

## Chapter 24

### STORMWATER MANAGEMENT UTILITY



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**24.01 Findings and Declarations of Policy** The Village of Shorewood Hills finds that the management of stormwater and other surface water discharges within and beyond the Village of Shorewood Hills is a matter that affects the health, safety and welfare of the Village, its citizens and businesses, and others in the surrounding area. Failure to effectively manage stormwater affects the sanitary sewer utility operations of the Village by, among other things, increasing infiltration to the sanitary sewer. In addition, surface water runoff causes erosion of lands, damages to businesses and residences, sedimentation, and other environmental damage in the Village of Shorewood Hills and the surrounding area. In order to protect the health, safety and welfare of the public, the Village of Shorewood Hills is exercising its authority to establish a Stormwater Utility for stormwater management services. The

Village is acting under the authority of Wis. Stat. §§ 61.34, 61.36, 66.0101, 66.0621, 66.0627, 66.0809, 66.0811, and 66.0821.

**24.02 Establishment** There is hereby established a stormwater utility in the Village of Shorewood Hills. The operation of the stormwater utility shall be under the supervision of the Village Administrator.

**24.03 Authority** The Village, acting through the stormwater 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 Village 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 and such other facilities as will support a stormwater management system.

**24.04 Interpretation** In their interpretation and application, the provisions of this Ordinance shall be interpreted liberally to secure the ends sought hereby and shall not be deemed a limitation or repeal of any other power granted to the Village by the Wisconsin Statutes.

**24.05 Severability of Ordinance Provisions** If any section, provisions or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

**24.06 Definitions** The following terms, whenever they occur in this Ordinance, are defined as follows: **(1) CHARGE** Charge means the fee imposed under this chapter for the rendering of stormwater utility services by the Village.

**(2) 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.

**(3) EQUIVALENT RESIDENTIAL UNIT**

**OR ERU** ERU means the basic unit by which the Stormwater Utility charge is calculated under this section. It is the statistical average of the horizontal impervious area of residential living units within the Village of Shorewood Hills on the date of the establishment of the Stormwater 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.

**(4) IMPERVIOUS AREA** 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.

**(5) LIVING UNIT** 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.

**(6) MULTIFAMILY UNIT** Multifamily unit means any residential property comprised of two or more living units, including apartments, duplexes and condominiums.

**(7) NONRESIDENTIAL PROPERTY** Nonresidential property means a lot or parcel of land, with improvements such as a building, structure, other impervious areas as defined in Sec. 24-6.4, grading or

substantial landscaping, which is not exclusively residential as defined herein, including, but not limited to, commercial, industrial, institutional, mixed-use, and governmental property, and excluding publicly-owned right-of-way and publicly-owned or privately-owned rail beds.

**(8) RESIDENTIAL PROPERTY**

Residential property means a lot or parcel of land developed exclusively for residential purposes, regardless of zoning classification, including single-family units, duplexes, and multifamily units. The term includes manufactured homes.

**(9) SINGLE FAMILY UNIT** Single-family unit means any residential property, including manufactured homes, consisting of one living unit.

**(10) STORMWATER UTILITY**

Stormwater Utility means the utility established under this chapter for the purpose of managing stormwater and imposing charges for the recovery of costs connected with such stormwater management.

**(11) UNDEVELOPED PROPERTY**

Undeveloped Property means property that is not developed by the addition of an improvement such as a building, structure, other impervious area as defined in Sec. 24-6.4, grading or substantial landscaping which increases stormwater runoff.

**24.07 Basis of Charge (1)** By this ordinance, the Village Board is establishing the rate classification and basis for computation of charges for stormwater services for each lot and parcel within the Village of Shorewood Hills. The actual charges to be imposed pursuant to these rate classifications, and any future changes in the

charges, shall be made by resolution. A schedule of current rates, following approval by the Village Board, shall be maintained and on file in the office of the Village Administrator. All charges established pursuant to this chapter shall be fair and reasonable.

**(2)** The rate classifications used to distribute the costs of the Stormwater Program among utility customers shall be based on the Equivalent Residential Unit (ERU). The charge assigned to each parcel shall be assessed based upon the impervious area or living units as reasonably determined by the Village, except for undeveloped properties, which shall be assessed the charge for one ERU, and public right-of-way, which shall be exempt from the utility charge.

**24.08 Customer Classification (1)**

**CUSTOMER CLASSES** For the purposes of imposing the stormwater charges, all lots and parcels within the Village are classified into the following four (4) customer classes.

- (a) Residential
- (b) Nonresidential
- (c) Undeveloped
- (d) Right-of-Way

**(2) PARCEL CLASSIFICATION** The Village Administrator shall assign a customer classification to each lot and parcel within the Village of Shorewood Hills.

**(3) ERU** The ERU is established to be 2,941 square feet.

**24.09 Charge Formulas (1)**

**RESIDENTIAL** The charges imposed for residential properties shall be the charge for one ERU times the number of living units,

i.e. Residential parcel charge = ERU charge x number of living units

(2) **NON-RESIDENTIAL** The charges imposed for non-residential properties shall be the charge for one ERU times the numerical factor obtained by dividing the total square footage of impervious area of the property by the square footage of one ERU. The factor shall be rounded down to the nearest one-tenth (0.1), i.e. Non-residential parcel charge = ERU charge x parcel impervious area ÷ 2,941 ft<sup>2</sup>

(3) **UNDEVELOPED** The charges imposed for undeveloped parcels as defined herein shall be the fee of one ERU. Undeveloped parcel charge = 1 x ERU charge

(4) **RIGHT-OF-WAY** Public highway, road, and rail right-of-way shall be exempt from the stormwater utility charge.

(5) **MINIMUM CHARGE** The minimum charges for any customer assessed a charge shall be equal to the charge for one (1) ERU.

(6) **IMPERVIOUS AREA MEASUREMENT** The Village Administrator 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 Village Assessor, Village Engineer, aerial photography, property owner, tenant, or developer. The Village Administrator may require additional information as necessary to make the determination. The number of ERUs shall be updated by the Village Administrator based on any additions to the impervious area as approved through the building permit process.

#### **24.10 Charges** The Village Board

shall, by resolution, set or adjust the service charge and ERU charge to reflect the costs of the stormwater management program. Stormwater charges will be kept on file with the Village Clerk and Village Administrator.

**24-11 Adjustments** The Village Board shall adopt, by separate resolution, criteria recommended by the Village Administrator for providing adjustments. The Village Administrator shall develop a manual that explains the criteria for granting adjustments and that provides application materials. It shall be the responsibility of the property owner to prove, using adjustments manual, that a parcel is eligible. (1) **REVIEW PROCEDURE** (a) Within thirty (30) days of the submission of a request to the Village Administrator for an adjustment to the number of ERUs allocated to the property, the Village Administrator shall issue a written recommendation as to whether the request for adjustment should be granted, denied or granted in part. The written recommendation shall also set forth the reason or reasons for such recommendation. The recommendation shall be sent to the customer by certified mail, and shall be provided to the Board of Trustees and the Shorewood Hills Village Board.

(b) Within thirty (30) days of receipt of the written recommendation from the Village Administrator, the Board of Trustees shall review the recommendation. The customer shall be notified of the review by certified mail. Upon review, the Board of Trustees shall determine whether the recommendation should be approved, rejected, or modified. The customer shall be allowed to present evidence at a hearing to be scheduled by the Board of Trustees. The

final determination of the Board of Trustees shall be in writing and set forth the reason or reasons for its decision. The Board of Trustees shall inform the customer of its decision by certified mail.

(c) In reviewing a recommendation, the Board of Trustees shall apply the considerations set forth in Wis. Stat. § 66.0821(4)(c).

(2) **EFFECTIVE DATE** Any ERU adjustment 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.

#### **24.12 Budget-excess Revenues**

The Village shall separately account for the Stormwater Utility finances. The Village Administrator shall prepare an annual budget, which is to include capital, borrowing and other costs related to the operation of the utility. The budget is subject to approval by the Village Board. Any excess of revenues over expenditures in a year will be deposited in a stormwater maintenance fund, which shall only be only be used to defer the costs of capital improvements, retire debt or other stormwater management expenses approved by the Village Administrator.

**24.13 Billing (1) BILLS** Stormwater utility charges shall be billed to the owner of each property. The property owner shall be responsible for payment of the Stormwater Utility charge.

(2) **LATE PAYMENT** Failure to pay the charges when due will be subject to a

late payment charge of one (1) percent per month that will be added to bills not paid within 20 days of issuance.

(3) **UNPAID CHARGE** Unpaid charges shall be assessed as a lien against the property pursuant to Wis. Stat. § 66.0821.