

★ Roll Call Number

Agenda Item Number

30

Date..... November 24, 2008

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance 14,194 passed December 18, 2002 by amending Section 118-275 of Chapter 118, Utilities, thereof, relating to the ERU rate to be applied to residential and nonresidential properties",

which was considered and voted upon for the first time under Roll Call No. 08- 1873 of October 27, 2008, and considered and voted upon for the second time under Roll Call No. 08- 1981 of November 10, 2008, again presented.

Moved by \_\_\_\_\_ that this ordinance do now pass.

ORDINANCE NO. \_\_\_\_\_

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED APPROVED

.....  
Mayor

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
City Clerk

 <p style="text-align: center;"><b>Council</b> <b>Communication</b> Office of the City Manager</p>	<b>Date</b>	November 10, 2008
	<b>Agenda Item No.</b> 39 <b>Roll Call No.</b> 08-1981 <b>Communication No.</b> 08-683 <b>Submitted by:</b> William G. Stowe, Assistant City Manager/Public Works/Engineering	

**AGENDA HEADING:**

Amendment to Municipal Code Section 118-275 to provide for a stormwater utility fee adjustment.

**SYNOPSIS:**

Recommend approving amending Municipal Code Section 118-275 to adjust the Equivalent Residential Unit (ERU) billing rate to increase the rate by 8 per cent beginning January 1, 2009 with additional increases of 8 per cent on January 1, 2010 and an additional 8 percent on January 1, 2011.

**FISCAL IMPACT:**

Amount: Additional revenue ranging from \$504,758 to \$1,390,026 annually over the next three years.

Funding Source: Operating Budget, EN301 Stormwater Utility Fund, PWK077001, page 301

**ADDITIONAL INFORMATION:**

The chart below provides detail of the proposed rate increase:

Fiscal Year	Currently Approved ERU Rate	Rate Change %	Projected Income	Proposed Rates	Rate Change %	Projected Income	Incremental Change in Revenue
2008-09	\$6.75	5%	\$12,520,213	\$7.29 on 1/1/09	8% on 1/1/09	\$13,024,971	\$504,758
2009-10	\$7.09	5%	\$13,159,370	\$7.87	8%	\$14,082,016	\$922,646
2010-11	\$7.44	5%	\$13,831,156	\$8.50	8%	\$15,221,182	\$1,390,026

Current rate increases are effective each July 1. Proposed rate increases are effective each January 1.

Each of the rate increases, as proposed, would be effective January 1 of each year. With the increases starting on January 1, the increase will be for half of each fiscal year. The significance of this change is that the revised rate structure will generate an average of \$565,000 per year less than the rate structure originally proposed, although the commitment to system operation and maintenance and capital projects has not been reduced. This revenue reduction will lessen the stormwater utility's debt coverage and cash balances unless we are able to secure assistance to fund some of the planned capital projects. We will continue to aggressively pursue State and Federal grants and our success in securing the grants will determine the extent to which rates will need to be increased in the future.

The impact of the rate increase on the financing of capital projects remains uncertain. Of course, greater system revenues will aid the issuance of lower cost debt, but the modest reduction in coverage that results from the revised rate recommendation is difficult to translate into an impact on bond ratings and

interest rates. In a bond market as steeped in turmoil as currently exists, it is difficult to make any predictions. In addition, the rating agencies have been planning for several months to revise the municipal bond rating system to include private and public offerings on the same scale. If this change is implemented, we could expect to see an increase in the rating even with lower coverage. On another positive note, recent municipal bond sales have been very successful both in terms of bidders and rates, resulting from what has been termed as a "flight to safety", and reflecting the relatively high level of security associated with municipal bonds. There is no certainty in the outcome, but we are prepared to approach the rating agencies and bond market next spring with the updated capital program, based on the revised rates.

The rain events and floods of 2008 demonstrated the need to improve the levee protection system and stormwater pumping capabilities. In addition, the events of this past year also showed a need to improve our ability to provide preventive maintenance in the sewer collection system.

A number of major initiatives have been proposed such as levees in the Des Moines and Raccoon Rivers and Downtown Closure Projects - \$12,000,000; Court Avenue Area Separate Storm Sewer and Pump Station - \$4,000,000; Pump Station Emergency Power Supply - \$2,500,000; Levee Rehabilitation at Clarkson/MLK - \$500,000 and other improvement in the system. In the next three to five years there are projects planned in the amount of \$19,620,000. Staff will be researching for State or Federal grants to assist in the payment of projects that are eligible to lessen the burden on Des Moines rate payers.

As important as the capital projects are, the continued maintenance of the sewer system is essential as well. In order to improve the maintenance effort, a number of programs will be implemented. They include remote televising of the sewer system to locate areas in need of repair, manhole and structure rehabilitation, and levee, basin and pump station maintenance. To implement the maintenance program, personnel will need to be added and specialized equipment purchased. Seven Full Time Equivalent (FTEs) will be added to the Stormwater and Sanitary Sewer Divisions. Four FTEs will be paid for by stormwater and three FTEs will be paid for by sanitary. An equal number of FTEs will be reduced from other areas, resulting in no increase in staffing from this effort. Scheduled sewer cleaning and chemical application to control tree roots will be provided using contract services.

Equipment purchases will include a TV Van and equipment, 3 batwing mowers, 2 one ton trucks and other sewer cleaning and maintenance equipment. The total cost of personnel and equipment is estimated to be \$2,965,000. This total will be apportioned between the sanitary sewer and stormwater utilities. The sanitary utility's share is \$1,620,000. Present rates are sufficient to assume this cost without a rate change. The stormwater utility will be responsible for \$1,345,000 of the projected cost. Present rates are not at a level to be able to add the new personnel and equipment without a rate change. The portion of the cost that is part of the unfunded mandate under the Clean Water Act is \$1.3 million annually to satisfy staffing changes needed to comply with the Federal requirements.

On January 1, 2009 the increase in stormwater will be 54 cents a month or \$6.48 a year for a property paying for 1 ERU. There is also a 6% increase in sanitary sewer planned for FY 2009 which will increase from \$3.96 per 1,000 gallons beginning on July 1, 2009 and another 6% increase on July 1, 2010 to bring the rate to \$4.20 per 1,000 gallons for an increase of 24 cents per 1,000 gallons of usage. There is not an increase planned for solid waste rates.

There will be some relief from the higher rates to Des Moines' lower income residents. The Des Moines Municipal Housing Agency is required by HUD to provide utility allowances for Section 8 and Public Housing residents who pay their own utilities. This allowance is for monthly expenses for natural gas,

electric, water, sewer, trash collection, storm water, water availability, and sewer availability. Specifically for the storm water fees, this allowance is reimbursed 100%. This utility allowance is for approximately 3,400 households the agency subsidizes. In addition, this utility allowance schedule is utilized by the majority of the approximately 3,000 low income tax credit units, and other subsidized housing providers for which tenants are responsible to pay the utilities.

The October 27<sup>th</sup> Blue Letter stated that the airlines paid the stormwater fees through landing fees. Actually, the stormwater fee is part of the apron charges airlines pay. The methodology for the calculation is similar, but other charges affect the overall apron fees passenger and cargo airlines are charged. The apron fee for stormwater will increase 1 cent per 1,000 pounds of landed weight of the aircraft. Over the three years of the proposed increase the fees for passenger planes will average an increase of 2.8% per year. Stormwater fees for cargo planes will increase by 2 cents per 1,000 pounds of landed weight or an average of 2.17% over the three year period. In essence, the 1 cent increase will mean an increase of \$1.20 annually to the apron charges for a typical Boeing 737 passenger airplane. For cargo planes it will increase \$2.40 annually. These are averages; the actual weight of the plane will determine the exact increase.

It is important from a public policy perspective not to waive or reduce a particular class of user and treat them differently. The proposed rate increases do treat those who pay the fee in the same manner, as they each pay the same amount per ERU.

**PREVIOUS COUNCIL ACTION(S):**

Date: December 18, 2002

Roll Call Number: 02-3004

Action: Final consideration of ordinance above. Moved by Cownie that the rule requiring that ordinances must be considered, and voted on for passage at two council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass, #14,194. Motion Carried 7-0.

**BOARD/COMMISSION ACTION(S): NONE**

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org).

39 30

 <p style="text-align: center;"><b>Council</b> <b>Communication</b> Office of the City Manager</p>	<b>Date</b>	October 27, 2008
	<b>Agenda Item No.</b> 47 <b>Roll Call No.</b> 08-1873/1981 <b>Communication No.</b> 08-601 <b>Submitted by:</b> William G. Stowe, Assistant City Manager/Public Works/Engineering	

**AGENDA HEADING:**

Amendment to Municipal Code Section 118-275 to provide for a stormwater utility fee adjustment.

**SYNOPSIS:**

Recommend approving amending Municipal Code Section 118-275 to adjust the Equivalent Residential Unit (ERU) billing rate to increase the rate by 8 per cent beginning January 1, 2009 with additional increases of 8 per cent on January 1, 2010 and an additional 8 percent on January 1, 2011.

**FISCAL IMPACT:**

Amount: Additional revenue ranging from \$504,758 to \$1,390,026 annually over the next three years.

Funding Source: Operating Budget, EN301 Stormwater Utility Fund, PWK077001, page 301

**ADDITIONAL INFORMATION:**

The chart below provides detail of the proposed rate increase:

Fiscal Year	Currently Approved ERU Rate	Rate Change %	Projected Income	Proposed Rates	Rate Change %	Projected Income	Incremental Change in Revenue
2008-09	\$6.75	5%	\$12,520,213	\$7.29 on 1/1/09	8% on 1/1/09	\$13,024,971	\$504,758
2009-10	\$7.09	5%	\$13,159,370	\$7.87	8%	\$14,082,016	\$922,646
2010-11	\$7.44	5%	\$13,831,156	\$8.50	8%	\$15,221,182	\$1,390,026

Current rate increases are effective each July 1. Proposed rate increases are effective each January 1.

Each of the rate increases, as proposed, would be effective January 1 of each year. Having the increases start on January 1, the increase will be for half of each fiscal year. The significance of this change is that the revised rate structure will generate an average of \$565,000 per year less than the rate structure originally proposed, although the commitment to system operation and maintenance and capital projects has not been reduced. This revenue reduction will lessen the Stormwater utility's debt coverage and cash balances unless we are able to secure assistance to fund some of the planned capital projects. We will continue to aggressively pursue State and Federal grants and our success in securing the grants will determine the extent to which rates will need to be increased in the future.

The impact of the rate increase on the financing of capital projects remains uncertain. Of course, greater system revenues will aid the issuance of lower cost debt, but the modest reduction in coverage that results from the revised rate recommendation is difficult to translate into an impact on bond ratings and

30

interest rates. In a bond market as steeped in turmoil as currently exists, it is difficult to make any predictions. In addition, the rating agencies have been planning for several months to revise the municipal bond rating system to include private and public offerings on the same scale. If this change is implemented, we could expect to see an increase in the rating even with lower coverage. On another positive note, recent municipal bond sales have been very successful both in terms of bidders and rates, resulting from what has been termed as a "flight to safety", and reflecting the relatively high level of security associated with municipal bonds. There is no certainty in the outcome, but we are prepared to approach the rating agencies and bond market next spring with the updated capital program, based on the revised rates.

The rain events and floods of 2008 demonstrated the need to improve the levee protection system and stormwater pumping capabilities. In addition, the events of this past year also showed a need to improve our ability to provide preventive maintenance in the sewer collection system.

A number of major initiatives have been proposed such as levees in the Des Moines and Raccoon Rivers and Downtown Closure Projects - \$12,000,000; Court Avenue Area Separate Storm Sewer and Pump Station - \$4,000,000; Pump Station Emergency Power Supply - \$2,500,000; Levee Rehabilitation at Clarkson/MLK - \$500,000 and other improvement in the system. In the next three to five years there are projects planned in the amount of \$19,620,000. Staff will be researching for State or Federal grants to assist in the payment of projects that are eligible to lessen the burden on Des Moines rate payers.

As important as the capital projects are, the continued maintenance of the sewer system is essential as well. In order to improve the maintenance effort, a number of programs will be implemented. They include remote televising of the sewer system to locate areas in need of repair, manhole and structure rehabilitation, and levee, basin and pump station maintenance. To implement the maintenance program, personnel will need to be added and specialized equipment purchased. Seven Full Time Equivalents (FTEs) will be added to the Stormwater and Sanitary Sewer divisions. Four FTEs will be paid for by Stormwater and three FTEs will be paid for by Sanitary. An equal number of FTEs will be reduced from other areas, resulting in no increase in staffing from this effort. Scheduled sewer cleaning and chemical application to control tree roots will be provided using contract services.

Equipment purchases will include a TV Van and equipment, 3 batwing mowers, 2 one ton trucks and other sewer cleaning and maintenance equipment. The total cost of personnel and equipment is estimated to be \$2,965,000. This total will be apportioned between the sanitary sewer and stormwater utilities. The sanitary utility's share is \$1,620,000. Present rates are sufficient to assume this cost without a rate change. The stormwater utility will be responsible for \$1,345,000 of the projected cost. Present rates are not at a level to be able to add the new personnel and equipment without a rate change. The portion of the cost that is part of the unfunded mandate under the Clean Water Act is \$1.3 million annually to satisfy staffing changes needed to comply with the Federal requirements.

January 1, 2009 the increase in stormwater will be 54 cents a month or \$6.48 a year for a property paying for 1 ERU. There is also a 6% increase in sanitary sewer planned for FY 2009 which will increase from \$3.96 per 1,000 gallons beginning on July 1, 2009 and another 6% increase on July 1, 2010 to bring the rate to \$4.20 per 1,000 gallons for an increase of 24 cents per 1,000 gallons of usage. There is not an increase planned for solid waste rates.

There will be some relief from the higher rates to Des Moines' lower income residents. The Des Moines Municipal Housing Agency is required by HUD to provide utility allowances for Section 8 and Public Housing residents who pay their own utilities. This allowance is for monthly expenses for natural gas,

electric, water, sewer, trash collection, storm water, water availability, and sewer availability. Specifically for the storm water fees, this allowance is reimbursed 100%. This utility allowance is for approximately 3,400 households the agency subsidizes. In addition, this utility allowance schedule is utilized by the majority of the approximately 3,000 low income tax credit units, and other subsidized housing providers for which tenants are responsible to pay the utilities.

The Des Moines Airport has the most impervious surface of any facility owned by the city. It is estimated that storm water fees will increase an average of \$30,000 per year. A \$30,000 increase will increase landing fees approximately 1 cent per thousand pounds of aircraft landed weight. As an example, a Boeing 737 landing fee today is \$259.08 based on today's landing fee of \$2.15 per thousand pounds. With an increase of \$0.01 (\$2.16) per thousand the landing for a Boeing 737 will increase \$1.20 to \$260.28.

It is important from a public policy perspective not to waive or reduce a particular class of user and treat them differently. The proposed rate increases do treat those who pay the fee same, as they each pay the same amount per ERU.

**PREVIOUS COUNCIL ACTION(S):**

Date: December 18, 2002

Roll Call Number: 02-3004

Action: Final consideration of ordinance above. Moved by Cownie that the rule requiring that ordinances must be considered, and voted on for passage at two council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass, #14,194. Motion Carried 7-0.

**BOARD/COMMISSION ACTION(S): NONE**

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org).

08-1981 08-1873  
47 39  
30

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance 14,194 passed December 18, 2002 by amending Section 118-275 of Chapter 118, Utilities, thereof, relating to the ERU rate to be applied to residential and nonresidential properties.

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

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance 14,194 passed December 18, 2002 is hereby amended by amending Section 118-275 of Chapter 118, Utilities, thereof, relating to the ERU rate to be applied to residential and nonresidential properties, as follows:

**Sec. 118-275. Establishment of ERU, ERU rate and stormwater management charge; establishment of policy regarding expenditure of utility revenues.**

- (a) For purposes of this division, an ERU shall be equivalent to 2,349 square feet of impervious property.
- (b) Except as provided in this division, every contributor owning or occupying a single-family residential property, a multifamily residential property, an unclassified residential property, or a nonresidential 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 provided in this division. 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 this division and the ERU and ERU rate which is established in this division and from time to time adjusted as provided in this division.

- (c) The stormwater management charges provided in sections 118-276 through 118-279 of this division shall be applied and computed for each contributor during the customary billing periods as to all bills mailed by the city's collection agent, and such charges shall thereafter be paid and collected as provided in this division.
- (d) The ERU rate to be applied to residential and nonresidential properties shall be as follows:
- (1) for the period ~~July 1, 2003~~2008 through ~~June 30, 2004~~December 31, 2008, the ERU rate shall be ~~\$5.296.75~~;
  - (2) for the period ~~July 1, 2004~~January 1, 2009 through ~~June 30, 2005~~December 31, 2009, the ERU rate shall be ~~\$5.557.29~~;
  - (3) for the period ~~July 1, 2005~~January 1, 2010 through ~~June 30, 2006~~December 31, 2010, the ERU rate shall be ~~\$5.837.87~~;
  - (4) for the period ~~July 1, 2006~~January 1, 2011 through ~~June 30, 2007~~December 31, 2011, the ERU rate shall be ~~\$6.128.50~~; and
  - ~~(5) for the period July 1, 2007 through June 30, 2008, the ERU rate shall be \$6.43;~~
  - ~~(6) for the period July 1, 2008 through June 30, 2009, the ERU rate shall be \$6.75;~~
  - ~~(7) for the period July 1, 2009 through June 30, 2010, the ERU rate shall be \$7.09;~~
  - ~~(8) for the period July 1, 2010 through June 30, 2011, the ERU rate shall be \$7.44.~~

Said rate shall remain in effect until adjusted as hereafter provided. As to all fiscal years subsequent to ~~FY2010-11~~FY2011-12, the director shall determine the ERU rate to be applied to residential and nonresidential 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

08-1981

08-19813  
~~41~~

39  
30

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) 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.

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

FORM APPROVED:

Ann DiDonato  
 Ann DiDonato  
 Assistant City Attorney