

## CHAPTER 152

# STORMWATER MANAGEMENT SYSTEM AND FACILITIES

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**152.01 PURPOSE.** The purpose of this chapter is to establish a stormwater utility which shall be responsible for stormwater management within the corporate boundaries of the City of Asbury and shall provide for the management protection, control, regulation, use and enhancement of stormwater management systems and facilities.

**152.02 FINDINGS.** The U.S. EPA's National Pollutant Discharge Elimination System ("NPDES") permit program administered by the Iowa Department of Natural Resources ("IDNR") requires that cities meeting certain demographic and environmental impact criteria obtain from the IDNR an NPDES permit for the discharge of stormwater from a Municipal Separate Storm Sewer System ("MS4"). The City of Asbury is subject to the Program and is required to obtain, and has obtained, an MS4 Permit; the City's MS4 Permit is on file at City Hall and is available for public inspection during regular office hours.

### **152.03 SCOPE AND RESPONSIBILITY FOR STORMWATER UTILITY.**

1. Utility District Established. The City Council finds, determines, and declares it to be conducive to the health, welfare, safety and convenience of the City and its residents that a stormwater management utility be established within the City. Consequently, pursuant to Iowa Code Section 384.84(1), a stormwater management utility to be known as the Asbury stormwater management utility, is established, and it is ordained and declared that the City shall be and constitute the stormwater management utility and the utility shall comprise and include elements of the City's stormwater drainage and flood protection systems which provide for the collection, treatment and disposal of stormwater, surface water and ground water. It is further found, determined, and declared

that the elements of the stormwater management utility are of benefit and provide services to all real properties within the incorporated City limits, including property not directly served by the stormwater drainage system, and that such benefits and services may include, but are not limited to, the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater; the reduction of hazard to property and life resulting from stormwater runoff and flooding; improvement in general health and welfare through reduction of undesirable stormwater conditions and flooding; and improvement to the water quality in the stormwater and surface water system and its receiving waters.

2. Levy and Collection of Charges. It is further determined and declared to be necessary and conducive to the protection of the public health, welfare, safety and convenience of the City and its residents that charges be levied upon and collected from the owners or occupants of all lots, parcels of real estate, and buildings that discharge stormwater or surface or subsurface waters, directly or indirectly, to the City stormwater drainage system, and that the proceeds of such charges so derived be used for the purposes of operation, maintenance, repair, replacement and debt service for construction of stormwater drainage and flood protection improvements comprising the stormwater management utility.

**152.04 DEFINITIONS.** For the purpose of this chapter all words shall carry their customary meanings, except where specifically defined herein. The use of the present tense shall include the past and future tenses, and the future the present; the word “shall” is mandatory, while the word “may” is permissive; the singular number shall include the plural and the plural the singular.

1. BONDS: Revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the costs of construction.

2. CONTRIBUTOR OR USER: Any person owning, operating, or otherwise responsible for property within the City which directly or indirectly discharges stormwater or surface or subsurface waters to any portion of the stormwater management system, including direct or indirect discharges to the City’s stormwater drainage system, or which is directly or indirectly protected by the City’s flood protection system or stormwater drainage system. The term “contributor” or “user” means any person responsible for the direct or indirect discharge of stormwater or surface or subsurface waters to the City’s stormwater drainage system.

3. **COSTS OF CONSTRUCTION:** Costs reasonably incurred in connection with providing capital improvements to the system or any portion thereof, including, but not limited to, the costs of the following:

A. Acquisition of all property, real or personal, and all interests in connection therewith including all rights of way and easements therefor;

B. Physical construction, installation and testing including the costs of labor, services, materials, supplies and utility services used in connection therewith;

C. Architectural, engineering, legal and other professional services;

D. Insurance premiums during construction, to the extent not paid for by a contractor for construction and installation;

E. Any taxes or other charges which become due during construction;

F. 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;

G. Principal and interest on any bonds; and

H. Miscellaneous expenses incidental thereto.

4. **DEBT SERVICE:** The amount of money necessary annually to pay the interest on outstanding debt and pay the principal of maturing debt.

5. **DEVELOPED PROPERTY:** Real property upon which a structure or impervious surface has been placed or constructed, thus increasing the amount of rainwater or surface water runoff.

6. **STORMWATER MANAGEMENT TEAM:** means the team designated and authorized by the City Council to carry out various functions as specified in this chapter.

7. **DWELLING UNIT:** 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.

8. **EXEMPT PROPERTY:** Public rights of way including public streets, alleys, sidewalks, municipal facilities and public drainage facilities.

9. **EXTENSION AND REPLACEMENT:** 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.
10. **FISCAL YEAR:** A twelve (12) month period commencing on July 1, and ending on June 30 of the succeeding year.
11. **IMPERVIOUS AREA:** The number of square feet of hard surfaced areas which either prevent or retard the entry of water into soil mantle, as it entered under natural conditions as undeveloped property, and/or cause water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as undeveloped property, including, but not limited to, roofs, roof extensions, patios, porches, driveways, sidewalks, concrete/asphalt pavement, gravel surfaces and athletic courts.
12. **MULTI-FAMILY RESIDENTIAL PROPERTY:** A residential structure designed with two (2) or more dwelling units to accommodate two (2) or more families or groups of individuals living separately and not sharing the same living space.
13. **NONOPERATING REVENUES:** Refers to revenues derived from activities other than the basic operations of the stormwater management system, but excluding interest income on bond proceeds and on contributed capital.
14. **NONRESIDENTIAL PROPERTY:** Any property developed for commercial, governmental, or institutional use, including churches, and including multiuse properties incorporating residential uses, but excluding undeveloped property and property used exclusively for agricultural purposes.
15. **OPERATING BUDGET:** The annual operating budget for the stormwater management utility adopted by the City Council for the succeeding fiscal year.
16. **OPERATIONS AND MAINTENANCE EXPENSE:** 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,

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.

17. **REVENUES:** 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 monies in any fund or account and any amounts contributed by the City, all as calculated in accordance with sound accounting practice.

18. **SINGLE FAMILY UNIT (SFU) RATE:** The dollar value periodically determined and assigned to each SFU as a charge for stormwater management services, and expressed as \$X.XX per SFU.

19. **SINGLE-FAMILY RESIDENTIAL PROPERTY:** A detached residential structure designed as a single dwelling unit to accommodate one family or group of individuals living together and sharing the same living space, but excluding multiclass (i.e., commercial, residential, industrial, institutional, etc.) properties which include single-family residential uses.

20. **STORMWATER DRAINAGE SYSTEM:** The system of publicly or privately owned or operated rivers, creeks, ditches, drainage channels, pipes, basins, and street gutters within the City through which or into which stormwater runoff, surface water, or subsurface water is conveyed or deposited.

21. **STORMWATER MANAGEMENT CHARGE:** The charge authorized by State law and this chapter which is established to pay operations and maintenance, extension, replacement and debt service of the stormwater drainage system.

22. **STORMWATER MANAGEMENT UTILITY OR UTILITY:** The enterprise fund utility created by this chapter to operate, maintain and improve the system and for such other purposes as stated in this chapter.

23. **STORMWATER MANAGEMENT UTILITY SYSTEM OR SYSTEM:** The existing stormwater management facilities, stormwater drainage system, and flood protection system of the City and all improvements thereto which by this chapter are constituted as the property and responsibility of the utility, to be operated as an enterprise fund to, among other things, conserve water; control discharges and

flows necessitated by rainfall events; and incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system.

24. **TOTAL ANNUAL REVENUE REQUIREMENTS:** Refers to 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 replacement funding, of the stormwater drainage system, including facilities for the collection, transportation, and treatment of stormwater.

25. **UNDEVELOPED PROPERTY:** Real property that has no impervious area.

**152.05 POWERS, DUTIES AND RESPONSIBILITIES.** The stormwater management team shall have the following powers, duties, and responsibilities:

1. Prepare ordinances as needed to implement this chapter and forward the ordinances to the City Council for consideration and adoption, and adopt such regulations and procedures as are required to implement this chapter and carry out its duties and responsibilities.
2. Administer the acquisition, design, construction, maintenance and operation of the utility system including capital improvements designated in the comprehensive drainage plan.
3. Administer and enforce this chapter and all ordinances, regulations and procedures adopted relating to the design, construction, maintenance, operation and alteration of the utility system, including, but not limited to, the quantity, quality and/or velocity of the stormwater conveyed thereby.
4. Inspect private systems as necessary to determine the compliance of such systems with this chapter and any ordinances or regulations adopted pursuant to this chapter.
5. Prepare and revise a comprehensive drainage and flood protection plan for periodic review and adoption by the City Council.
6. Review plans, approve or deny, inspect and accept extensions to the stormwater drainage system.
7. Establish and enforce regulations to protect and maintain water quality within the system in compliance with water quality standards

established by City, State, regional and/or Federal agencies as adopted or amended.

8. Annually analyze the cost of services and benefits provided, and the system and structure of fees, charges, fines and other revenues of the utility, and make recommendations regarding adjustments to such fees, charges, fines and other revenues.

9. Prepare an annual operating budget for the utility and make recommendations regarding the financing of the cost of extending and replacing the system.

**152.06 ORGANIZATION.** The City Council shall be the governing body of the stormwater management utility. The stormwater management utility shall be under the direction, management and control of the stormwater management team. The team shall supervise the day to day operation of the stormwater management utility, shall enforce this chapter and the provisions of all ordinances and regulations adopted pursuant to this chapter and shall carry out the policy directives of the City Council acting in its role as governing body of the stormwater management utility.

**152.07 SFU RATE, CHARGES; UTILITY REVENUES.**

1. Monthly Service Charge. Except as provided in this chapter, every contributor owning or occupying a single-family residential property, multi-family residential property, or a nonresidential property, other than exempt property, shall pay to the City, at the same time payment is made for water service, sanitary sewer or refuse, a stormwater management charge to be determined and billed as provided in this chapter. In the event the owner and the occupant of a particular property are not the same, the liability for payment of the stormwater management charge attributable to that property shall be joint and several as to the owner and lessee or tenant. The stormwater management charge shall be a monthly service charge and shall be determined by this chapter and the SFU rate which is established in this chapter and from time to time adjusted as provided in this chapter.

2. Application and Computation. The stormwater management charges provided in Sections 152.08 and 152.09 of this chapter shall be applied and computed for each contributor during the customary billing periods as to all bills mailed by the City, and such charges shall thereafter be paid and collected as provided in this chapter.

3. Rate Established. The SFU rate to be applied to residential dwelling units beginning July 1, 2017, shall be \$7.00 per unit per month.



The SFU rate to be applied to nonresidential units beginning July 1, 2017, shall be:

Impervious Area	Rate
0 to 20,000 SF	\$10.00 per unit per month
20,001 to 40,000 SF	\$20.00 per unit per month
40,001 to 60,000 SF	\$40.00 per unit per month
60,001 to 80,000 SF	\$75.00 per unit per month
80,001 to 100,000 SF	\$150.00 per unit per month
Greater than 100,000	\$300.00 per unit per month

*(Ord. 9-2017 – Jul. 17 Supp.)*

4. Authority to Adjust Rate. If at any time the stormwater management team determines that the SFU rate and/or the budget for the stormwater management utility system requires adjustment, the stormwater management team shall report such determination to the City Council. The City Council may at any time adjust the SFU rate by adoption of an ordinance amending this section, and may at any time adjust the budget for the stormwater management utility system by adoption of an appropriate resolution.

5. Policy on Expenditure of Revenues. The City Council hereby establishes a formal policy regarding the expenditure of stormwater management utility revenues as follows:

A. The City Administrator shall develop and implement a cost accounting system, capable of accurately recording and segregating charges to the system by all departments of the City, to include the cost of personnel, machinery, contract equipment and construction, supplies and any and all miscellaneous expenses and purchases.

B. No revenues generated by the stormwater utility user fee shall be used for any purpose other than stormwater expenses.

#### **152.08 SINGLE FAMILY UNIT (SFU).**

1. SFU Rate. The stormwater management charge for a residential dwelling unit shall be \$7.00 per unit per month.

*(Ord. 9-2017 – Jul. 17 Supp.)*

2. Commencement of Charge. As to a new single family unit, the stormwater management charge attributable to that unit shall commence upon the earlier of the following:



- A. The issuance of a permanent water meter.
- B. If no water meter is issued for that development or if development has halted, on the date that the stormwater team determines in reasonable judgment that the development is substantially complete or has been halted for at least three (3) months.

**152.09 NONRESIDENTIAL UNIT.** The stormwater management charge for a nonresidential property shall be:

Impervious Area	Rate
0 to 20,000 SF	\$10.00 per unit per month
20,001 to 40,000 SF	\$20.00 per unit per month
40,001 to 60,000 SF	\$40.00 per unit per month
60,001 to 80,000 SF	\$75.00 per unit per month
80,001 to 100,000 SF	\$150.00 per unit per month
Greater than 100,000	\$300.00 per unit per month

*(Ord. 9-2017 – Jul. 17 Supp.)*

**152.10 RATE DETERMINATIONS; COMPLIANCE WITH BOND COVENANTS.**

1. Rate Determination. In calculating the SFU rate as provided in Section 152.07 of this chapter, the City Administrator shall include in the budgeted expense and revenue amounts sufficient funds as will ensure compliance with any and all rate covenants applicable to any outstanding bonds, notes or other obligations issued in connection with the construction and operation of the stormwater management utility system.
2. Issuance of Additional Bonds. For purposes of complying with any covenant relating to the issuance of additional bonds, notes or other obligations ranking on a parity with outstanding bonds issued in connection with the construction and operation of the stormwater management utility, the stormwater management team shall, prior to Council consideration of the resolution to take additional action for the issuance of such additional bonds, and with such assistance from the City’s independent accountants as the stormwater management team deems necessary, calculate the SFU rate necessary to produce revenues sufficient to comply with such covenant and shall certify the rate to the City Administrator. The City Administrator shall inform the City

Council of the revised SFU rate at the time that the resolution to take additional action for the issuance of such bonds is submitted to the Council for its review and approval. Upon Council approval of resolution, the City Administrator shall publish the revised SFU rate once in a newspaper of general circulation, shall give notice thereof to contributors if and as required by applicable State or Federal law, and shall proceed to impose and collect the rate commencing with the next available billing cycle.

**152.11 BILLING, DELINQUENT ACCOUNTS AND COLLECTION PROCEDURES.** The procedures for billing of the stormwater management service charges provided in Sections 152.08 and 152.09 of this chapter and for the collection of delinquent stormwater management service charges shall be as provided in a combined service account as contained in Section 90.17 of this Code of Ordinances. The provisions contained in Section 90.19 Lien for Nonpayment relating to lien notices shall also apply in the event of a delinquent account. *(Ord. 6-2021 – Jul. 21 Supp.)*

**152.12 ANNUAL REVIEW OF SFU RATE.** Under this chapter, the stormwater management team shall review the SFU rate annually and revise the rate as necessary to ensure that the system generates adequate revenues to pay total annual revenue requirements.

**152.13 EXPENSES OF COLLECTION OF CHARGES.** The incremental cost of collecting and accounting for all stormwater management charges, including reasonable compensation; the maintenance of all books and records; the employment of necessary personnel; the cost of all books, records, materials and supplies; the obtaining and maintaining of all office and storage space; and all other costs and expenses reasonably necessary in connection therewith or incidental thereto, shall be a part of the cost of operating the stormwater utility.

*(Chapter 152 – Ord. 4-2012 – Jun. 12 Supp.)*