

**CHAPTER 100****STORM WATER MANAGEMENT UTILITY**

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**100.01 PURPOSE AND FINDINGS.**

A. The purpose of this chapter is to establish the Storm Water Management Utility, to authorize charges for use of, and discharge to, the storm and surface water drainage systems of the City of Mount Ayr; to provide a process for appeals of certain decisions by the City Council relating to such charges; and to provide for collection of delinquent charges.

B. The City Council finds that the construction, operation and maintenance of the City’s storm water system should be funded through user charges imposed for the discharge of storm and surface water to the storm water drainage system, thereby charging those persons and activities using or receiving service from that system.

C. The City may be required to provide increased quantity or quality controls to mitigate those impacts of pollutants from discharging storm and surface waters into the storm water system. Therefore, it is appropriate to impose a storm and surface water user charge upon all users of property which may discharge, directly or indirectly, into the storm water system.

**100.02 DEFINITIONS.** The following words shall have the following definitions when used in this chapter, and any Resolution and Order adopted pursuant hereto, unless the context requires otherwise or unless such word is expressly defined otherwise:

1. “Bonds” means revenue bonds, notes, loans or other debt obligations issued or incurred to finance the costs of construction.
2. “City” means the City of Mount Ayr, Ringgold County, Iowa.
3. “City Administrator” means the city official designated by the City Council to manage the storm water utility for the City of Mount Ayr.
4. “Collection agent” means the agent, entity, or firm designated by the City Council to coordinate bills and receive revenues on behalf of the storm water management utility.

5. “Contributor” or “User” means any person, firm, corporation or other entity or organization responsible for the direct or indirect discharge of storm water, or surface or subsurface waters into the City’s storm water drainage system.
6. “Cost of construction” means the cost reasonably incurred in connection with providing capital improvements to the system, or any portion thereof, including but not limited to the costs of (1) acquisition of all property, real or personal, and all interests in connection therewith including all rights-of-way and easements therefore, (2) physical construction, installation and testing including the costs of labor, services, materials, supplies and utility services used in connection therewith, (3) architectural, engineering, legal and other professional services, (4) insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction and installation, (5) any taxes or other charges which become due during construction, (6) expenses incurred by the City or on 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, (7) principal and interest on any bonds, notes, loans or other debt obligations, and (8) miscellaneous expenses incidental thereto.
7. “Council” means the City Council of the City of Mount Ayr, Ringgold County, Iowa.
8. “Connection” means the physical act or process of directing or allowing the flow of storm and surface waters to the storm sewer or drainage line, or joining onto an existing side sewer, for the purpose of connecting private impervious surface or other storm and surface water sources or systems to the public storm and surface water system. It shall also include creation or maintenance of impervious surface that causes or is likely to cause an increase in the quantity or decrease in quality or both from the natural state of storm water runoff, and which drains, directly or indirectly, to the storm and surface water system.
9. “Date of imposition or imposition date” means July 1 of each fiscal year or such other date designated by the Council at which time a charge is imposed and becomes the legal obligation of the user. The obligation may include the cost of services to be provided during the billing period or for services previously provided to the same person under this chapter.
10. “Days” means calendar days unless otherwise specified.
11. “Debt service” means the amount of money necessary annually to pay the interest on outstanding debt and pay the principal of maturing bonded debt.
12. “Developed property” means real property upon which a structure or impervious surface has been placed or constructed, thus increasing the amount of rain water or surface water runoff.
13. “Director” means the city administrator or his or her designee.
14. “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.
15. (Repealed by Ord. 27 – Oct. 15 Supp.)
16. (Repealed by Ord. 27 – Oct. 15 Supp.)
17. “Exempt property” means public rights-of-way, streets, alleys and sidewalks, public and private cemeteries, and public parks, including publicly owned property used for public recreation owned by the City within the City corporate boundaries.
18. “Extensions and replacements” 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.

19. "Fiscal year" means the twelve-month period beginning on the first day of July of any year, and ending on June 30 of the succeeding year.
20. (Repealed by Ord. 27 – Oct. 15 Supp.)
21. "Improved Single Dwelling Parcel" means a lot of parcel on which a single family dwelling exists at any time during the same year as the imposition of the charge.
22. "Multi-family 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.
23. "Non-operating revenue" means 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.
24. "Non-residential property" means any property developed for commercial, industrial, governmental, or institutional use, including churches, hospitals, and other eleemosynary institutions, and including multi-use properties incorporating residential uses, but excluding undeveloped property or property used exclusively for agricultural purposes.
25. "Occupant" means the person residing or doing business on the property.
26. "Operating budget" means the annual operating budget for the storm water management utility adopted by the Council for the succeeding fiscal year.
27. "Operation and maintenance expenses" 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 record keeping, labor, executive compensation, 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.
28. "Owner" means the legal owner(s) of record as shown on the assessor and tax rolls of Ringgold County, or, where there is a recorded land sale contract, the purchaser thereunder.
29. "Person" means any individual, public or private corporation, political subdivision, governmental agency, municipality, partnership, association, firm, trust, or any other legal entity whatsoever.
30. "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.
31. "Rule" means any written standard, directive, interpretation, policy, regulation, procedure or other provision, adopted by the City Council as a resolution to carry out the provisions of this chapter.
32. "Storm water management charge" means the charge authorized by Iowa law and this chapter which is established to pay for the operations and maintenance, extension and replacement of debt service of the storm water utility.

33. “Storm water management utility” or “Utility” means the enterprise fund utility hereby created to operate, maintain and improve the system and for such other purposes as stated in this chapter.

34. “Storm and surface water drainage system” means any combination of publicly owned storm and surface water quantity and quality facilities; pumping or lift facilities; storm and secondary drain pipes and culverts; open channels, creeks and rivers; force mains; laterals; manholes; catch basins and inlets, including the grates and covers thereof; detention and retention facilities for the collection, conveyance, treatment and disposal of storm and surface water system within the City, to which sanitary sewage flows are not intentionally admitted.

35. “Total annual revenue requirements” means 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 replacements 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, detention basins and storm water pumping stations.

36. “Undeveloped property” means real property that has no impervious area.

**100.03 STORM WATER MANAGEMENT UTILITY ESTABLISHED.** Pursuant to the authority of Section 384.84, *Code of Iowa*, as amended, the Council hereby establishes a storm water management utility in the City. The entire City, as may be increased from time to time, shall constitute a single storm and surface water drainage district.

**100.04 ESTABLISHMENT OF STORM WATER MANAGEMENT UTILITY CHARGE.**

1. All parcels will be assigned charges per Ringgold County Assessor’s classification.
2. Except as hereinafter provided every contributor owning or occupying a single family residential property, multi-family residential property, or non-residential property, other than exempt property, shall pay to the City, at the office of the designated collection agent at the time payment is due, a storm water management charge to be determined and billed as herein provided.

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 the 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 the provisions of this chapter which is herein established and from time to time adjusted as hereinafter provided.

3. The storm water management charges shall be set by the City Council and shall be applied and computed for each contributor during the designated billing period from and after the passage and publication of this ordinance. Adjustments to the charges shall only be changed by ordinance.
4. The City Council shall budget on an annual basis for the expenditure of storm water utility revenues. No revenues generated by the storm water utility shall be used for any other purpose other than storm water expenses.

*(Ord. 27 – Oct. 15 Supp.)*

**100.05 STORM WATER MANAGEMENT CHARGE FOR A SINGLE FAMILY RESIDENTIAL PROPERTY.** The storm water management charge for a parcel classified as a single family residential (R) by the county assessor’s office property shall be a parcel upon which the single family residence is located, as referenced by the following table:

- a) \$2.50 Flat Fee Inclusive Of Adjoining Parcels.

- b) \$1.25 Flat Fee For Undeveloped Parcels That Are Not Adjoining.

For all newly constructed single family residential units, the storm water management charge attributable to that residence shall commence on the 1<sup>st</sup> day of the month in which a certificate of occupancy, the date in which occupancy occurs, or 30 days after construction has ceased, whichever is first.

*(Ord. 27 – Oct. 15 Supp.)*

**100.06 STORM WATER MANAGEMENT CHARGE FOR A MULTI-FAMILY RESIDENTIAL PROPERTY.** The storm water management charge for a multi-family residential property shall be \$2.50 multiplied by the number of individual dwelling units existing on the property.

For all newly constructed multi-family residential units, the storm water management charge attributable to that residence shall commence on the 1<sup>st</sup> day of the month in which a certificate of occupancy, the date in which occupancy occurs, or 30 days after construction has ceased, whichever is first.

*(Ord. 27 – Oct. 15 Supp.)*

**100.07** (Repealed by Ord. 27 – Oct. 15 Supp.)

**100.08 STORM WATER MANAGEMENT CHARGE FOR ALL PROPERTY CLASSIFIED AS AGRICULTURE OR AGRICULTURE RESIDENTIAL.** The storm water management charge for a parcel classified as agriculture (A) or agriculture residential (AR), shall be:

- a) \$2.50 Flat Fee Inclusive Of Adjoining Parcels.

*(Ord. 27 – Oct. 15 Supp.)*

**100.09** (Repealed by Ord. 27 – Oct. 15 Supp.)

**100.10 STORM WATER MANAGEMENT CHARGE FOR A PROPERTY CLASSIFIED AS COMMERCIAL (C) OR INDUSTRIAL (I).** The storm water management charge for a commercial or industrial parcel shall be:

- a) \$6.00 On A Parcel Of Land Up To 1.0 Acre; Inclusive Of Adjoining Parcels.  
b) \$12.00 On A Parcel Of Land Over 1.0 Acre; Inclusive Of Adjoining Parcels.

*(Ord. 27 – Oct. 15 Supp.)*

**100.11** (Repealed by Ord. 27 – Oct. 15 Supp.)

**100.12** (Repealed by Ord. 27 – Oct. 15 Supp.)

**100.13** (Repealed by Ord. 27 – Oct. 15 Supp.)

**100.14** (Repealed by Ord. 27 – Oct. 15 Supp.)

**100.15** (Repealed by Ord. 27 – Oct. 15 Supp.)

**100.16** (Repealed by Ord. 27 – Oct. 15 Supp.)

**100.17 BILLING.**

A. Storm water user fees shall accrue beginning the first day of the month following passage and publication of this ordinance. Fees will be billed and made payable at the same time as City water, sanitary sewer and garbage fees and shall be shown as a separate item on the bill.

Properties with no monthly City utility fees will be billed on a semi-annual basis or earlier if requested by the user. To determine the user of these properties, the City shall send a bill for the amount due by regular mail to these parcel owners in the City. Mailing to the owner of record as shown on the county assessor's records shall satisfy this requirement.

B. The recipient has 15 days from the billing date to file a notice of non-occupancy. The notice shall indicate the relationship of the recipient to the property (e.g., owner, lessor, mortgagee, contract holder), whether on the imposition date the property was occupied, and if so, by whom.

C. Upon receipt of the notice, the City shall determine who is obligated for payment. Based on this determination, the City shall:

1. Issue a new bill to the occupant if the property was occupied by someone other than the original recipient;
2. Reissue the bill to the recipient if it is found that the person was the occupant;
3. Issue a bill to the owner as the user, if the property was not occupied. The City may take into account any reasonably reliable information available to it, including utility or water district records.

D. Failure to file the notice so that it is actually received by the City within thirty (30) days of the mailing date of the bill shall conclusively establish that the original addressee was the user on the imposition date.

E. Notwithstanding any other provision of this chapter, any person may agree in writing to be responsible for payment of the charge. Upon filing of such a writing with the City, subsequent bills shall be sent to that person, and that person shall be deemed to be the user.

F. It shall be a violation of this chapter to knowingly provide false information to the City regarding any fact related to billing of a storm water utility service charge or other charge of the City.

#### **100.18 DELINQUENCY, COLLECTION, INTEREST & PENALTIES.**

A. Collection and delinquency procedures and rules shall be the same as for other City utility services.

B. It shall be unlawful and a violation of this chapter for any person to discharge wastewater into the City's storm water management system. It is also unlawful and a violation of this chapter to maintain a connection to or use the City's storm water management system without paying the appropriate charges and fees established in this section or any rule adopted pursuant hereto. Even if no billing is received, such charges shall be due and owing and the user is obligated to pay any charges in a timely fashion.

C. Delinquent charges may be collected pursuant to the same procedure as with delinquent water and sanitary sewer bills by the City, with the assistance of City legal counsel, without further action or authorization of the City Council.

D. In addition to remedies provided for collection of a debt, the City may seek a temporary or permanent injunction prohibiting continued occupancy of premises, requiring disconnection of the premises from the public storm water utility system, and termination of water and sewer service to the user's premises.

- E. The City Council may prescribe by resolution and order, a schedule of interest and penalty charges, to be imposed upon delinquent charges.
- F. In a collection action under this chapter, the City shall be entitled to its costs and reasonable attorney fees, including at trial and on appeal, if it is the prevailing party.
- G. In addition to the right of the City to bring a civil action to collect any delinquent charges or enforce any provisions of this chapter, the City may take any of the following actions to secure payment:
- 1) The City may refuse to issue any permit to any person who is delinquent in any payment due under this chapter;
  - 2) The City may terminate provision of storm and surface water service to premises used by the user;
  - 3) The City may terminate water and sanitary sewer service to premises used by the user. Termination of service pursuant to this subsection shall be according to procedures adopted under Section 100.20, hereof. If the City terminates service as provided in this section, the cost of such disconnection shall be added to the amount of any other delinquent charges and shall be recoverable in the same manner as are such charges.
- H. Where a lien against the property can be imposed when the owner is liable, it shall exist from the date the bill was last brought current in the same manner as with a lien for water and sanitary sewer service.

**100.19** (Repealed by Ord. 27 – Oct. 15 Supp.)

**100.20 ADOPTION OF RULES; INTERPRETATIONS & APPEALS.**

- A. Adoption of Rules.
1. The Council may, by Resolution and Order, promulgate rules pertaining to matters within the scope of this chapter.
  2. Any rule adopted pursuant to this section shall require a public hearing. Not less than four nor more than twenty days before such hearing, public notice of such hearing shall be given by publication in a newspaper of general circulation within the City. Such notice shall include the place, time, and purpose of the hearing and the location at which copies of the full text of the proposed rules may be obtained.
  3. At the conclusion of the public hearing, the Council shall either adopt the proposal, modify or reject it. If a modification is made, an additional public hearing shall be held but no additional notice shall be required if such additional hearing is announced at the meeting at which the modification is made. All rules shall be effective upon adoption by the Council and shall be filed in the office of the City.
  4. Notwithstanding subsection 2 and 3 of this subsection, a rule may be adopted without prior notice upon a finding that failure of the Council to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specified reasons for such prejudice. Any rule adopted pursuant to this subsection shall be effective for a period of not longer than 180 days.
- B. Appeals. The following may be appealed to the City Council:
1. A determination that the person is obligated to pay the service charge imposed herein;

2. A dispute as to the proper calculation of the amount due from the person. This shall not include, however, an objection to the overall establishment of the storm water utility charge or the amount per ESU established by the Council pursuant to Section 100.04 or the establishment of classes of impervious surface area pursuant to Sections 100.05 through 100.13 of this chapter.
  3. A discretionary decision implementing a rule adopted by the Council if an appeal is provided in the order adopting the rule.
- C. The appeal shall be filed in writing and must be actually received by the City no later than the thirtieth (30th) day after the billing statements have been mailed by the City. The thirty (30) days shall be calculated from the due date of the original or reissued bill in response to a notice of non occupancy, whichever is later.
- D. The appeal shall be heard by the Council, or their designee in an informal proceeding.
- E. The appellant shall be provided a reasonable opportunity to submit written and oral support for the appellant's position. The Council shall issue a written decision within thirty (30) days of the proceeding. The written decision of the Council may be appealed to the Circuit Court of Ringgold County by writ of review. Failure to properly exhaust the administrative remedy provided for herein shall constitute a bar to judicial relief.

**100.21 SEVERABILITY CLAUSE.** If any section, subsection, provision, clause or paragraph of this chapter, or rules adopted pursuant hereto, shall be adjudged or declared to be unconstitutional or invalid by any court of competent jurisdiction, such judgment shall not affect the validity of the remaining portions of this chapter or such rules; and every other portion thereof shall remain in full force and effect.

**100.22 JUDICIAL REVIEW.** Final decisions of the Council, or its designated review authority under this chapter, shall be reviewed solely and exclusively under the provisions of the Mount Ayr Municipal Code. In the absence of any provisions for review, the *Code of Iowa* shall apply.

**100.23 PUBLIC INTEREST.** This chapter is being adopted by the City Council of the City of Mount Ayr in the public interest of the citizens of the City of Mount Ayr to truly reflect the overall costs associated with the operation and maintenance of a storm water utility and to fund it accordingly through the monthly billing cycles of the City.

*(Ch. 100 – Ord. 25 – May 15 Supp.)*

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