

ARTICLE IV. - STORMWATER GENERALLY [3](#)

Footnotes: (3)

Editor's note— Ord. No. O06-3610, § 1, adopted November 21, 2006, repealed former Art. IV, in its entirety, which pertained to stormwater utility. Said ordinance also enacted provisions designated as a new Art. IV to read as herein set out. See the Code Comparative Table for a detailed analysis of inclusion.

Sec. 114-127. - Findings and necessity; purpose.

The city finds that the management of stormwater 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. Failure to effectively manage stormwater affects the sanitary sewer utility operations of the city by, among other things, increasing the likelihood of infiltration and inflow into the sanitary sewer system. Surface water runoff may cause erosion of lands, threaten residences and businesses with water damage, and create environmental damage to the streams and other water bodies within and adjacent to the city. It is declared to be the purpose of this article to establish within the city a stormwater conveyance system to manage, control and minimize the adverse effects of stormwater runoff in order to protect property, natural resources, public health and safety and the general welfare of city residents. It is further declared to be the purpose of this article to create a stormwater utility to operate and maintain the stormwater conveyance system, provide stormwater management services, enforce plans and programs, and comply with stormwater regulations throughout the city's corporate limits.

(Ord. No. O06-3610, § 1, 11-21-2006; Ord. No. O08-3660, § 1, 6-3-2008)

Sec. 114-128. - Creation of stormwater utility.

In order to protect the health, safety, and welfare of the public, the common council hereby exercises its authority to establish the stormwater utility.

(Ord. No. O06-3610, § 1, 11-21-2006; Ord. No. O08-3660, § 1, 6-3-2008)

Sec. 114-129. - Management of stormwater utility.

Management of the stormwater utility shall be under the supervision of the director of public works with oversight by the public works committee.

(Ord. No. O06-3610, § 1, 11-21-2006; Ord. No. O08-3660, § 1, 6-3-2008)

Sec. 114-130. - Powers.

The city, acting through the stormwater utility, may without limitation due to enumeration:

- (1) Acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance the stormwater conveyance system;
- (2) Undertake operations and activities, as are deemed by the city to be proper and reasonably necessary to manage the quantity and quality of stormwater;
- (3) Enforce plans and programs to manage stormwater discharge;

- (4) Take the steps necessary to comply with stormwater regulations; and
- (5) Establish a fee, billing, and collection structure to properly and reasonably allocate the costs of the stormwater utility to customers.

(Ord. No. 006-3610, § 1, 11-21-2006; Ord. No. 008-3660, § 1, 6-3-2008)

Sec. 114-131. - Authority.

In promulgating the provisions contained in this chapter, the city is acting pursuant to authority granted by Wis. Stats. chs. 62, 66 and 283.

(Ord. No. 006-3610, § 1, 11-21-2006; Ord. No. 008-3660, § 1, 6-3-2008)

Sec. 114-132. - State regulations adopted.

Except as otherwise specifically provided in this chapter, the provisions of Wis. Admin. Code chs. NR 151, NR 152 and NR 216, describing and defining regulations on stormwater runoff, are hereby adopted and by reference made a part of this chapter as if fully set forth herein, to the extent these codes apply to stormwater management within the boundaries of the city. Any act required to be performed or prohibited by any regulation incorporated herein by reference is required or prohibited by this chapter as if fully set forth herein. Any future amendments, revisions or modifications to any regulations incorporated herein or referred to herein are intended to be made part of this chapter.

(Ord. No. 006-3610, § 1, 11-21-2006; Ord. No. 008-3660, § 1, 6-3-2008)

Sec. 114-133. - Applicability.

This article applies to all parcels within the incorporated boundaries of the city.

(Ord. No. 006-3610, § 1, 11-21-2006; Ord. No. 008-3660, § 1, 6-3-2008)

Sec. 114-134. - Definitions.

For the purpose of this article, the definitions in this section shall apply. Words used in the singular shall include the plural; words used in the present tense shall include the future tense; the word "shall" is mandatory and not discretionary; the word "may" is permissive. Unless otherwise specified, definitions shall be those found in Wisconsin Department of Natural Resources Administrative Code (NR code) governing sanitary sewers and wastewater treatment or City Stormwater Utility program documents. Otherwise, words shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Merriam-Webster's Unabridged Dictionary.

City means the City of Superior.

Director means the director of public works, or designee.

Stormwater conveyance system means without limitation due to enumeration, all surface and underground stormwater drainage, holding and treatment facilities, storm sewers, watercourses, ponds, ditches, culverts, and all roadways (including connected or associated right of ways, roads, curbs, gutters, sidewalks, and driveway aprons), drainage ways, and greenways, owned or operated by the city; to, among other things, control discharges necessitated by rainfall events; incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water; prevent or reduce flooding and, environmental degradation and water pollution; or otherwise manage the quality and quantity of discharge from such

stormwater conveyance system. Unless otherwise specified by an easement or other similar binding agreement, the stormwater conveyance system does not include drainage systems across privately owned properties.

Stormwater utility means the enterprise established under this chapter for the purpose of managing stormwater and imposing charges for the recovery of costs connected with such stormwater management services.

(Ord. No. 006-3610, § 1, 11-21-2006; Ord. No. 007-3632, § 1, 9-18-2007; Ord. No. 008-3660, § 1, 6-3-2008)

Secs. 114-135—114-141. - Reserved.

ARTICLE V. - STORMWATER UTILITY FEES

DIVISION 1. - GENERALLY

Sec. 114-142. - Purpose.

It is declared to be the purpose of this article to provide the general means and methods for the assessment and collection of stormwater utility fees.

(Ord. No. 006-3610, § 2, 11-21-2006; Ord. No. 008-3660, § 1, 6-3-2008; Ord. No. 012-3818, § 1, 11-7-2012)

Sec. 114-143. - Definitions.

For the purpose of this article, the following definitions shall apply:

Customer means the owner of a developed parcel.

Developed parcel means any parcel where the property has been altered to add impervious area.

Equivalent runoff unit (ERU) means the impervious area of a developed parcel relative to the statistical average of impervious area of a single-family unit within the city. One ERU shall equal 2,933 square feet of impervious area.

Impervious area means a surface as measured on a horizontal plane which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rainwater. It includes, but is not limited to, all areas covered by structures, roofs, patios, decks, porches, driveways, loading docks, parking lots, sidewalks, and compacted clay and gravel which are used as driveways or parking lots. Impervious area is deemed to generate excess runoff in direct proportion to the amount of impervious area on the parcel as compared to property in its undeveloped state.

Non-single-family unit means any developed parcel that is not a single-family unit.

Non-single-family unit customer means a customer who owns or operates a non-single-family unit parcel.

Parcel means the legal unit of land division as recorded by the Douglas County Register of Deeds. Multiple contiguous parcels with the same owner(s) shall be considered to be one parcel for the purposes of calculating stormwater utility fees. Rights-of-way and streams that run through a parcel shall be excluded from the determination of "contiguous parcels."

Single-family unit means any developed parcel which contains a building for occupancy by a single-family, or as otherwise identified by the city or county.

Undeveloped or undeveloped parcel means a parcel with no impervious area. Undeveloped parcels are not deemed to generate excess runoff.

Stormwater fee shall mean the fee charged to customers to recover the cost of constructing, operating and maintaining the stormwater conveyance system, providing stormwater management services, maintaining regulatory compliance and the administrative and billing costs of managing the stormwater utility.

(Ord. No. 006-3610, § 2, 11-21-2006; Ord. No. 007-3632, § 1, 9-18-2007; Ord. No. 008-3660, § 1, 6-3-2008; Ord. No. 012-3818, § 1, 11-7-2012)

Sec. 114-144. - Establishment of stormwater utility fees.

The city, acting through the stormwater utility, shall establish a fee structure to properly and reasonably allocate the cost of constructing stormwater management infrastructure, operating and maintaining the stormwater conveyance system, providing stormwater management services, and maintaining regulatory compliance. The stormwater fee shall apply to all developed parcels.

(Ord. No. 006-3610, § 2, 11-21-2006; Ord. No. 008-3660, § 1, 6-3-2008; Ord. No. 012-3818, § 1, 11-7-2012)

Sec. 114-145. - Annual budget; enterprise fund.

The stormwater utility shall prepare an annual budget which shall separately account for the revenue and expenses of the stormwater utility. Stormwater utility expenses shall include all operation and maintenance costs, costs of borrowing, planning costs and other costs related to the operation of the stormwater utility. The budget is subject to approval by the common council. Stormwater utility fees collected shall be deposited in the stormwater utility enterprise fund and shall be used for no other purpose. Any excess of revenues over expenditures in a year shall be retained in the enterprise fund and used for stormwater utility expenses in subsequent years.

(Ord. No. 006-3610, § 2, 11-21-2006; Ord. No. 008-3660, § 1, 6-3-2008; Ord. No. 012-3818, § 1, 11-7-2012)

DIVISION 2. - CALCULATION OF STORMWATER UTILITY FEES

Sec. 114-146. - Customer classification.

For the purpose of calculating and imposing stormwater utility fees all developed parcels within the city shall be classified into one of the following customer classes:

- (1) Single-family unit;
- (2) Non-single-family unit.

(Ord. No. 006-3610, § 2, 11-21-2006; Ord. No. 008-3660, § 1, 6-3-2008; Ord. No. 012-3818, § 1, 11-7-2012)

Sec. 114-147. - Reserved.

Editor's note— Ord. No. O12-3818, § 1, adopted Nov. 7, 2012, repealed § 114-147, which pertained to stormwater fixed fee and derived from Ord. No. O06-3610, § 2, 11-21-2006; Ord. No. O08-3660, § 1, 6-3-2008.

Sec. 114-148. - Stormwater fee.

- (a) Each customer shall be charged a stormwater fee. The fee shall recover the cost of constructing, operating and maintaining the stormwater conveyance system, providing stormwater management services, maintaining regulatory compliance and administrative and billing costs of the stormwater utility.
- (b) The stormwater fee shall be calculated on an ERU basis. The stormwater fee will equal the rate per ERU multiplied by the number of ERUs established for a developed parcel.
- (c) Each single-family unit shall equal one ERU.
- (d) Each non-single-family unit customer will be charged multiples of the ERU based upon the impervious area of the developed parcel. The ERU established for a non-single-family unit customer shall be equal to one ERU multiplied by the numerical factor obtained by dividing the total impervious area on a non-single-family unit parcel by the square footage of one ERU. The factor shall be rounded to the nearest one-tenth.
- (e) No developed parcel shall be less than one ERU.
- (f) The rate per ERU shall be established by resolution duly adopted by the common council. Until changed by common council resolution, the stormwater fee shall be \$5.90 per month per ERU effective July 1, 2012, with a billing date in January 2013.
- (g) The effective date for implementing and charging the stormwater fee shall be established by resolution duly adopted by the common council.
- (h) The stormwater fee shall be subject to the billing and collection provisions of this chapter.

(Ord. No. O06-3610, § 2, 11-21-2006; Ord. No. O08-3660, § 1, 6-3-2008; Ord. No. O12-3818, § 1, 11-7-2012)

Sec. 114-149. - Measurement of impervious area and adjustments.

- (a) The stormwater utility shall establish the impervious area of a non-single-family unit parcel based on the best available information, including but not limited to, data supplied by the city assessor, aerial photography, site or building plans submitted by the property owner, or actual on-site inspections. The amount of impervious area on a non-single-family unit parcel shall be updated based on any additions to the impervious area of a parcel as approved through the building permit process and from on-site inspections.
- (b) A non-single-family unit customer may request that the stormwater utility review and adjust the calculation of the impervious area on the customer's parcel. Requests shall be submitted on forms obtained from the stormwater utility. The stormwater utility may require the customer provide the stormwater utility with supporting documentation, such as site and building surveys, which accurately describe the impervious area on a parcel.
- (c) Stormwater utility staff shall review the adjustment request and prepare a written determination for the customer regarding the adjustment request. The determination shall be final unless it is appealed to the director in accordance with the appeal provisions set forth in division 4 of this article.
- (d) A stormwater utility review does not absolve the customer of interest charge[s] for delinquent payments.

(Ord. No. O06-3610, § 2, 11-21-2006; Ord. No. O08-3660, § 1, 6-3-2008; Ord. No. O12-3818, § 1, 11-7-2012)

Sec. 114-150. - Credits.

- (a) A non-single-family customer who demonstrates their stormwater discharge is not discharged to the stormwater conveyance system, or who demonstrates that they have significantly reduced the impact of their stormwater discharge on the stormwater conveyance system, may apply for a credit to their stormwater utility fee.
- (b) The stormwater utility shall develop and maintain a credit policy. This policy shall state the provisions under which a credit may be applied. The finance committee shall approve, and the stormwater utility shall keep on file, a set of written criteria for issuing credits under the credit policy.
- (c) A non-single-family unit customer may request a credit from the stormwater utility. Credit requests shall be submitted on forms obtained from the stormwater utility. The stormwater utility may require the customer provide the stormwater utility with supporting documentation, such as surveys and engineering reports, as may be necessary to document the justification for the credit request.
- (d) Stormwater utility staff shall review the credit request and prepare a written determination for the customer regarding the credit request. The determination shall be final unless it is appealed to the director in accordance with the appeal provisions set forth in division 4 of this article.
- (e) A request for a credit does not absolve the customer of interest charges for delinquent payments.

(Ord. No. O06-3610, § 2, 11-21-2006; Ord. No. O08-3660, § 1, 6-3-2008; Ord. No. O12-3818, § 1, 11-7-2012)

Sec. 114-151. - Reserved.

DIVISION 3. - BILLING AND COLLECTION

Sec. 114-152. - Stormwater utility bills.

- (a) Bills for stormwater fees shall be mailed to customers. If a developed parcel is leased to another, the owner of the developed parcel shall receive the bill for the stormwater fees and shall be liable for payment of the stormwater utility fees.
- (b) The stormwater utility fee will be billed by the City of Superior on a semi-annual basis in January and July. Invoices shall be mailed to the address designated by the owner of the developed property. The January invoice will cover July 1 through December 31 of the prior year with payment in full due by February 28. The July invoice will cover the prior January 1 through June 30 with payment in full due by August 31.

(Ord. No. O06-3610, § 2, 11-21-2006; Ord. No. O08-3660, § 1, 6-3-2008; Ord. No. O12-3818, § 1, 11-7-2012)

Sec. 114-153. - Delinquent payments.

- (a) An interest charge of one and one-half percent per month calculated monthly will be added to bills not paid within 28 days after issuance or by the due date, whichever is later.
- (b) On October 15 of each year, the city treasurer shall cause a notice to be mailed or delivered to the owner or occupant of any premise as to which the stormwater utility fees plus penalties and interest

are in arrears. All balances in arrears on November 1 of each year shall become a lien on the real estate and shall be inserted in the tax rolls for collection in accordance with the procedure set forth in Wis. Stats. § 66.0809(3) as amended.

(Ord. No. O06-3610, § 2, 11-21-2006; Ord. No. O08-3660, § 1, 6-3-2008; Ord. No. O12-3818, § 1, 11-7-2012)

DIVISION 4. - APPEALS

Sec. 114-154. - Appeals to the public works director.

- (a) Any non-single-family unit customer who objects to the stormwater utility staff's determination on a credit request or an adjustment request may appeal to the public works director by filing a written notice of appeal with the city clerk within 30 days of receipt of the stormwater utility staff's final determination. The notice of appeal shall identify the basis for the appeal and the amount of billing charges that are in dispute. The notice of appeal shall be on a form obtained from the stormwater utility.
- (b) Failure to timely file a notice of appeal shall constitute a forfeiture of the customer's right to appeal the stormwater utility staff's final determination or otherwise seek a credit or an adjustment for the billing period in which the bill is in dispute.
- (c) Non-single-family unit customers shall pay 50 percent of the stormwater utility bill in dispute at the time of filing a notice of appeal. Failure to pay 50 percent of the amount in dispute shall constitute a forfeiture of the customer's right to appeal the stormwater utility staff's final determination or otherwise seek a credit or an adjustment for the billing period for which the bill is in dispute.
- (d) An appeal shall only apply to prospective stormwater utility fees and stormwater utility fees billed in the preceding billing period.
- (e) An appeal does not absolve the appellant of interest charges for delinquent payments.
- (f) The director shall consider appeals twice per year. The director shall review the appeal and prepare a written decision on the appeal. If the director's written decision denies the appeal, the director's decision shall be final unless it is appealed to the finance committee in accordance with the appeals provisions of this chapter.
- (g) If the director's written decision grants the appeal, the director's written decision shall be reviewed and approved by the finance committee and common council before becoming final. The director shall forward to the finance committee any written decision granting an appeal along with all supporting documentation. The director's written decision shall be placed on the finance committee meeting agenda. The finance committee meeting shall be open to the public, and the secretary of the finance committee shall provide the appellant with notice of the meeting at least ten days prior to the meeting. Within 30 days after its meeting, the finance committee shall recommend that the director's decision be denied, approved, or amended. The finance committee's recommendation shall be placed on the common council agenda for final action. The decision of the common council on the appeal shall be final.

(Ord. No. O06-3610, § 2, 11-21-2006; Ord. No. O08-3660, § 1, 6-3-2008; Ord. No. O08-3671, § 1, 9-16-2008; Ord. No. O12-3818, § 1, 11-7-2012)

Sec. 114-155. - Appeals to the finance committee and common council.

- (a) Any non-single-family unit customer who objects to the director's decision denying an appeal, may further appeal to the finance committee and common council by filing a written notice of appeal with

the city clerk within 30 days of receipt of the director's written decision denying the appeal. The notice of appeal shall identify the basis for the appeal and the amount of the billing fees that are in dispute. The notice of appeal shall be on a form obtained from the stormwater utility.

- (b) The appeal shall be placed on the finance committee meeting agenda for a formal hearing. The hearing shall be open to the public and shall provide adequate time for public notification. The secretary of the finance committee shall provide the appellant with notice of the meeting at least ten days prior to the hearing.
- (c) Within 30 days of the appeal hearing, the finance committee by majority vote, shall deny, approve or amend director's written decision. Written notice of the final decision of the finance committee shall be sent to the appellant.
- (d) The secretary of the finance committee shall place the committee's appeal decision on the next common council agenda for final action. The meeting shall provide adequate time for public notification.
- (e) The decision of the common council shall be considered final.

(Ord. No. O06-3610, § 2, 11-21-2006; Ord. No. O08-3660, § 1, 6-3-2008; Ord. No. O12-3818, § 1, 11-7-2012)

Sec. 114-156. - Revision of stormwater utility fees following appeal.

- (a) If after all appeals are final, a decision of the common council reduces a customer's stormwater utility fee, the stormwater utility shall grant a refund or reduction in fees for the customer, prorated and retroactive to the billing period for which the written request for review was filed by the customer.
- (b) If after all appeals are final, a decision retains or increases a customer's stormwater utility fee, the customer shall remit payment in full including interest charges, prorated and retroactive to the billing period for which the written request for review was filed by the customer.
- (c) Within 30 days of the appeal hearing, the finance committee by majority vote, shall deny, approve or amend the director's written decision. Written notice of the final decision of the finance committee shall be sent to the appellant.

(Ord. No. O06-3610, § 2, 11-21-2006; Ord. No. O08-3660, § 1, 6-3-2008; Ord. No. O08-3671, § 1, 9-16-2008; Ord. No. O12-3818, § 1, 11-7-2012)

Secs. 114-157—114-161. - Reserved.