

ORDINANCE NO. 13,652

AN ORDINANCE to amend the Municipal Code of Des Moines, 1991, adopted by Ordinance No. 11,651, passed April 15, 1991, and amended by Ordinance 13,075, passed July 5, 1994 and amended by Ordinance No. 13,217, passed July 24, 1995 by repealing Section 21-128, thereof and enacting a new Section 21-128, providing for adjustments to the stormwater management charge at any time upon adoption of an ordinance amending that code section, and providing for an increase in the stormwater management charge effective December 1, 1998.

Be It Ordained by the City Council of the City of Des Moines,

Iowa:

Section 1. That the Municipal Code of Des Moines, 1991, adopted by Ordinance No. 11,651, passed April 15, 1991, and amended by Ordinance 13,075, passed July 5, 1994 and amended by Ordinance No. 13,217, passed July 24, 1995 by repealing Section 21-128, thereof and enacting a new Section 21-128, providing for adjustments to the stormwater management charge at any time upon adoption of an ordinance amending that code section, and providing for an increase in the stormwater management charge effective December 1, 1998 thereof and enacting a new Section 21-128, as follows:

21-128. ESTABLISHMENT OF ERU, ERU RATE, AND STORMWATER MANAGEMENT CHARGE; ESTABLISHMENT OF COUNCIL POLICY REGARDING EXPENDITURE OF UTILITY REVENUES.

(a) For purposes of this subchapter, an ERU shall be equivalent to 2,349 square feet of impervious property.

(b) Except as hereafter provided, every contributor owning or occupying a single family residential property, a multi-family residential property, an unclassified residential property, or a non-residential property, other than exempt property, shall pay to the city at the office of the city's collection agent at the same time payment is made for water service a stormwater management charge to be determined and billed as hereafter provided.

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 occupant. The stormwater management charge shall be a monthly service charge and shall be determined by the provisions of this subchapter and the ERU and ERU Rate which is herein established and from time to time adjusted as hereafter provided.

(c) The stormwater management charges provided in sections 21-129 through 21-132 of this subchapter shall be applied and computed for each contributor during the customary billing periods as to all bills mailed by the city's collection agent from and after September 1, 1994; and such charges shall thereafter be paid and collected as provided in this subchapter.

(d) The ERU rate to be applied to residential and non-residential properties for the period December 1, 1998 through June 30, 1999 shall be \$4.46 per ERU, and shall be \$4.60 per ERU effective on and after July 1, 2001. Said rate shall remain in effect until adjusted as hereafter provided. As to all fiscal years subsequent to FY 1998-99, the director shall determine the ERU rate to be applied to residential and non-residential properties within the city on or before March 15 of each year and shall certify the same promptly thereafter to the city manager. The city manager shall inform the city council of the rate so calculated at the time that the budget for the stormwater management utility is submitted to the council for its review and approval. If it is determined that the ERU rate is to be adjusted, the city manager shall thereafter publish said adjusted 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, in the absence of council enactment of an ordinance not later than May 1 directing the imposition of a different rate, proceed to impose and collect the adjusted rate from and after July 1 of that year.

(e) If at any time the director determines that the ERU rate and/or the budget for the stormwater management utility system requires adjustment, the director shall report such determination to the city manager and city council. The city council may at any time adjust the ERU 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.

(f) The city council hereby establishes a formal policy regarding the expenditure of stormwater management utility revenues as follows:

(1) That commencing on or about August 1, 1995, the city manager 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, depreciation, and any and all miscellaneous expenses and purchases. A year-end audit of all expenses shall be prepared by the finance department and provided to the city manager and city council.

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

(3) Commencing July 1, 1996, revenues from the stormwater utility shall be allocated:

(i) At least eighty percent (80%) of the revenues of the stormwater management utility shall be dedicated to operation and maintenance and capital improvements of the city's storm sewer system. Costs attributable to this area of expenditure shall include contracted pump station maintenance; public works department activities related to current maintenance, minor reconstruction of system elements, and complete reconstruction and/or replacement; engineering department storm sewer TV crew work, but only that portion properly cost accounted to the utility; public works expanded and enhanced maintenance efforts to include the acquisition of new equipment and personnel; design of new capital improvements whether contracted or performed in house; and contracted capital construction;

(ii) Not more than twenty percent (20%) to administration of the utility. Administration shall include all costs for water works billings, the assessment subsidy program, EPA water quality permits, the Hamilton Drain payment to Polk County, the city's indirect cost allocation plan, the city's PILOT charges, and the cost of administrative personnel of both the engineering and public works department.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Terrence L. Timmins, City Solicitor