

ORDINANCE NO. 10-09

AN ORDINANCE TO CREATE CHAPTER 26 OF
THE CITY OF PEWAUKEE MUNICIPAL CODE
REGARDING STORM WATER UTILITY

WHEREAS, the Common Council of the City of Pewaukee has determined that it is necessary and appropriate to create a storm water utility; and

WHEREAS, the Common Council is vested with authority to create such a utility by Chapters 62 and 66 of the Wisconsin Statutes, including, but not limited to the following: §§ 62.04, 62.11, 62.16, 62.18, 66.0621, 66.0627, 66.0809, 66.0811, and 66.0821.

WHEREAS, the Common Council has found that the management of storm water and other surface water discharges within and beyond the City of Pewaukee 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 surface water runoff, creates erosion of lands, damages businesses and residences, and creates sedimentation and other environmental damage in the City Pewaukee. In addition, storm water management can affect the sanitary sewer utility operations of the City by, among other things, increasing the infiltration and inflow to the sanitary sewer.

NOW THEREFORE, at a regular meeting of the Common Council of the City of Pewaukee, held on the 7th day of September, 2010, a quorum of the members of the Common Council being present and a majority voting in favor thereof, the Common Council does hereby ordain as follows:

(1) Chapter 26 of the Municipal Code of Ordinances is created to read as follows:

26.00 FINDINGS AND NECESSITY.

The City Council finds that the management of storm water and other surface water discharges within and beyond the City of Pewaukee 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 the infiltration and inflow to the sanitary sewer. In addition, surface water runoff creates erosion of lands, damages businesses and residences, and creates sedimentation and other environmental damage in the City Pewaukee. In order to protect the health, safety and welfare of the public, the City of Pewaukee is exercising its authority to establish a Storm Water Utility for storm water management services. The City is acting under the authority of Chapters 62 and 66 of the Wisconsin Statutes, including, but not limited to the following: §§ 62.04, 62.11, 62.16, 62.18, 66.0621, 66.0627, 66.0809, 66.0811, and 66.0821.

26.01 OPERATION AND DIRECTOR.

The Storm Water Utility will be operated under the direction of the Engineering Department. The operation of the Storm Water Utility shall be under the supervision of the Common Council. The director of the Storm Water Utility will be the City Engineer.

26.02 AUTHORITY.

The City, acting through the storm water utility, may without limitation due to enumeration, do all those acts permitted to a storm water utility the aforementioned Wisconsin Statutes including the following:

- a. Acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, manage and finance such facilities as are deemed by the City to be proper and necessary for storm and surface water management. These facilities may include, without limitation due to enumeration, surface and underground drainage facilities, sewers, watercourse, retaining walls, ponds, streets, roads, ditches and such other natural or manmade facilities as will support a storm water management system.
- b. Undertake operations or activities, or provide any services deemed by the City to be proper and necessary for storm and surface water management; and
- c. Maintain compliance with all regulatory requirements for storm and surface water management.

26.03 DEFINITIONS.

For the purpose of this Ordinance, the following definitions 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. 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. *Appropriate Fee.* Any or all of the fee components as established by the Common Council.
- b. *Director.* The City Engineer or his/her designee.
- c. *Developed Parcel.* A parcel shall be considered developed pursuant to this Ordinance if it has measurable impervious surfaces of at least 267 square feet.
- d. *Dwelling Unit.* Any residential space identified for habitation by the City Building Code.

- e. *Equivalent Runoff Unit (ERU)*. The statistical average horizontal impervious area of a representative sample of developed “single-family” properties within the City of Pewaukee.
- f. *Impervious Area or Impervious Surface*. A horizontal surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rainwater. This includes, but is not limited to streets, roofs, sidewalks, parking lots and other similar surfaces as well as semi-impervious surfaces such as compacted gravel, stone or clay.
- g. *Multifamily Parcel*. Any residential lot or parcel identified for habitation with three or more dwelling units under single ownership including manufactured home parks and apartments.
- h. *Other Developed Parcel*. Any developed lot or parcel that is not a single-family or two-family (duplex) parcel including, but not limited to, transient rentals (such as hotels and motels), commercial, industrial, institutional, governmental, parking lots, and other properties containing impervious surfaces.
- i. *Residential Development*. Any developed lot or parcel exclusively for residential purposes including, but not limited to, single-family homes, two-family (duplex) homes, manufactured homes, condominiums, and multifamily apartment buildings.
- j. *Single-Family Parcel*. Any residential lot or parcel identified for habitation with exactly one dwelling unit.
- k. *Two-Family (Duplex) Parcel*. Any residential lot or parcel identified for habitation with exactly two dwelling units.
- l. *Undeveloped Parcel*. Any lot or parcel that has not been altered from its natural state by the addition of impervious surfaces of not more than 267 square feet.

26.04 APPLICABILITY.

- a. This ordinance is applicable to all lands, lots or parcels within the City of Pewaukee and;
- b. This ordinance is applicable to lands outside the City of Pewaukee by written agreement approved by the Common Council which include the acceptance of storm water utility fees as established from time to time pursuant to the terms of this ordinance and subject to all other legal requirements.

26.05 CUSTOMER CLASSIFICATION.

For purposes of imposing the storm water charges, all applicable lands, lots and parcels shall be assigned a customer classification by the Director.

- a. *Customer Classification Establishment.* The following four (4) customer classifications and three (3) residential tiers are established:
 1. Single-Family
 - (a) Tier 1 (Rs-1, Rs-2, Rs-3)
 - (b) Tier 2 (Rs-4, Rs-5)
 - (c) Tier 3 (Rs-6, Rs-7)
 2. Two-Family (Duplex)
 3. Other Developed
 4. Undeveloped

- b. *Customer Classification Modification.* The City Common Council may, by ordinance, modify the aforementioned customer classifications or establish additional customer classifications to provide a fair and reasonable distribution of the costs of the Storm Water Utility.

26.06 CHARGE METHODOLOGY.

The following Charge Methodology is established for the purpose of imposing storm water charges:

- a. *Charge Component Establishment.*

There shall be three charge components that may be used to share the costs of the storm water Utility. These charge components are:

 1. Base Charge (BC). The BC may be imposed on all lands, lots and parcels in the City. The Base Charge will be designed to reflect the fact that all parcels benefits from the storm water management activities of the City and/or that all parcels contribute storm water runoff (quantity burden) and pollution (quality burden) that must be managed by the City. The BC may be designed to collect the administrative costs and other appropriate expenses of the storm water utility operations and maintenance. The BC may be based on the size of a parcel, impervious area, or other method.
 2. Equivalency Charge (EC). The EC may be imposed on all parcels with impervious area. The EC will be designed on an ERU comparative basis.
 3. Special Charge (SC). The SC may be imposed on parcels that are in an area specially benefited and served by a particular storm water

management facility or service. This charge will be developed to reflect the relative burden of each parcel in a particular area that may not be appropriate to allocate to all parcels throughout the City. The SC will be calculated on an ERU comparative basis unless dictated otherwise by resolution or ordinance.

- b. *Charge Component Modification.* The City Common Council may, by ordinance or resolution, modify the aforementioned charge components or establish additional charge components to provide a fair and reasonable distribution of the costs of the Storm Water Utility.
- c. *ERU Establishment.* The value one (1.0) ERU is established to be equivalent to 5,339 square feet of impervious area.
- d. *Impervious Area Determination.* The Director shall be responsible for determining the impervious area of parcels as necessary to establish and maintain this storm water utility, based on the best available information, including, but not limited to, data supplied by the City Assessor, aerial photography, the parcel owner, tenant or developer. The Director may require additional information as necessary to make the determination.
- e. *Storm Water Fees.* The City Common Council may, by resolution, set or adjust the Base Charge, Equivalent Charge and the Special Charge fees to recover the cost of the storm water management program. Storm water fees will be kept on file with the City Clerk and the Director. The fee for any individual parcel shall be the sum of all applicable charge components.
- f. *Billing Methodology.* The fee applicable to a parcel as established hereunder shall be billed to the parcel owner in the same manner as the water utility fees. The parcel owner shall be responsible for payment of the Storm Water Utility fee. A bill may be sent to a parcel that is not receiving other services from the City of Pewaukee. Late payment, failure to pay, and checks returned for insufficient funds shall be subject to the same penalties as established and documented by the City of Pewaukee for water utility fees. Unpaid charges may be assessed as a lien against the parcel pursuant to Sections 66.0821(4)(d) and 66.0809, Wisconsin Statutes.

26.07 ADJUSTMENTS, REBATES, AND CREDITS.

The City Common Council shall adopt, by resolution the criteria for providing adjustments, rebates, and credits. The application fee schedule for Adjustments, Rebates, and Credits will be established by the City Common Council through resolution.

- a. *Adjustments.* Adjustments may be considered at the request of parcel owners to correct the amount of impervious area upon which the bill is based, correct or update the parcel customer classification, or other items of consequence, upon the presentation of site specific information.
 - 1. *Adjustment Procedure.* Any parcel owner may apply for an adjustment to update or correct the information assigned to the parcel if the parcel owner

believes there to be some information that is inaccurate. The following procedure for applying for an adjustment is established.

- (a) A request for an adjustment may be submitted at any time. All such requests shall be submitted to the Director on forms provided by the City, together with all supporting information and any application fees.
 - (b) The Director may require the parcel owner, at parcel owner's expense, to provide supplemental information.
 2. *Granting of Adjustments.* When an application for an adjustment is deemed complete by the Director, the Director shall have sixty (60) days from the date that the complete application is accepted to:
 - (a) Grant the adjustment in whole;
 - (b) Grant the adjustment in part; or,
 - (c) Deny the adjustment.
 3. Adjustments applied for and granted in whole or in part, shall be applied to the next billing cycle following the date on which a complete application for the adjustment has been filed with the City of Pewaukee. The Director shall provide a letter to the owner documenting the award or denial of the adjustment as well as the grounds upon which the decision was based. The applicants may appeal such determination following the appeals process described in Sec. 26.08.
- b. *Rebates.* Parcel owners that install and properly maintain a rain garden or a rain barrel may be eligible for a one time rebate. Rebates may be updated or amended from time to time by the Director.
1. *Technical and Procedural Criteria.* The Director shall establish specified technical and procedural criteria by which rebates will be granted. Copies of such technical and procedural criteria will be maintained by and be available from the Engineering Department.
 2. *Rebate Procedure.* Any parcel owner may apply for a rebate if, based on a review of available Technical and Procedural Criteria, the parcel owner believes there to be grounds for receiving a rebate. The following procedure for applying for a rebate is established.
 - (a) Parcel owners must make application to the Director on forms provided by the Director for such purpose.
 - (b) The application for any rebates must be in writing and must include the information necessary to document the eligibility for the rebate, accompanied by any application fee, and be in the

format established by the Director. Incomplete applications will not be accepted by the Director.

- (c) Where applicable as a condition for granting rebate, applicants must have an approved maintenance agreement on file with the Director.
3. *Granting of Rebates.* When an application for a rebates is deemed complete by the Director, the Director shall have sixty (60) days from the date that the complete application is accepted to:
- (a) Grant the rebate in whole;
 - (b) Grant the rebate in part; or,
 - (c) Deny the rebate.
4. Rebates applied for and granted in whole or in part, shall be applied to the next billing cycle following the date on which a complete application for the rebate has been filed with the City of Pewaukee. The Director shall provide a letter to the owner documenting the award or denial of the rebate as well as the grounds upon which the decision was based. The applicants may appeal such determination following the appeals process described in Sec. 26.08.
- c. *Credits.* Credits may be considered for parcels that either receive a reduced level of storm water management service or result from privately owned and properly constructed and maintained storm water mitigating measures that allow the City of Pewaukee to realize a cost savings in some portion of their storm water management program.
- (a) *Credit Policy.* The Director shall establish a credit policy and procedural criteria by which credits will be granted. Copies of such credit policy and procedural criteria will be maintained by and be available from the Engineering Department.
 - (b) *Credit Procedure.* Any parcel owner may apply for credit if, based on a review of available credit policy, the parcel owner believes there to be grounds for receiving credit to their storm water fee. The following procedure for applying for credit is established.
 - (a) Parcel owners must make application to the Director on forms provided by the Director for such purpose.
 - (b) The application for any credit must be in writing and must include the information necessary to document the eligibility for the credit, accompanied by any application fee, and be in the format

established by the Director. Incomplete applications will not be accepted by the Director.

- (c) Where applicable as a condition for granting credits, applicants must have an approved maintenance agreement on file with the Director.
- (e) *Granting of Credits.* When an application for a credit is deemed complete by the Director, the Director shall have sixty (60) days from the date that the complete application is accepted to:
 - (a) Grant the adjustment in whole;
 - (b) Grant the adjustment in part; or,
 - (c) Deny the adjustment.
- (d) Credits applied for and granted in whole or in part, shall be applied to the next billing cycle following the date on which a complete application for the credit has been filed with the City of Pewaukee. The Director shall provide a letter to the owner documenting the award or denial of the adjustment as well as the grounds upon which the decision was based. The applicants may appeal such determination following the appeals process described in Sec. 26.08.
- (e) *Regular Review of Credit.* The Director may review the credit and the basis thereof periodically, and may terminate the credit if grounds are found to do so. If such credit is terminated, the parcel owner will be notified in writing of the grounds for revoking the credit. The owner may appeal such determination following the appeals process or, may, if possible, correct the deficiencies that caused the termination and reapply for the credit.

26.08 APPEALS.

Appeals regarding the stormwater utility charges levied herein or any Adjustment, Rebate, or Credit requests shall be made to the Public Works Commission of the City of Pewaukee. The Public Works Commission shall make the determination of the charges within the scope of this chapter after considering all the facts in each case. If the finding of the Public Works Commission is not acceptable the appeal may be elevated to the Common Council.

26.09 BUDGET EXCESS REVENUES.

The City shall separately account for the Storm Water Utility finances. The Storm Water Utility shall prepare an annual budget, which is to include all operation and maintenance costs, costs of borrowing, capital costs and other costs related to the operation of the storm water utility. The budget is subject to approval by the City Common Council.

Any excess storm water revenues over expenditures in a year will be retained by the Fund for subsequent years' needs of the storm water utility.

26.10 LIBERAL INTERPRETATION.


This ordinance shall be interpreted liberally to secure the ends sought hereby.

26.11 SEVERABILITY.

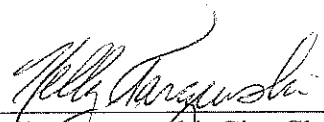
- a. If any provision of this ordinance is found to be unlawful or unenforceable, the remaining provisions shall remain in effect.
- b. All ordinances or parts of ordinances conflicting with the provisions of this ordinance are repealed to the extent of such conflict.
- c. This ordinance shall take effect on and after its passage and publication.

Passed and Adopted by the Common Council of the City of Pewaukee September 7, 2010.

CITY OF PEWAUKEE


Scott Klein, Mayor

ATTEST:



Kelly Tarczewski, City Clerk