

## CHAPTER 157

# STORM WATER UTILITY

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**157.01 FINDINGS AND DECLARATIONS OF POLICY.** The City of Marion finds that the management of storm water and other surface water discharges within and beyond the City of Marion is a matter that affects the health, safety and welfare of the City, its citizens and businesses, and others in the surrounding area. Failure to effectively manage storm water affects the sanitary sewer utility operations of the City by, among other things, increasing infiltration to the sanitary sewer. In addition, surface water runoff causes erosion of lands, damage to businesses and residences, sedimentation, and other environmental damage in the City of Marion and/or surrounding area. In order to protect the health, safety and welfare of the public, the City of Marion is establishing a storm water utility for storm water management services.

**157.02 ESTABLISHMENT.** There is hereby established a storm water utility in the City of Marion. The operation of the storm water utility shall be under the supervision of the City Engineer. Activities and projects funded by the storm water utility, including operation, maintenance and construction of the City's storm water management program and infrastructure shall be overseen by the City Engineer.

**157.03 AUTHORITY.** The City, acting through the storm water 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 City 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, dams and such other facilities as will support a storm water management system.

**157.04 INTERPRETATION.** In their interpretation and application, the provisions of this chapter 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 Iowa statutes.

**157.05 SEVERABILITY OF PROVISIONS.** If any section, provisions or portion of this chapter is adjudged unconstitutional or invalid by a court, the remainder of this chapter shall not be affected thereby.

**157.06 DEFINITIONS.** Unless specifically defined below, words or phrases used in this chapter shall be defined in accordance with the definitions in Section 176.39 (Flood Plain Regulations), Chapter 175 (Subdivision Regulations) and Chapter 156 (Storm Water Management). Words or

phrases not defined below or in said chapters shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. “City Engineer” means the City Engineer of the City or his/her designated representative.
2. “Committee” means a working group appointed by the Mayor to provide review of applications regarding requests for credits and adjustments by non-residential properties.
3. “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.
4. “Equivalent Runoff Unit” or “ERU” means the basic unit by which the storm water utility charge is calculated under this chapter. It is the statistical average horizontal impervious area of residential living units within the City of Marion on the date of the establishment of the storm water utility. The horizontal 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” 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. “Living 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.
7. “Nonresidential Property” means a lot or parcel of land, with improvements such as a building, structure, other impervious areas as defined herein, grading or substantial landscaping, which is not exclusively residential as defined herein, or is a developed residential parcel with five or more living units. This includes, but is not limited to, commercial, industrial, institutional, mixed-use, governmental property, manufactured home parks, and multi-family residential parcels with five or more living units. This excludes publicly-owned right-of-way and publicly-owned or privately-owned rail beds.
8. “Residential Property” means a lot or parcel of land developed exclusively for residential purposes. For the purpose of this chapter, it includes single-family homes, condominiums, duplexes, and multi-family parcels with three or four living units.
9. “Storm Water Utility” means the utility established under this chapter for the purpose of managing storm water and imposing charges for the recovery of costs connected with such storm water management.

10. “Undeveloped Property” means property that is not developed by the addition of an improvement such as a building, structure, other impervious area as defined herein, grading or substantial landscaping which increases storm water runoff.

**157.07 BASIS OF CHARGE.** By this chapter, the City Council is establishing the rate classification and basis for computation of charge for storm water services for each lot and parcel within the City of Marion. All charges established pursuant to this chapter shall be fair and reasonable. Storm water utility charges shall be based on the number of Equivalent Runoff Units (ERUs) assigned to each parcel, plus a monthly service charge. The ERU charge shall be assessed based upon the impervious area as reasonably determined by the City Engineer, except for undeveloped properties and publicly owned right-of-way and rail beds, which are exempt from storm water utility charges.

**157.08 CUSTOMER CLASSIFICATION.**

1. Customer Classes. For the purposes of imposing the storm water charges, all lots and parcels within the City are classified into the following four (4) customer classes.
  - A. Residential
  - B. Non-residential
  - C. Undeveloped
  - D. Right-of-Way
2. Parcel Classification. The City Engineer shall assign a customer classification to each lot and parcel within the City of Marion.
3. ERU. The ERU is established to be 2,791 square feet.

## 157.09 CHARGE FORMULAS.

1. Residential. The monthly charge imposed for single and multi-family residential properties shall be the fee for one ERU per living unit existing on the property, plus a per account service charge, i.e.

$$\text{Residential Storm Water Fee} = (\text{ERU Fee} \times \text{No. of Living Units}) + (\text{Account Service Charge} \times \text{No. of Accounts})$$

2. Non-Residential. The monthly charge imposed for non-residential and mixed use 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, rounded to the nearest one-tenth (0.1), plus a per account service charge. For multiple contiguous parcels under the same ownership and with one potable water meter (non-irrigation/fire) serving all the lots, lot areas shall be aggregated into one account and charged, i.e.

$$\text{Non-residential Parcel Charge} = (\text{Parcel Impervious Area} \div 2,791 \text{ ft.}^2 \times \text{ERU Fee}) + \text{Account Service Charge}$$

3. Undeveloped. There shall be no charges imposed on parcels during the time period in which they are defined herein as undeveloped.

4. Right-Of-Way. Public highway, road, alley, and rail right-of-way shall be exempt from the storm water utility fee.

5. Minimum Charge. The minimum charges for any customer charged a fee shall be equal to the fee for one ERU, plus a per account service charge, in the absence of a credit or adjustment approved by the City Engineer. The fee for parcels with more than one-half of an ERU of impervious area (1395 square feet) shall be rounded up to one (1) ERU. Non-contiguous parcels with less than one-half of an ERU of impervious area (1395 square feet) shall be rounded down to zero, and the service fee waived.

6. The maximum charges for any customer charged a fee shall be 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, rounded to the nearest one-tenth (0.1), plus a per account service charge, in the absence of a credit or adjustment approved by the City Engineer. The fee shall not exceed \$156.80 per contiguous parcel account following the application of a credit or adjustment.

*(Ord. 15-18 – Aug. 15 Supp.)*

7. Impervious Area Measurement. The City Engineer shall be responsible for determining the impervious area of nonresidential parcels based on the best available information, including, but not limited to, data supplied by the City Assessor, City Building Inspector, City Engineering Staff, aerial photography, property owner, tenant, or developer. The City Engineer may require additional information as necessary to make the determination. The number of ERUs shall be updated by the City Engineer based on any additions to the impervious area as approved through the building permit process.

**157.10 FEES.** The City Council shall set or adjust the ERU fee to reflect the costs of the storm water management program, and shall set the application fee for credit and adjustments to reflect the cost of application processing and review.

1. Storm Water Utility Charge Rate.
  - A. ERU Rate. The storm water utility ERU charge rate is hereby established to be \$1.59 per month per ERU.
  - B. Service Charge. The storm water utility service charge is hereby established to be \$3.33 per month per account.

*(Ord. 15-18 – Aug. 15 Supp.)*
2. Credit and Adjustment Application Fees.
  - A. The fee for storm water utility credit and adjustment applications received on or after the effective date of this chapter shall be \$50 for credit applications and \$25 for adjustment applications.
  - B. The fee for storm water utility credit and adjustment applications received before the effective date of this chapter shall be waived.
  - C. Application fees for all applications that result in the approval of a credit or adjustment shall receive a 100% rebate.

**157.11 CREDITS AND ADJUSTMENTS.** The City Council shall adopt, by separate resolution, criteria for providing credits and adjustments. The resolution shall explain the criteria for calculating credits and adjustments and provides application materials for each. It shall be the responsibility of the property owner to prove, using the credits and adjustments manual, that a parcel is eligible for either a credit or an adjustment.

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 City'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 City of Marion in effect at the time of parcel development.
    - (3) The property has been assigned a nonresidential user classification by the City Engineer.
  - B. Maximum Credit. The maximum aggregate credit for any individual property is 65% 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 subsection 1(A).
    - (1) Peak Flow Control, Volume Reduction and Water Quality Control Credits. Credits shall be considered for customers who own and maintain storm water management facilities such as retention or detention basins that meet or exceed existing peak flow rate, volume, and water quality requirements. The maximum aggregate credit for any individual property that receives one or more of the credit types described in paragraph (a), (b) and/or (c) is 50% of its ERU charge, regardless of how many types of credits

the property qualifies. The credit amount awarded to any parcel shall be pro-rated based on the fraction of impervious area draining to a discharge point where credit requirements are met.

(a) Peak Flow Control Credit. Credits shall be considered for customers who own and maintain storm water management facilities such as retention or detention basins that meet or exceed the peak discharge rate standards contained or referenced in the City's Storm Water Management Ordinance, Chapter 156. Up to a 12.5% credit may awarded for meeting existing storm water standards, and up to 25% credit may be awarded for exceeding existing storm water standards.

(b) Runoff Volume Reduction Credit. Credits shall be considered for customers who own and maintain storm water management facilities such as infiltration basins or biofiltration devices that exceed the infiltration standards referenced in the City's Storm Water Management Ordinance, Chapter 156. Up to a 12.5% credit may awarded for meeting existing storm water standards, and up to 25% credit may be awarded for exceeding existing storm water standards.

(c) Water Quality Credit. Credits shall be considered for customers who own and maintain storm water management facilities that improve the quality of runoff from the property to a degree that exceeds the water quality standards contained or referenced in the City's Storm Water Management Ordinance, Chapter 156. Up to a 12.5% credit may awarded for meeting existing storm water standards, and up to 25% credit may be awarded for exceeding existing storm water standards.

(2) Other. Other proposals may be considered on a case-by-case basis. All such proposals must either directly reduce the City's cost of managing storm water runoff, or contribute directly towards improving the quality or reducing the quantity of runoff discharged into the City's municipal separated storm sewer system. Such proposals may receive up to 15% credit, towards the 65% maximum.

2. Adjustments. A customer may be eligible to have the number of ERUs assigned to their property adjusted under the conditions described below:

A. Nonresidential Property.

(1) Properties assigned a non-residential user classification may be eligible to have the property reclassified as undeveloped if the property owner can show that the cumulative impervious area on the parcel is less than half of the impervious area of one ERU.

(2) Nonresidential customers who believe the number of ERUs allocated to their property to be incorrect may submit an adjustment request to the City Engineer. The allocated ERUs may be adjusted if the owner can

provide information showing the square footage calculation as determined in subsections 157.09(2) and 157.09(6) to be incorrect.

B. Residential. Residential customers who believe that the number of ERUs allocated to their property to be incorrect may submit an adjustment request to the City Engineer. The allocated ERUs may be adjusted if the owner can provide information showing the number of living units assigned to their property, as determined in subsection 157.09(1) to be incorrect.

3. Review Procedure.

A. Within thirty (30) days of the submission of a request to the City Engineer for a credit or an adjustment, the City Engineer shall issue a written decision as to whether the request for adjustment, as determined by the Committee, 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 a copy to the City Manager.

B. If an appeal is requested, the City Manager shall determine whether the Committee's decision should be approved, rejected, or modified. The customer shall be allowed to present additional written evidence. The final determination of the City Manager shall be in writing and set forth, in detail, the reason or reasons for the decision and shall inform the customer by certified mail.

4. Effective Date. Any ERU adjustment or credit 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.

#### **157.12 BUDGET-EXCESS REVENUES.**

1. The City shall separately account for the storm water utility finances. The City Engineer 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 shall be reviewed annually and subject to approval by the City Council. Any excess of revenues over expenditures in a year will be deposited in a storm water maintenance fund, which will be used to defer the costs of capital improvements or to retire debt.

2. Bills. Storm water utility charges shall be billed to the utility account or accounts associated with each property. In the event that there are multiple utility accounts associated with a single property, the charge shall be divided among accounts based on the best available information regarding the relative number of living units or amount of impervious area associated with each account. In the event of late or non-payment by utility account holders, the property owner shall be responsible for payment of all storm water utility charges.

3. Unpaid Charges. The fees provided for in this chapter may be collected by all available legal means and may also be secured by levy and certification by the Council to the Linn County Auditor to be collected in the same manner and subject to the State penalties as special taxes, in accordance with State laws.

**157.13 EFFECTIVE DATE.** The ordinance codified by this chapter shall be in full force and effect on October 7, 2013, after its passage and publication. When the City Manager determines to implement Chapter 157 of the Code of Ordinances, the City Manager shall file a certification to that effect with the City Clerk and shall provide copies thereof to members of the City Council.

**157.14 RESIDENTIAL STORM WATER REBATES.** Storm water runoff from residential properties can pick up pollutants such as lawn fertilizer, pet waste, and trash, and carry those into storm sewers, creeks, and rivers. Storm water Best Management Practices - or BMPs - such as rain gardens, rain barrels, and soil quality restoration can be used in residential yards to capture storm water where it falls and allow for it to infiltrate into the ground. Methods exist to improve the quality of storm water runoff and increase local awareness of the importance of protecting our local streams and lakes. The City has therefore created a Residential Cost-Sharing Program to provide for Storm water Best Management Practices Rebates to assist in the promotion of such methods to capture and infiltrate storm water in residential areas.

1. Rebates for Storm water Best Management Practices.
  - A. Rain Garden. Shallow depressions that contain permeable soils and native plants where rain water is collected from yards and downspouts. Rain water collected is for absorption by the roots of the native plants and also naturally infiltrates into the earth. The rebate for a rain garden would be up to \$400 to include actual associated costs upon installation of associated improvements with a limit of a onetime rebate per residence.
  - B. Rain Barrel. Used for collecting rain water from roofs and downspouts. This water can then be used to water plants, gardens, lawns, or even for flushing toilets. The rebate for a rain barrel would be up to \$50 per rain barrel to include actual associated costs upon installation of associated equipment with a limit of a onetime rebate per residence.
  - C. Lawn Soil Improvement. Soil quality restoration is a simple but effective way to improve the ability of lawns to absorb rainwater. A process of soil aeration and compost application improves the root systems of lawn grass and allows for better rainwater absorption. The rebate for soil quality restoration would be up to \$350 upon completion of improvements to include actual associated costs with a limit of a onetime rebate per residence.
2. Stormwater Best Management Application.
  - A. Rain Garden Rebate application must be completed and approved by the Engineering Department and requires submittal of a detailed plan prior to applicant initiating rain garden installation.
  - B. Rain Barrel application must be completed and approved by the Engineering Department prior to purchase of equipment by the applicant.
  - C. Lawn Soil Improvement Rebate application must be completed and approved by the Engineering Department and requires submittal of a detailed plan prior to applicant initiating lawn soil quality improvements.
  - D. Applications for rebates, upon receipt, will be reviewed by City staff within 15 days.



3. Storm water Best Management Funding and Program Maintenance.
  - A. City will provide an annual maximum funded amount (\$5,000 FY 15/16) for the support of the program participation.
  - B. City shall maintain a GIS Mapping Data Base and Inspection Program of all locations of residential storm water BMP projects installed as part of this program.

*(Ord. 15-18 – Aug. 15 Supp.)*

*(Ch. 157 - Ord. 13-09 – May 13 Supp.)*