

## CHAPTER 26

### STORM WATER UTILITY

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#### 26.01 **ESTABLISHMENT**

- (a) **PURPOSE.** The Village of Pulaski finds that the management of storm water and other surface water discharge within and beyond the Northern, Middle, and Southern Branch of Little Suamico River is a matter that affects the health, safety, and welfare of the Village, its citizens and business, and others in the surrounding area. Specific requirements have been placed on the Village through the Wisconsin Department of Natural Resources (WDNR)'s Regulation 216 requiring the Village improve the quality of storm water discharged to the waters of the State. Failure to effectively manage storm water affects the sanitary sewer utility operations of the Village by, among other things, increasing the likelihood of infiltration and inflow in the sanitary sewer. In addition, surface water runoff may create erosion of lands, threaten business and residences with water damage, and create sedimentation and other environmental damage in the Northern, Middle, and Southern Branch of Little Suamico River. Those elements of the system that provide for the collection of and disposal of storm water and regulation of groundwater are of benefit, and provide services to all properties within the Village of Pulaski, including property not presently served by the storm elements of the system. The cost of operating and maintaining the Village storm water management system and financing necessary repairs, replacements, improvements and extensions thereof should, to the extent practicable, be allocated in relationship to the benefits enjoyed and services received therefrom. In order to protect the health, safety, and welfare of the public, the Village Board is exercising its authority to establish a storm water utility and set the rates for storm water management services. The Village is acting hereunder pursuant to provisions of §§61.34, 66.0809, 66.0811 and 66.0821

of the Wisconsin Statutes.

- (b) **ESTABLISHMENT.** There is hereby established a Village of Pulaski Storm Water Utility. The operation of the Storm Water Utility shall be under the supervision of the Village Board.
- (c) **AUTHORITY.** **The Village, through the Storm Water Utility, may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage, and finance such real estate and facilities 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 by enumeration, surface and underground drainage facilities, sewers, water courses, retaining walls and ponds, detention basins, and such other facilities as will support a storm water management system.**

## 26.02 DEFINITIONS

- (a) **DEFINITIONS.** The following terms, when capitalized shall have the following meanings:
  - (1) **“Developed Property”** shall mean the real property that has been altered from its natural state by the addition of any improvements that may include a building, structure, impervious surface, and change in grade or landscaping.
  - (2) **“Equivalent Runoff Unit (“ERU”)**”, shall mean the statistical average horizontal impervious area of “single family homes” within the Village on the date of adoption of this Ordinance. The horizontal impervious area includes, but it is not limited to, all areas covered by structures, roof extensions, patios, porches, driveways, and sidewalks.
  - (3) **“Impervious Area”** or **“Impervious Surface”** shall mean areas that have been paved, covered or compacted to inhibit the natural infiltration of water into the soil or cause water to run off the area in greater quantities or at an increased rate of flow from the present under natural conditions as undeveloped property. Such areas may include, but are not limited to, roofs, roof extensions, patios, porches, driveways, sidewalks, pavement, gravel, athletic courts, and compacted surfaces. Excluded from this definition are undisturbed land, lawn, and fields.
  - (4) **“Duplex Unit”** shall mean any residential space identified for habitation by members of the same household attached to only one other residential space or as classified by the Village Building Code.
  - (5) **“Dwelling Unit”** shall mean any residential space identified for habitation by members of the same household or as classified by the Village Building Code. A dwelling unit included, but is not

limited to, all duplexes, apartments, residential condominiums and townhouses living units.

(6) **“Non-residential Property”** shall mean any developed lot or parcel not exclusively residential, as defined herein, but not limited to, transient rentals (such as hotels and motels), mobile home park, commercial, industrial, institutional, governmental property and parking lots.

(7) **“Residential Property”** shall mean any lot or parcel developed exclusively for residential purposes including, but not limited to, single-family homes, manufactured homes, multi-family apartment buildings, and condominiums.

(8) **“Runoff”** shall mean the surface water, including rain and snowmelt, which is inhibited by impervious surfaces from naturally infiltrating into soil.

(9) **“Storm Water Facilities”** shall mean all constructed facilities or natural features used for collecting, storing, and conducting storm water to, through and from drainage areas to the point of final outlet. Storm water facilities collectively constitute a storm water system.

(10) **“Storm Water Utility”** shall mean the public utility established by the Village under and pursuant to the provisions of Sec. 66.0821, Stats.

(11) **“Undeveloped Property”** shall mean property which has not been altered from its natural state by the addition of any improvements, such as a building, structure, impervious surface, change or grade or landscaping. This shall include properties zoned agricultural. For new construction, a property shall be considered developed pursuant to this Ordinance at the time of water meter installation or upon review of the actual impervious area by January 1<sup>st</sup>.

- (b) **USE OF WORDS, PHRASES.** Words used in the singular shall include the plural, and the plural, the singular, words used in the present tense shall include the future tense; the word “shall” is mandatory and not discretionary; the word “may” is permissive. Terms not specifically defined herein shall have the meaning defined in NR 216.002, Wisconsin Administrative Code, and as the same may be amended from time to time, if defined therein; or if not therein defined, shall be construed to have the meaning given by common and ordinary use, as defined in the latest edition of Webster’s Dictionary.

## 26.03 STORM WATER UTILITY RATES AND CHARGES

- (a) **ESTABLISHMENT OF RATES AND CHARGES.** There is hereby established a storm water management charge upon each lot and parcel within the Village of Pulaski for storm water management services and facilities provided by the Storm Water Utility. Storm Water Utility Rates and Charges shall be used to allocate and share the costs of the Storm Water Utility in a fair and reasonable manner. The Village Board shall by resolution establish formulas for the calculations of storm water rates, the establishment of specific property classifications and the Storm Water Utility rates. Future rate, formula and property classification changes shall also be established by resolution of the Village Board. All Storm Water Utility rates shall be fair and reasonable in accordance with the decision and judgment of the Village Board. All established Storm Water Utility Rates and Charges shall be maintained on file with the Village Clerk.
- (b) **STORM WATER UTILITY CHARGES.** The Storm Water Utility Charges may include:
- (1) Base Charge (BC). The Base Charge may be imposed on all property in the Village. The Base Charge will be designed to reflect the fact that all properties benefit from the storm water management activities of the Village and that all property contribute in some way to the storm water discharge that must be managed by the Village. The BC will be designed to collect the administrative costs of the storm sewer utility and the portion of the capital costs not covered by special assessment. The BC may be based upon the size of a parcel of property.
  - (2) Equivalent Runoff Unit Charge (ERU). The Equivalent Runoff Unit Charge shall be imposed on all property that has any developed impervious area. The ERU will be designed on the basis of a typical residential unit of property. Other units of property will be charged multiples of the ERU, based upon the impervious area contributing to surface water runoff.
  - (3) Special Charge (SC). The Special Charge may be imposed on property that is in an area specially benefited by a particular storm water management facility. The SC will be developed to reflect the benefits/services in a particular area that may not be appropriate to spread to property throughout the Village. The SC will be calculated on an ERU basis.
- (c) **PROPERTY CLASSIFICATIONS.** For purposes of imposing the storm water charges, all lots and parcels within the Village are classified into the following five (5) customer classes:
- (1) Residential – Single-family.
  - (2) Residential – Duplex.
  - (3) Residential—Multi-Family and Condominium.

- (4) Non-Residential.
- (5) Undeveloped.
- (d) **AVERAGE SQUARE FOOTAGE.** The average square footage of impervious area of the ERU is established to be 4,100 square feet.
- (e) **STORM WATER UTILITY RATES.** The Storm Water Utility Rates imposed hereunder shall be the following:
  - (1) For single-family and mobile home residential properties shall be the rate for one ERU.
  - (2) For duplex residential properties shall be the rate for (0.6) of one ERU per each individual dwelling unit existing on the property (ERU rate multiplied by the number of dwelling units).
  - (3) For multi-family and condominium residential properties shall be the rate of four tenths of one ERU (0.4) multiplied by the number of individual dwelling units existing on the property.
  - (4) For non-residential properties, as defined herein, shall be the rate for one (1) ERU, multiplied by the numerical factor obtained by dividing the total impervious area of a non-residential property by the square footage of one (1) ERU. The factor shall be rounded down to the nearest 1/10<sup>th</sup>, i.e.:

$$\frac{\text{impervious area in square feet}}{4,100 \text{ square feet}} = \text{____ ERU Rate}$$

$$\text{e.g. } \frac{10,000 \text{ square feet}}{4,100 \text{ square feet}} = 2.43 \text{ ERUs} = 2.4 \text{ ERUs}$$

- (f) **UNDEVELOPED LAND.** All undeveloped lands and parcels, including agricultural zoned properties, shall be subject to the Storm Water Utility charges. The minimum charges for any non-residential parcel shall be equal to the rate for four-tenths of one ERU. All unoccupied developed lots and parcels shall be subject to the Storm Water Utility charges. Upon filing of a final plat or certified survey map, a charge of 0.5 ERU times the rate shall be imposed on each newly created undeveloped lot. Appropriate ERU rate charges shall be made at the time of the issuance by the Village of a Building Permit.
- (g) **NEW CONSTRUCTION AND IMPROVEMENTS.** Full storm water charges under this Chapter shall apply for new construction on undeveloped lots or for improvements to existing structures from the date of the issuance of the Building Permit. The Property Owner shall submit a Storm Water Utility Service Application Form any time a Building Permit is applied for, except in cases involving single-family residences, or also excepting cases involving a site plan review. [Why the exceptions?] The Form shall be provided by the Village with each application for a Building Permit or

application for site plan review. Failure to submit a completed Storm Water Utility Service Application Form, or providing false information on said form, shall result in the denial of the Building Permit or Site Plan. Providing false information on a Storm Water Utility Service Application Form shall result in the imposition penalties hereunder.

- (h) **ADDITIONAL INFORMATION.** The Village shall determine the Impervious Area, based upon the best available information, including, but not limited to, data supplied by the Building Inspector, aerial photography, the Property Owner, Tenant or Developer. The Village may require additional information, as necessary, to make the determination. Upon the Property Owner's written request, the Village shall review a previous Impervious Area determination for possible changes. The Village shall update the Storm Water Utility charges based upon impervious area changes to the Property.
- (i) **ADDITIONAL CLASSIFICATIONS.** The Village Board may make such other Storm Water Rate and property classifications as will be likely to provide reasonable and fair distribution of the costs of the Storm Water Utility. In so doing, the Board may provide credits against certain of the charges set for the above for facilities installed and maintained by the property owner for the purpose of lessening the storm water flow from that given property.

#### 26.04 BILLING AND COLLECTIONS

- (a) **PARCEL LIST.** The Village shall cause to be prepared and maintained a list of lots and parcels within the Village of Pulaski and assign a classification of residential, non-residential, or undeveloped to each lot or parcel.
- (b) **COLLECTION AGENT.** The Village of Pulaski is hereby appointed as the collection agency for the Village Storm Water Utility. Bills shall be prepared by the Village through the Office of the Village Treasurer ~~or~~ and sent to the Property Owner of each premise served. The Village shall allocate the actual cost of administration, billing and collecting into the Storm Water Utility budget.
- (c) **PROPERTY OWNER RESPONSIBILITY.** Storm Water Utility charges hereunder shall be billed to and payable by the Owner of the property as appears on the Village tax roll. Storm Water Utility bills are rendered quarterly and become due and payable upon issuance following the period for which service is rendered. A late~~r~~-payment charge of one (1%) percent per month will be added to bills not paid within 30 days of issuance. This late payment charge will be applied to the total unpaid balance for utility service, including unpaid late payment charges. The late payment charge is applicable to all customers. The utility customer shall be given a written notice that the bill is overdue no sooner than 30 days after the bill is issued.

- (d) **PAYMENT, LIEN, PENALTY.** Storm Water Utility charges shall not be payable in installments. Storm Water Utility charges shall be payable upon receipt, subject to the provisions of this section. If a charge remains unpaid for a period of 30 days after the date of the utility bill, such charge shall be deemed past due and delinquent and shall become a lien on the property to which it relates as provided in State Statutes 66.0821(4)(d) and 66.0809(1), Wis. Stats. Delinquent charges shall be automatically extended upon the next available tax roll as a delinquent tax against the property, and all proceedings relating to the collection, return, and sale of property for delinquent real estates taxes shall apply to such charges. Charges remaining unpaid for a period of 30 days or more from the date of the utility bill shall be assessed a later payment charge.

## 26.05 APPEALS

- (a) **INITIATING AN APPEAL.** A Storm Water Utility Rate or Charge may be appealed by the Property Owner by filing a written appeal with the Village Clerk, specifying all bases for the appeal. The appeal of an ERU determination shall be supported by documentation from a professional engineer. The payment of any current or delinquent Storm Water Utility Charges shall be a condition for hearing any appeal hereunder.
- (b) **INITIAL DETERMINATION.** The initial review and determination of any appeal hereunder shall be made by the Village Engineer. The Village Engineer shall determine whether the storm water charge is fair and reasonable or whether the ERU is correct based on the information submitted by the Property Owner. The Village Engineer may request additional information from the Property Owner. The Village Engineer shall determine the value of any credit to be issued based upon the information provided by the Property Owner. The Village Engineer's administrative findings and determination shall be issued in writing to the Village Clerk who shall distribute by mail a copy to the Property Owner. If the Property Owner disagrees with the Village Engineer's administrative findings and determination, the Property Owner may initiate an appeal under the provisions of Sec. 26.05(c).
- (c) **HEARING.** The Property Owner shall have thirty (30) days from the date of the issuance of the Village Engineer's Administrative Decision to submit a written appeal of that Decision to the Village Board. The Village shall schedule a hearing on the Property Owner's Appeal within sixty (60) days after the date of the receipt by the Village Clerk of the written appeal. The hearing shall be held before the Village Board with the Village President serving as the presiding officer. In the alternative, the Village Board may select a neutral, but qualified third party to serve as the hearing officer or tribunal. The Storm Water Utility shall be represented by

- the Village Engineer.
- (d) **FINDINGS AND DECISION.** Based on the evidence presented by the Property Owner and the Villager Engineer, the Village Board, or the third-party hearing examiner or tribunal, shall determine whether the storm water charge is fair and reasonable or whether the ERU is correct and whether a refund is due to the Property Owner. The Village Board, hearing officer or tribunal shall issue written findings and a decision.
  - (e) **REFUND/CREDIT POLICY.** In the event that a refund is determined to be due to the Property Owner, the refund will be applied as a credit on the Property Owner's next storm water utility billing if the refund will not exceed the customer's next storm water utility bill; provided, however, that if it is determined that the refund will exceed the Property Owner's next storm water utility billing, the refund shall be issued in direct payment to the Property Owner without interest. The Village has established a Credit Policy for residential and non-residential property. The Policy is on file with the Office of the Village Clerk.

## **26.06 ALTERNATIVE ASSESSMENT METHOD**

The Village Board hereby finds and determines that the storm water utility charges established under this chapter reasonably reflect the services rendered to property and may be, and are hereby authorized to be levied and imposed on property as a special charge pursuant to Statute 66.0627, Wisconsin Statutes, in addition to other provisions of law. The mailing of the bill for storm water utility charges to a property owner shall serve as notice to the property owner that failure to pay the charges when due may result in the charges being imposed pursuant to the authority of Statute 66.0627, Wisconsin Statutes. The Village shall provide notice each October and any unpaid charges to the storm water utility and such charges, if not paid by November 15, may be placed on the tax roll in accordance with Statute 66.0627, Wisconsin Statutes. The collection method provided in this section is in addition to the collection method provided for in Section 51.04.

## 26.07 STORM WATER UTILITY FINANCES

- (a) **STORM WATER MANAGEMENT FUND.** The Storm Water Utility finances shall be accounted for in a separate Storm Water Management Fund maintained by the Village.
- (b) **ANNUAL BUDGET.** The Storm Water Utility shall prepare an annual budget, which is to include all operation and maintenance costs, administrative costs, depreciation costs, debt service and other costs related to the operation of the Storm Water Utility. The budget is subject to approval by the Village Board. The costs shall be spread over the rate classifications as determined by the Board. Any excess of revenues over expenditures in a year will be retained by the Storm Water Management Fund for subsequent years' needs. *(Ord. #474-08)*