

## **STORM WATER UTILITY DISTRICT**

### **19.01 PURPOSE and ACTIVITIES**

**(1) Purpose.** The management of storm water and other surface water discharge within and beyond the Neenah Slough, Lake Winnebago, and Little Lake Butte des Morts is a matter that affects the health, safety and welfare of the Town, its citizens and businesses, and others in the surrounding area. Failure to effectively manage storm water affects the sanitary sewer utility operations of the Sanitary Districts and the Sewerage Commissions by, among other things, increasing the likelihood of infiltration and inflow in the sanitary sewers. In addition, surface water runoff may create erosion of lands, threaten businesses and residences with water damage and create sedimentation and other environmental damage in the Town's drainage systems. Those elements of the system which provide for the collection of and disposal of storm water are of benefit and provide services to all property within the Town of Neenah.

**(2) Activities.** The cost of operating and maintaining the Town storm water management system and financing necessary repairs, replacements, improvements and extension thereof shall be allocated in relationship to the benefits enjoyed and services received there from. The Town, through the Storm Water Utility District, may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such facilities as are deemed by the Town to be proper and reasonably necessary for a system of storm and surface water management. These facilities may include, without limitations by enumeration, surface and underground drainage facilities, sewers, watercourses, retaining walls, ponds and such other facilities as will support a storm water management system.

### **19.02 AUTHORITY and CREATION**

The Storm Water Utility District was formed by ordinance on December 8, 2008, under the authority of Chapters 60 and 66 of the Wisconsin Statutes, and managed under the supervision of the Town Board of Supervisors, which shall also serve as the Storm Water Utility District (SWUD) Board. The Chairman of the Town Board serves as the Chairman of the District.

**19.03 DEFINITIONS**

For the purpose of this ordinance, the following definitions shall apply; 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 and discretionary. Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(a) **Equivalent Runoff Unit (ERU).** The term 'ERU' means the statistical average horizontal impervious area of 'single family homes' within the Town of Neenah on the date of adoption of this ordinance. The horizontal impervious area includes, but is not limited to all areas covered by structures, roof extensions, patios, porches, driveways and sidewalks.

(b) **Impervious Area or Impervious Surface.** These terms mean a horizontal surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rain water. It includes, but is not limited to semi-impervious surfaces such as compacted clay or gravel, as well as streets, roofs, sidewalks, parking lots and other similar surfaces.

(c) **Duplex Unit.** The term 'duplex unit' means any residential space identified for habitation by members of the same family attached to only one other residential space or as classified by the Town Building and Zoning Codes.

(d) **Dwelling Unit.** The term 'dwelling unit' means a residential building or portion thereof intended for occupancy by a single family, or as classified by the Town Building and Zoning Codes. A dwelling unit includes, but is not limited to, single family homes, manufactured homes, duplexes, multi-family apartments, residential condominiums and townhouse living units.

(e) **Multifamily Unit.** The term 'multifamily unit' means any structure comprised of three or more dwelling units.

(f) **Non-residential Property.** The term 'non-residential property' means any developed lot or parcel not exclusively residential as defined herein, including, but not limited to, transient rentals (such as hotels and motels), commercial, industrial, institutional, governmental property and parking lots.

(g) **Residential Property.** The term 'residential property' means any lot or parcel developed exclusively for residential purposes including, but not limited to, single family homes, manufactured homes, duplexes, multi-family apartments, residential condominiums and townhouse living units.

(h) **Undeveloped Property.** The term 'undeveloped property' means that which has not been altered from its natural state by the addition of any improvements such as a building, structure, impervious surface, change of grade or landscaping. For new construction, a property shall be considered developed pursuant to this ordinance (a) upon issuance of a Certificate of Occupancy, or upon completion of construction or final inspection if no such certificate is issued or (b) where construction is at least fifty (50) percent complete and construction is halted for a period of three (3) months.

(i) **Agricultural Property.** The term 'agricultural property' means lands used for the planting, growing, cultivating, and harvesting of crops and/or trees; or grazing of livestock.

#### **19.04 RATES and CHARGES**

##### **(1) Rate Charges.**

(a) The Storm Water Utility District Board shall annually establish the rate charge upon each lot and parcel within the Town of Neenah for services and facilities provided by the Storm Water Utility District. The actual charges to be imposed, the establishment of formulas for calculations of the charges, the establishment of specific property owner classifications and any future changes in those rates, formulas, rate changes, and property owner classifications, may be made by resolution or SWUD Board motion. All rates established pursuant to this ordinance will be fair and reasonable. The current rates will be on file with the Town Clerk.

(b) Rate charges shall be issued to share the costs of the Storm Water Utility District. These rate charges may include:

(i) **Base Charge (BC)** – The Base Charge may be imposed on all property in the Town. The Base Charge will be designed to reflect the fact that all properties benefit from the storm water management activities of the Town and that all property contributes in some way to the storm water discharge that must be managed by the Town. The BC will be designed to collect the administrative costs of the Storm Water Utility District and the portion of capital costs not covered by special assessments. The BC may be based on the size of a parcel of property.

(ii) **Equivalent Runoff Unit Charge (ERU Charge)** – This charge may be imposed on all property in the Town. The ERU Charge 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 on the impervious area contributing to surface water runoff.

MUNICIPAL CODE OF THE TOWN OF NEENAH, WINNEBAGO COUNTY, WI  
CHAPTER 19

(c) The Board may make such other classifications as will be likely to provide reasonable and fair distribution of the costs of the Storm Water Utility District. In so doing, the Board may provide credits against certain of the charges set forth above for facilities installed and maintained by the property owner for the purpose of lessening the storm water flow from that given property.

(d) The Town of Neenah and Winnebago County Offices shall be the collection agencies for the Storm Water Utility District. A schedule of charges shall be sent on an annual basis by the Storm Water Utility District Chairman to the Town of Neenah clerk. The Town Board shall allocate the actual cost of billing and collecting.

(e) The Storm Water Utility District charges shall be applied annually to real estate property tax bills and shall be paid in accordance with terms stated thereon.

**19.05 PROPERTY CLASSIFICATION**

(a) For purposes of imposing the Storm Water Utility charges, all lots and parcels within the Town are classified into the following six (6) property owner classes:

- (i) Residential – Single Family, Manufactured Home, and Accessory Building (SFR)
- (ii) Residential – Duplex (DUP)
- (iii) Residential – Multifamily Units (MF)
- (iv) Non-residential (NR)
- (v) Agricultural (AGR)
- (vi) Undeveloped (UND)

(b) The Town Chairman, or representative, shall prepare a list of lots and parcels within the Town of Neenah and assign a classification to each lot or parcel.

(c) The average square footage of impervious area of an ERU shall be equivalent to 4,040 square feet.

(d) The charges imposed for SFR properties shall be the rate for one ERU.

(e) The charges imposed for DUP properties shall be the ERU rate multiplied by the number of dwelling units existing on the property.

MUNICIPAL CODE OF THE TOWN OF NEENAH, WINNEBAGO COUNTY, WI  
CHAPTER 19

(f) The charges imposed for residential-multifamily units and 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 residential multifamily unit and non-residential property by the square footage of one (1) ERU. The factor shall be rounded down to the nearest one-tenth (0.1), i.e.

$$\text{ERU rate} \times \frac{\text{impervious area}}{\text{ERU}}$$

(g) The charges imposed for agricultural properties as defined herein shall be the rate of one (1) ERU. Adjacent agricultural properties under the same ownership shall be charged a total of one ERU. The parcel with the residence will be charged one (1) ERU, the adjacent parcels will be charged zero (0) ERU.

(h) The charges imposed for unoccupied undeveloped properties as defined herein shall be the rate for one-half (0.5) ERU. Upon the filing of a final plat or certified survey map, a charge of 0.5 ERU shall be imposed on the newly created undeveloped lot.

(i) The Storm Water Utility District (SWUD) Board shall be responsible for determining the impervious area based on the best available information, including, but not limited to, data supplied by the Town Assessor, aerial photography, the property owner, tenant or developer. The SWUD Board may require additional information as necessary to make the determination. The billing amount shall also be updated by the SWUD Board based on the building permit process available from the Town Clerk.

(j) The minimum charges for any developed non-residential parcel shall be equal to the rate for one (1) ERU.

(k) All unoccupied developed lots and parcels shall be subject to Storm Water Utility District charges.

**19.06 METHOD OF APPEAL.**

The Storm Water Utility District charge may be appealed as follows:

(a) No later than thirty (30) days after the initial payment due date (January 31) for real estate property taxes each year, a written challenge to the storm water charge for any property must be filed with the Town Clerk specifying the basis for the challenge and the amount of the storm water charge that the property owner asserts is appropriate. Failure to file a challenge within thirty (30) days of the January 31 due date, waives all rights to later challenge the charge for that year. A "Storm Water Service Charge Appeal Form" is available on the Town's website or from the Town Clerk. The possible reasons for appeal are listed below under Section 19.07, "Basis for Adjustment to Stormwater Charges". The SWUD Board shall consider an appeal within a reasonable period of time.

(b) The Storm Water Utility District Board will determine whether the storm water charge is fair and reasonable, or whether a refund or adjustment is due the property owner. The SWUD Board may act with or without a public hearing, and will inform the property owner in writing immediately following its decision.

(c) If the SWUD Board determines that a refund is due the property owner, the refund may be applied (1) as a credit toward the property owner's next annual storm water billing, if it will not exceed that next billing, or (2) be refunded at a time to be determined at the discretion of the SWUD Board.

**19.07 BASIS FOR ADJUSTMENT TO STORM WATER CHARGE**

The Storm Water Utility District Board shall consider adjusting the charge levied against any property for any of the following reasons:

(a) **Error in calculation of ERU charge:** If the SWUD Board determines that an error has been made in calculating the ERU charge assigned to a property, the charge shall be corrected.

(b) **Changes in Department of Natural Resources (DNR) rules or requirements affecting the Town's entire Storm Water Utility District (SWUD):** If any change of a rule or requirement, or the SWUD Board's interpretation of any rule or requirement, of the DNR (or any other government agency) shall require or allow the SWUD Board to adjust the amount of the total Storm Water Utility District charges to be levied against all properties in the SWUD, then the charge levied against each property in the SWUD shall be adjusted.

(c) **Changes in Department of Natural Resources (DNR) rules or requirements affecting a particular property:** If any attribute of a particular property or any action taken by the owner of a particular property shall require or allow the SWUD Board to adjust the total storm water Utility District charges to be levied against all properties in the SWUD, under DNR rules or requirements, then the charge levied against that particular property shall be reduced accordingly.

(d) **Special Case Parcels:** (i) If a parcel measures under 2000 square feet with no structures on the parcel, then that parcel shall not be assigned an ERUs,  
(ii) If the primary residence straddles two parcels and there is only one structure on the two adjacent parcels, then each parcel shall be assigned 0.5 ERU.

If any one of two adjacent parcels could be sold to another user for any use, the parcel will not be considered for an adjustment.

#### **19.08 SPECIAL CHARGE AUTHORITY**

In addition to any other method for collection of the charges established pursuant to this ordinance for Storm Water Utility District costs, the Town Board has determined that these charges may be levied on properties as special charges pursuant to §66.0627, Wis. Stats., and that the charges established hereunder reasonably reflect the benefits conferred.

MUNICIPAL CODE OF THE TOWN OF NEENAH, WINNEBAGO COUNTY, WI  
CHAPTER 19

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