - (f) Undeveloped
  - (g) Right-of-Way
- (2) Parcel Classification. The Utility Manager shall assign a customer classification to each lot and parcel within the Village of Poynette.
- (3) ERU. The ERU is established to be 3,550 square feet.

**7.09 Charge Formulas.**

- (1) Residential-Single Family, Average. The charges imposed for single family properties with less than 6000 square feet of impervious area, shall be one ERU, i.e.

Single family parcel charge = 1 x ERU fee

- (2) Residential-Single Family, Large. The charges imposed for single family properties with 6000 square feet or more of impervious area shall be 2.5 ERUs, i.e.

$$\text{Single family parcel charge} = 2.5 \times \text{ERU fee}$$

- (3) Two-family (2) Residential. The charges imposed for residential properties with two dwelling units shall be 0.7 of one ERU per dwelling unit existing on the property, i.e.

$$\text{Two family parcel charge} = 0.7 \times \text{ERU fee} \times 2$$

- (4) Multi-Family Residential. The charges imposed for residential properties with three or more dwelling units shall be the fee of 0.5 of one ERU per dwelling unit existing on the property, i.e.

$$\text{Multi-family parcel charge} = 0.5 \times \text{ERU fee} \times \text{number of dwelling units}$$

- (5) Non-Residential. The charges imposed for non-residential properties shall be the fee for one ERU, multiplied by 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.

$$\text{Non-residential parcel charge} = \text{ERU fee} \times \text{parcel impervious area} \div 3,550 \text{ ft}^2$$

- (6) Undeveloped. The charges imposed for undeveloped parcels as defined herein shall be one ERU.

$$\text{Undeveloped parcel charge} = 1 \times \text{ERU fee}$$

- (7) Right-of-Way. Public highway, road, and rail right-of-way shall be exempt from the stormwater utility fee.

- (8) Minimum Charge. The minimum charges for any customer charged a fee shall be the fee for one (1) ERU.

- (9) Impervious Area Measurement. The Utility Manager shall be responsible for determining the impervious area of nonresidential parcels based on the reasonably available information, including, but not limited to, data supplied by the Village Assessor, Utility Manager, aerial photography, property owner, tenant, or developer. The Utility Manager may require additional information as necessary to make the determination. The number of ERUs shall be updated by the Utility Manager based on any additions to the impervious area as approved through the building permit process.

7.10 **Fees**. The Village Board shall, by resolution, set or adjust the ERU fee to reflect the costs of the stormwater management program. Stormwater fees will be kept on file with the Village clerk and Utility Manager.

7.11 **Credits and Adjustments.** The Village Board shall adopt, by separate resolution, criteria recommended by the Utility Manager for providing adjustments. The Utility Manager shall develop a manual explaining the criteria for calculating adjustment and an adjustment application.

(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 Village'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 Village of Poynette in effect at the time of parcel development.
3. The property has been assigned a nonresidential or multi-family residential user classification by the Utility Manager.

(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 that meet all of the eligibility criteria of sub (a).

1. 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 Village, or directly into a water body downstream of where it is maintained by the Village, 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 the Village's peak discharge rate requirements set forth in Title III, Chapter 8, Erosion Control and Stormwater Management, of the Village's Code of Ordinances.

(2) Adjustments. A Customer may be eligible to have the number of ERUs 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 ERUs 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 ERUs 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.
- (b) Nonresidential Property. Nonresidential customers who believe the number of ERUs allocated to their property to be incorrect may submit an adjustment request to the Utility Manager. The allocated ERUs may be adjusted if the owner can provide information showing the square footage calculation as determined in section 7.09(5) is incorrect.
- (3) Review Procedure.
- (a) Within thirty (30) days of the submission of a request to the Utility Manager for a credit or an adjustment to the number of ERUs allocated to the property, the Utility Manager shall issue a written decision as to whether the request for credit or adjustment should be granted, denied or granted in part. The written decision shall also set forth the reason or reasons for such decision. The decision shall be sent to the customer by certified mail, and shall be provided to the Public Works Committee.
  - (b) Within thirty (30) days of receipt of the written decision from the Utility Manager, an appeal from the Utility Manager's decision may be submitted to the Clerk. The Public Works Committee shall review the decision, and hold a hearing thereon. The customer shall be notified of the date of the hearing by certified mail.
  - (c) Upon review, the Public Works Committee shall determine whether the decision should be approved, rejected, or modified. The customer shall be allowed to present evidence at the hearing. The final determination of the Public Works Committee shall be in writing and set forth, in detail, the reason or reasons for its decision and shall inform the customer by certified mail. The Public Works Committee may, at its discretion, require access to the property to assist in its determination.
  - (d) In reviewing a decision, the Committee shall apply the considerations set forth in Wis. Stat. §66.0821(4)(c).
- (4) Effective Date. Any ERU adjustment or reduced multiplier 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.

7.12 **Budget-Excess Revenues.** The Village shall separately account for the Stormwater Utility finances. The 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 utility. The budget is subject to approval by the Village Board. Any excess of revenues over expenditures in a year will be deposited in a stormwater maintenance fund, which will be used to defer the costs of capital improvements or to retire debt.

7.13 **Billing.**

- (1) **Bills.** Stormwater utility charges shall be billed to the owner of each property. The property owner shall be responsible for payment of the Stormwater Utility charge.
- (2) **Late Payment.** Failure to pay the charges when due will be subject to a late payment charge of one (1) percent per month that will be added to bills not paid within 20 days of issuance.
- (3) **Unpaid Charges.** In addition to any other method of collection allowed by law, unpaid charges may be assessed as a lien against the property pursuant to sec. 66.0821, Wis. Stats.