

CHAPTER 93

STORM WATER MANAGEMENT AND UTILITY

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|---|--|
| 93.01 Definitions | 93.11 Appeal of Impervious Surface Calculation |
| 93.02 Declaration of Purpose; Establishment of District | 93.12 Rate Determinations; Compliance with Bond Covenants |
| 93.03 Powers, Duties and Responsibilities | 93.13 Billing Procedures; Delinquent Accounts and Collection Procedures |
| 93.04 Organization | 93.14 Annual Review of ESU Rate |
| 93.05 Establishment of Esu, Rates and Charges, and Policy Regarding Expenditure of Utility Revenues | 93.15 <i>Reserved</i> |
| 93.06 Determination of ESUs; Storm Water Management Charge | 93.16 <i>Reserved</i> |
| 93.07 Establishment of Rate per ESU | 93.17 Expenses of Collection of Storm Water Management Charges |
| 93.08 <i>Reserved</i> | 93.18 <i>Reserved</i> |
| 93.09 <i>Reserved</i> | |
| 93.10 <i>Reserved</i> | |

93.01 DEFINITIONS. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Bonds" means revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the costs of construction.
2. "Contributor" or "user" means any person owning, operating, or otherwise responsible for property within the City which directly or indirectly discharges storm water or surface or subsurface waters to any portion of the storm water management system, including direct or indirect discharges to the City's storm water drainage system, or which is directly or indirectly protected by the City's flood protection system or storm water drainage system. The term "contributor" or "user" means any person responsible for the direct or indirect discharge or storm water or surface or subsurface waters to the City's storm water drainage system.
3. "Costs of construction" means costs reasonably incurred in connection with providing capital improvements to the system or any portion thereof, including but not limited to the costs of the following:
 - A. Acquisition of all property, real or personal, and all interests in connection therewith including all rights-of-way and easements therefor;
 - B. Physical construction, installation and testing including the costs of labor, services, materials, supplies and utility services used in connection therewith;
 - C. Architectural, engineering, legal and other professional services;

- D. Insurance premiums during construction to the extent not paid for by a contractor for construction and installation;
- E. Any taxes or other charges which become due during construction;
- F. Expenses incurred by the City on in its behalf with its approval in seeking to enforce any remedy against any contractor or subcontractor in respect of any default under a contract relating to construction;
- G. Principal and interest on any bonds; and
- H. Miscellaneous expenses incidental thereto.

4. "Debt service" means the amount of money necessary annually to pay the interest on outstanding debt and pay the principal of maturing debt.

5. "Developed property" means real property upon which a structure or impervious surface has been placed or constructed, thus increasing the amount of rainwater or surface water runoff.

6. "Director" means the City Engineer as director of the storm water management utility.

7. "Dwelling unit" means a singular unit or apartment providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

8. "Equivalent Service Unit" (ESU) means the average impervious area of a single-family residential property located within the City as periodically determined and established as provided in this chapter.

9. "ESU rate" means the dollar value periodically determined and assigned to each ESU as a charge for storm water management services, and expressed as \$X.XX per ESU.

10. "Exempt property" means public right-of-ways including public streets, alleys, sidewalks and public drainage facilities.

11. "Extension and replacement" means costs of extensions, additions and capital improvements to or the renewal and replacement of capital assets of or purchasing and installing new equipment for the system or land acquisition for the system and any related costs thereto or paying extraordinary maintenance and repair, including the costs of construction, or any other expenses which are not costs of operation and maintenance or debt service.

12. "Fiscal year" means a 12-month period commencing on July 1 and ending on June 30 of the succeeding year.

13. "Flood protection system" means the system of levees, floodwalls, floodgates, storm sewer gatewells, and storm water pumping stations lying adjacent to rivers, creeks, and streams within the City, including associated control and operating equipment and facilities whether adjacent to such rivers, creeks, or streams or remotely located, which are intended to provide flood protection to properties adjacent to such rivers, creeks and streams.

14. "Impervious area" means the number of square feet or hard surfaced areas which either prevent or retard the entry of water into soil mantle, as it entered under natural conditions as undeveloped property, and/or cause water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as undeveloped property, including but not limited to roofs, roof extensions, patios, porches, driveways, sidewalks, concrete/asphalt pavement, gravel surfaces and athletic courts.

15. "Multifamily residential property" means a residential structure designed with two or more dwelling units to accommodate two or more families or groups of individuals living separately and not sharing the same living space.

16. "Non-operating revenues" refers to revenues derived from activities other than the basic operations of the storm water management system, but excluding interest income on bond proceeds and on contributed capital.

17. "Nonresidential property" means any property developed for commercial, industrial, governmental, or institutional use, including churches, hospitals, and other charity supported institutions and including multiuse properties incorporating residential uses, but excluding undeveloped property and property used exclusively for agricultural purposes.

18. "Operation budget" means the annual operating budget for the storm water management utility adopted by the Council for the succeeding fiscal year.

19. "Operations and maintenance expense" means the current expenses, paid or accrued, of operation, maintenance and current repair of the system, as calculated in accordance with sound accounting practice, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses including recordkeeping, the cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses

not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.

20. "Single-family residential property" means a detached residential structure designed as a single dwelling unit to accommodate one family or group of individuals living together and sharing the same living space, but excluding multi-class (i.e., commercial, residential, industrial, institutional, etc.) properties which include single-family residential uses.

21. "Revenues" means all rates, fees, assessments, rentals or other charges or other income received by the utility, in connection with the management and operation of the system, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the City, all as calculated in accordance with sound accounting practice.

22. "Storm water drainage system" means the system of publicly or privately owned or operated rivers, creeks, ditches, drainage Channels, pipes, basins, street gutters and lakes within the City through which or into which storm water runoff, surface water or subsurface water is conveyed or deposited.

23. "Storm water management charge" means the charge authorized by State law and this chapter which is established to pay operations and maintenance, extension, replacement and debt• service of the storm water drainage system.

24. "Storm water management utility" or "utility" means the enterprise fund utility created by this chapter to operate, maintain and improve the system and for such other purposes as stated in this chapter.

25. "Storm water management utility system" or "system" means the existing storm water management facilities, storm water drainage system, and flood protection system of the City and all improvements thereto which by this chapter are constituted as the property and responsibility of the utility, to be operated as an enterprise fund to, among other things, conserve water; control discharges and flows necessitated by rainfall events; and incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system.

26. "Superintendent" means the City Public Works Director.

[The next page is 404.1]

27. "Total annual revenue requirements" refers to the total amount of revenue required in one year to meet all expenditures incurred during that year for the financing of construction and for the operations and maintenance, including administration and renewal and replacement funding, of the storm water drainage system, including facilities for the collection, transportation, and treatment of storm water, and of the flood control protection system, including river levees and storm water pumping stations.

28. "Undeveloped property" means real property that has no impervious area, but for which there shall still be a storm water charge as established by the Council.

93.02 DECLARATION OF PURPOSE; ESTABLISHMENT OF DISTRICT.

1. The City Council finds, determines and declares it to be conducive to the health, welfare, safety and convenience of the City and its residents that a storm water management utility district be established within the City. Consequently, pursuant to Iowa Code 384.84(1), a storm water management utility district, to be known as The Panora Storm Water Management Utility, is established, and it is ordained and declared that the City shall be and constitute the storm water management utility district, and that the utility shall comprise and include elements of the City's storm water drainage and flood protection systems which provide for the collection, treatment and disposal of storm water, surface water and groundwater. It is further found, determined and declared that the elements of the storm water management utility are of benefit and provide services to all real properties, developed or undeveloped, within the incorporated City limits, including property not directly served by the storm water drainage system, and that such benefits and services may include but are not limited to the provision of adequate systems of collection, conveyance, detention, treatment and release of storm water; the reduction of hazard to property and life resulting from storm water runoff and flooding; improvement in general health and welfare through reduction of undesirable storm water conditions and flooding; and improvement to the water quality in the storm water and surface water system and its receiving waters,

2. It is further determined and declared to be necessary and conducive to the protection of the public health, welfare, safety and convenience of the City and its residents that charges be levied upon and collected from the owners or occupants of all lots, parcels of real estate,

and buildings that discharge storm water or surface or subsurface waters, directly or indirectly, to the City storm water drainage system, and that the proceeds of such charges so derived be used for the purposes of operation, maintenance, repair, replacement and debt service for construction of the storm water drainage and flood protection improvements comprising the storm water management utility.

93.03 POWERS, DUTIES AND RESPONSIBILITIES. The storm water management utility and its staff shall have the following powers, duties and responsibilities:

1. Prepare ordinances as needed to implement this chapter and forward the ordinances to the Council for consideration and adoption, and adopt such regulations and procedures as are required to implement this chapter and carry out its duties and responsibilities.
2. Administer the acquisition, design, construction, maintenance and operation of the utility system, including capital improvements designated in the comprehensive drainage plan,
3. Administer and enforce this chapter and all ordinances, regulations and procedures adopted relating to the design, construction, maintenance, operation and alternation of the utility system, including but not limited to the quantity, quality and/or velocity of the storm water conveyed thereby.
4. Inspect private storm water detention systems as necessary to determine the compliance of such systems with this chapter and any ordinances or regulations adopted pursuant to this chapter.
5. Prepare and revise a comprehensive drainage and flood protection plan for periodic review and adoption by the Council.
6. Review plans, approve or deny, inspect and accept extensions to the storm water drainage system.
7. Establish and enforce regulations to protect and maintain water quality within the system in compliance with water quality standards established by State, regional and/or Federal agencies as adopted or amended.
8. Analyze as needed, the cost of services and benefits provided, and the system and structure of fees, charges, fines and other revenues of the utility, and make recommendations to the Council regarding adjustments to such fees, charges, fines and other revenues.

9. Prepare an annual operating budget for the utility and make recommendations regarding the financing of the cost of extending and replacing the system.

93.04 ORGANIZATION. The Council shall be the governing body of the storm water management utility. The storm water management utility shall be under the direction, management and control of the City Engineer who shall function as its director and advise the Superintendent in the day-to-day functions of the utility. In that capacity, the director shall supervise the day-to-day operation of the storm water management utility, shall enforce this chapter and the provisions of all ordinances and regulations adopted pursuant to this chapter and shall carry out the policy directives of the Council acting in its role as governing body of the storm water management utility.

93.05 ESTABLISHMENT OF ESU, RATES AND CHARGES, AND POLICY REGARDING EXPENDITURE OF UTILITY REVENUES.

1. For purposes of this chapter, an ESU shall be equivalent to 3,000 square feet of impervious property.
2. Except as provided in this chapter, every contributor owning or occupying a single-family residential property, multifamily residential property, or a nonresidential property shall pay to the City, at the same time payment is made for water service, sanitary sewer or solid waste refuse, a storm water management charge to be determined and billed as provided in this chapter. In the event the owner and the occupant of a particular property are not the same, the liability for payment of the storm water management charge attributable to that property shall be joint and several as to the owner and occupant. The storm water management charge shall be a monthly service charge and shall be determined by this chapter and the ESU rate which is established in this chapter and from time to time adjusted as provided in this chapter.
3. The storm water management ESUs and storm water charges provided in Section 93.06 shall be applied and computed for each contributor during the customary billing periods as to all bills mailed by the City's finance director, and such charges shall thereafter be paid and collected as provided in this chapter.
4. The ESU rate to be applied to residential and nonresidential properties shall hereafter be determined and established by ordinance. The director shall determine the ESU rate to be applied to residential and nonresidential properties within the City and shall certify the same promptly thereafter to the finance director. The finance director shall inform the Council of the rate so calculated at the time that the budget

for the storm water management utility is submitted to the Council for its review and approval.

5. If at any time the director determines that the ESU rate and/or the budget for the storm water management utility system require adjustment, the director shall report such determination to the Council. The Council may at any time adjust the ESU rate by adoption of an ordinance amending this section, and may at any time adjust the budget for the storm water management utility system by adoption of an appropriate resolution.

6. The Council hereby establishes a formal policy regarding the expenditure of storm water management utility revenues as follows:

A. The finance administrator shall develop and implement a cost accounting system, capable of accurately recording and segregating charges to the system by all departments of the City, to include the cost of personnel, machinery, contract equipment and construction, supplies, depreciation, and any and all miscellaneous expenses and purchases.

B. No revenues generated by the storm water utility user fee shall be used for any purpose other than storm water expenses.

93.06 DETERMINATION OF ESUs; STORM WATER MANAGEMENT CHARGE.

1 The storm water management charge shall be based on the number of ESUs determined for the particular type of use in each of the different zoning districts for each property, as described in the following chart. Where water covers a portion of the land on the lot, credit will be given toward reducing the total ESUs for the property at a rate of 0.1 ESU for every 300 square feet of water that is present for at least 25% of the year (but in no case will there be a negative ESU rate for a property).

(Subsection 1 and following table — Ord 237— Oct. 07 Supp.)

| Storm Water Equivalent Service Units (ESU) | | |
|---|--|--|
| USE | | # of ESUs |
| PUBLIC INSTITUTIONAL ZONING DISTRICTS | | |
| | Total square feet | of impervious surface/3000 |
| PUBLIC TRAILS and PUBLIC IMPROVED PARKS | | |
| AGRICULTURAL ZONING DISTRICT | | |
| Agricultural Land | Just Land | 0 |
| | Dwellings/Buildings | 1 |
| RESIDENTIAL ZONING DISTRICTS | | |
| Single Family Detached House | On lots up to 12,500 square feet | 1 |
| | On lots over 12,500 square feet | 1 + 0.04 for every 1000 square feet over 12,500 square feet for the first 1.5 acres and then 0.1 for every acre, up to a maximum of 7 ESUs |
| Undeveloped Residential Lots | On lots up to 12,500 square feet | 0.48 |
| | On lots over 12,500 square feet of contiguous area | 0.04 for every 1000 square feet over 12,500 square feet for the first 1.5 acres and then 0.1 for every acre, up to a maximum of 6 ESUs |
| Multi-family Residential | Apartments | Total square feet of impervious surface/3000/(# of units) |
| | Condominiums | 0.8/dwelling unit |
| | Mobile Homes | 0.7/dwelling unit |
| Commercial and Mixed Commercial/Residential | Total square feet of impervious surface/30001(# of units or tenants) | |
| ARTERIAL COMMERCIAL ZONING DISTRICT | | |
| Single Family & Multi-Family Residential | | same as in Residential Zoning Districts |
| Commercial | Lot < 40' wide | 1.3/lot minus amount paid by residential tenants on lot |
| | Lot > 40' wide | 4.0/lot minus amount paid by residential tenants on lot |
| | Unless impervious area is greater than 25,000 sq. ft., then: | Total square feet of impervious surface/3000/(# of units or tenants) |
| BUSINESS COMMERCIAL ZONING DISTRICT (Central Business District) | | |
| Single Family & Multi-Family Residential | | same as in Residential Zoning Districts |
| Commercial | Lot < 30' wide | 1.0/lot minus amount paid by residential tenants on lot |
| | Lot > 30' wide | 2.5/lot minus amount paid by residential tenants on lot |
| INDUSTRIAL ZONING DISTRICTS | | |
| Single Family & Multi-Family Residential | | same as in Residential Zoning Districts |
| Other Uses | Developed | Total square feet of impervious surface/3000/(# of units or tenants) |
| | U n d e v e l o p e d | 2.0/lot |

2 As to a new single-family residence, the storm water management charge attributable to a newly developed property shall commence upon the earlier of the following:

- A. The issuance of a permanent water meter; or
- B. If no water-meter is issued for the development or if development has halted, on the date that the director or the director's designee determines in reasonable judgment that the development is substantially complete or has been halted for at least three months.

3 For separately metered occupancy units with joint users of common impervious areas, the director shall calculate and allocate the pro rata storm water management charge among the users.

4 Any owner or occupant of property aggrieved by the director's calculation of the storm water management charge or allocation among users as provided in this section may appeal such determination to the director as provided in Section 93.11 of this chapter.

5 An adjustment to the storm water charge may be granted by the director who is hereby authorized to establish procedures and standards for the adjustment of fees.

93.07 ESTABLISHMENT OF RATE PER ESU. The monthly rate or charge per ESU (equivalent service unit) shall be increased annually by \$.25 over the next eight years to \$6.50 as described in the chart below by July 1, 2018:

| Rate | Year |
|--------|----------------------------|
| \$4.75 | July 1, 2011-June 30, 2012 |
| \$5.00 | July 1, 2012-June 30, 2013 |
| \$5.25 | July 1, 2013-June 30, 2014 |
| \$5.50 | July 1, 2014-June 30, 2015 |
| \$5.75 | July 1, 2015-June 30, 2016 |
| \$6.00 | July 1, 2016-June 30, 2017 |
| \$6.25 | July 1, 2017-June 30, 2018 |
| \$6.50 | July 1, 2018-June 30, 2019 |

93.08 Reserved.

93.09 Reserved.

93.10 Reserved.

93.11 APPEAL OF IMPERVIOUS SURFACE CALCULATION.

1. Any owner or occupant of property aggrieved by the initial or any subsequent determination of the storm water management charge for such property, as provided in Section 93.06 of this chapter, may appeal such determination and calculation to the director, utilizing information supplied by the appealing owner or occupant, provided such information is verified as correct by a certified professional engineer or surveyor at the owner or occupant's expense.

2. An appeal by the owner or occupant of a property must be filed in writing within 90 days after the initial or first monthly billing of the storm water management charge for that property or within 90 days after any billing showing a recalculation of the storm water management charge for that property. For an appeal occurring within 90 days of the initial billing of a property, any adjustment of the storm water management charge resulting from such appeal shall be retroactive to the date of the initial billing. For an appeal occurring within 90 days of a billing showing a recalculation of the storm water management charge, any adjustment of the storm water management charge resulting from such appeal shall be retroactive to the date the recalculated bill went into effect.

3. Appeals by the owners, occupants or occupant organizations of multifamily residential properties or nonresidential properties shall include a statement of the type of use of the property, total property area, and/or total impervious area, as appropriate for the particular grounds for appeal. Appeals by the owners of single-family residential properties shall include a statement or data showing the actual square footage of the lot or parcel and may be accompanied by plats, County Assessor's records or survey data. The director may request additional information from the appealing party. Based upon the information provided by the utility and appealing party, the director shall make a final calculation of the storm water management charge. The director shall notify the parties, in writing, of the director's decision within 90 days after receipt of the appeal. If still aggrieved, a party may request, in writing, a review by the City Clerk of the director's decision. Such request must be filed with the City Clerk within 30 days after the director's decision, shall cite specific error by the director and shall include the calculation of the storm water management charge which the appealing party believes to be correct.

The City Clerk shall review the record presented and render a written decision within 30 days after receipt of the request for review. The City Clerk may request additional information from either party. If still aggrieved, a party may request review of the City Clerk's decision by the Council in the same manner as above provided for review by the City Clerk. The filing of an appeal shall not excuse the payment of the storm water management charge when due. However, the City shall refund any portion of the charge paid subsequent to the filing of the appeal which is adjudged to be excessive, with interest at the rate provided by law.

93.12 RATE DETERMINATIONS; COMPLIANCE WITH BOND COVENANTS.

1. In calculating the ESU rate as provided in Section 93.05 of this chapter, the director shall include in the budgeted expense and revenue amounts sufficient funds as will ensure compliance with any and all rate covenants applicable to any outstanding bonds, notes or other obligations issued in connection with the construction and operation of the storm water management utility system.
2. For purposes of complying with any covenant relating to the issuance of additional bonds, notes or other obligations ranking on a parity with outstanding bonds issued in connection with the construction and operation of the storm water management utility, the director shall, prior to Council consideration of the resolution to take additional action for the issuance of such additional bonds, and with such assistance from the City's independent accountants as the director deems necessary, calculate the ESU rate necessary to produce revenues sufficient to comply with such covenant and shall certify the rate to the City Clerk. The Clerk shall inform the Council of the revised ESU rate at the time that the resolution to take additional action for the issuance of such bonds is submitted to the Council for its review and approval. Upon Council approval of such resolution, the Clerk shall publish the revised ESU rate once in a newspaper of general circulation, shall give notice thereof to contributors if and as required by applicable State or Federal law, and shall proceed to impose and collect the rate commencing with the next available billing cycle.

93.13 BILLING PROCEDURES; DELINQUENT ACCOUNTS AND COLLECTION PROCEDURES.

1. The procedures for billing of the storm water management service charges provided in Sections 93.05 through 93.07 of this chapter and for the collection of delinquent storm water management service charges shall be the same as the billing procedures for the water and sanitary sewer utilities of the City.
2. Contributors who are not billed by the City for water, sanitary sewer or refuse shall be directly billed for storm water management services by the City. In such instances, the billing and collection of storm water management charges shall be subject to the same rules and procedures as to delinquency in payment, certification of delinquency, and property lien as provided in the City water and sanitary sewer utilities.

93.14 ANNUAL REVIEW OF ESU RATE. Under this chapter, the director shall review the ESU rate annually and revise the rate as necessary to ensure that the system generates adequate revenues to pay total annual revenue requirements.

93.15 Reserved.

93.16 Reserved.

93.17 EXPENSES OF COLLECTION OF STORM WATER MANAGEMENT CHARGES. The incremental cost of collecting and accounting for all storm water management charges, including reasonable compensation to the Superintendent, finance administrator, City Clerk, City Administrator; the maintenance of all books, records; the employment of necessary personnel; the cost of all books, records, materials and supplies; the obtaining and maintaining of all office and storage space; and all other costs and expenses reasonably necessary in connection therewith or incidental thereto may be a part of the cost of operating the storm water utility and may be incurred when the City Clerk, in the exercise of his or her judgment, may so determine.

93.18 Reserved.

(Ch. 93- Ord. 231 - Oct. 07 Supp)

[The next page is 405]