

## *Appendix J: Stormwater Utility Ordinance Guidance*

1. City of Marquette (MI) Stormwater Utility Ordinance
2. Guidance on Establishing Stormwater Utility Fees

## City of Marquette (MI) Stormwater Utility Ordinance

*This sample ordinance is general guidance to assist local communities interested in implementing a stormwater utility ordinance. This ordinance is NOT legal advice. Details of both substance and process in an ordinance will vary from community to community based on local conditions and institutional structures. Proposed ordinances should not be finalized without advice and involvement of legal counsel.*

### CHAPTER 57 - STORM WATER UTILITY

#### 57.1 Definitions.

“Best Management Practices” or “BMP”. Combining of practices that form an effective, predictable means of preventing or reducing storm water pollution generated by dischargers into the system.

“Clean Water Act”. The Federal Water Pollution Control Act, 33 USC Sec. 1251 et. seq., as amended, and applicable regulations promulgated thereunder.

“Developed Parcel”. A parcel upon which man-made improvements have been made, such as buildings, roads, parking areas and lawns. Undeveloped areas include forested areas and property in its natural state, free of man-made improvements.

“Discharger”. Any individual, firm, partnership, association, public or private corporation or public agency or instrumentality or any other entity owning or in possession of a parcel of property which directly or indirectly impacts, influences or has an effect upon the system. For purposes of any judicial proceeding in connection with a violation of this Chapter, “Discharger” shall include any employee, officer, director, partner or other individual who was affiliated with such property owners or operator and was directly involved with, or responsible for, any act or omission which violated this Chapter.

“Equivalent Hydraulic Acre” or “EHA”. A measure of the amount of storm water runoff a parcel will produce from a precipitation event. A parcel’s EHA is based upon the amount of pervious and impervious areas within the parcel multiplied by the runoff factors applicable to each.

“Impervious Land Area”. The surface area within a parcel that is covered by any material which retards or prevents the entry of water into the soil. Impervious Land Area includes, but is not limited to, surface areas covered by buildings, porches, patios, parking lots, driveways, walkways and other structures. Generally, all non-vegetative land areas shall be considered impervious.

“On-Site Retention”. The withholding of all storm water from the system in an on-site area for a sufficient time to provide for it to dissipate by evaporation, infiltration into the soil, or other natural means in which no connection is made to the storm water system directly or indirectly.

“On-Site Detention”. Any facility employed to reduce to rate of storm water discharge from a property to the storm water system.

“Parcel”. A designated lot, tract or other area of land established by plat, subdivision, tax record description or as otherwise permitted or existing by law.

“Person”. An individual, firm, partnership, association, public or private corporation, or public agency or instrumentality or any other entity.

“Pervious Land Area”. All surface area within a parcel which is not Impervious Land Area.

“Pollutant”. Any substance defined as a pollutant under the Clean Water Act.

“Precipitation Event”. For purposes of this Ordinance, a precipitation event is any occurrence of atmospheric precipitation of water which can be characterized as a separate storm event. The terms rain, rainstorm, rainfall, snow, snowstorm, sleet, hailstorm, etc., shall be considered synonymous with the term precipitation event.

“Storm water”. The runoff and drainage of precipitation resulting from rainfall or snowmelt or similar precipitation event.

“Storm water System or Systems”. All rivers, streams, tributaries and lakes, including Lake Superior, within the City limits of the City of Marquette and all City owned storm sewers, culverts, retention and detention facilities, lift stations, curbs, gutters, and all other appurtenances now and thereafter existing, used or useful, in connection with the collection, control, transportation, treatment, or discharge of storm water. The storm water system does not include sewers or facilities connected with the sanitary sewage disposal system, or streets.

“User Charge”. A service fee imposed upon Dischargers into the system.

“Water Quality Factor”. A factor to adjust for the quality of storm water leaving the parcel.

## 57.2 Storm Water Service Charge.

Dischargers shall be charged for the administration, construction, operation, maintenance and replacement of the storm water system. The charge shall be based on the assigned or calculated equivalent hydraulic area as modified by any applicable water quality factor.

### 57.3 Flat Rate Charges.

The monthly charge per parcel for the following properties shall be:

Residential Developed, four living units or less on the following parcel size:

EFFECTIVE:	7/1/2005	7/1/2006	8/1/2006	7/1/2007
1/5 acres or less	\$1.76	\$1.87	\$2.45	\$ 2.58
Over 1/5 to 1 acre	\$3.01	\$3.19	\$4.18	\$ 4.39
Over 1 acre to 2 acres	\$4.77	\$5.06	\$6.63	\$ 6.97
Over 2 acres to 6 acres	\$9.11	\$9.68	\$12.66	\$13.30

Dischargers shall have the option to have their charges calculated pursuant to Section 57.4 of this ordinance if all or some of the parcel is serviced by a retention or detention facility designed by a licensed engineer in the State of Michigan and approved by the City Engineer.

### 57.4 Charges Based on Land Area.

1) Monthly Charges: The monthly charges for properties other than described in Section 57.3 shall be computed in the following manner:

EFFECTIVE:	7/1/2005	7/1/2006	8/1/ 2006	7/1/2007
Rate per EHA	\$35.04	\$37.23	\$48.71	\$51.15

multiplied by any applicable Water Quality Factor as determined by the City Engineer. The Water Quality Factor may be adjusted annually as additional supporting data becomes available. The minimum monthly charge shall be equal to the flat rate residential charge for a parcel of same acreage as defined in Section 57.3. except where charge is \$0.00 due to use of approved retention area.

2) Calculation of EHAs: Individual EHAs are calculated by multiplying each parcel's pervious and impervious area by the following runoff factors:

(a) 0.15 for pervious area.

(b) 0.00 for impervious area discharging to an approved retention area. To receive credit under this section, the retention area shall be constructed and maintained pursuant to a permit approved by the City.

(c) 0.15 for impervious area discharging to an approved detention facility. To receive credit, the detention facility shall be approved pursuant to a permit issued by the City or a permanent dedication in a deed or plat.

(d) 0.00 for pervious area serviced by an approved retention area.

(e) 0.95 for impervious area.

Any detention basin permit issued pursuant to this section shall be supported by a certification of a professional engineer that runoff rates from the parcel for a 100 year, 24 hour duration storm event will not exceed a 10 year, 24 hour duration storm event for an equivalent undeveloped parcel. Any retention basin permit issued pursuant to this section shall be supported by a certification of a professional engineer that the basin volume is capable of holding the runoff from the parcel from a 100 year, 24 hour event.

#### 57.5 Property Affected.

All dischargers shall be subject to the storm water service charge, regardless of whether privately or publicly owned property is involved, unless an exemption applies under 57.3 herein.

#### 57.6 Billing.

The billing for storm water service shall be sent to the property owner or the owner's designee and may be: (1) combined with the billing for other utility services; (2) sent individually; or, (3) sent with property tax statements at the City's discretion. The basis for the billing shall be computed by the City Manager's designee.

#### 57.7 Appeals.

Property owners may appeal to the City Commission the property classification or the computation of the service charge. Appeals of the decisions of the City Commission shall be by petition to a court of appropriate jurisdiction. Each storm water service bill sent out shall contain a telephone number that may be called for information regarding the appeal process. All due and delinquent storm water charges must be paid, or satisfactory arrangements for payment made with the City Commission, prior to the Commission's consideration of the appeal.

#### 57.8 Payment.

All charges not paid on or before the established due date shall be considered delinquent and subject to the following:

- (a) Interest charges.
- (b) Rebilling charges.
- (c) Property lien.

(d) Attorney fees, if a civil suit is filed to collect delinquent charges.

#### 57.9 Collection.

Unpaid storm water service charges shall constitute a lien against the property affected from the date the charges were incurred. Charges which have remained unpaid for a period of three (3) months prior to April 1st of any year may, after notice to the owner, by resolution of the City Commission, be certified to the City Assessor who shall place the charge on the City Tax Roll. In the alternative, the City may file suit to collect unpaid charges.

#### 57.10 Use of Funds.

All funds collected for storm water service shall be placed in an enterprise fund and used solely for the administration, construction, operation, maintenance and replacement of the storm water system. This storm water utility or enterprise fund shall be deemed to regulate and manage storm water quality and quantity in the City of Marquette.

#### 57.11 Regulations.

The City Manager is authorized to promulgate regulations that require dischargers to implement pollution prevention measures, best management practices, and other methods to prevent or reduce the discharge of pollutants into, or by, storm waters. Regulations promulgated hereunder shall be effective ten (10) days after approval by the Marquette City Commission.

#### 57.12 Severability.

If any portion of this Ordinance or the application thereof to any person or circumstances shall be found to be invalid, such invalidity shall not affect the remaining portions or applications of the ordinance which can be given effect without the invalid portion or application, provided such remaining portions are not determined to be inoperable, and to this end the ordinance is declared to be severable.

#### 57.13 Penalty.

A person who violates any section of this chapter shall be responsible for a civil infraction. All sections in conflict herewith are repealed.

## Guidance on Establishing Stormwater Utility Fees

Stormwater utility fees must be based on the costs associated with maintaining and improving the municipality's storm sewer system. Improvements could include installation of new BMPs or retrofits to existing BMPs. Costs associated with maintaining the system could include regular inspection and maintenance (including cleaning) of catch basins and other facilities and street sweeping.

To ensure equitability of the fee among users, stormwater fees should be assigned based on the amount of runoff generated from the site. The rational method is a commonly accepted method for determining peak stormwater flows for a given storm event. The calculation is based on total impervious acreage, which is the product of the watershed area (A) and a runoff coefficient (c). The portion of the total stormwater runoff generated by any given site will be directly proportional to the portion of impervious acreage for the site relative to the impervious acreage for the drainage area of the entire system.

The municipality will need to determine the total cost associated with treating stormwater within their community, and base utility fees on that amount. Adjustments to the fees (or quarterly usage fees) may be required as expenses are not likely to remain consistent with initial estimates. Additionally, the municipality should determine the total impervious acreage ( $A \times c$ ) served by the public system.

Utility fees for each site should be based on the following ratio:

$$\frac{(A \times c)_{site}}{(A \times c)_{total}}$$

Ideally, the municipality would determine the exact impervious acreage for each site using aerial photographs. The municipality could then identify a cost per impervious acre and assess each property a unique fee. Alternatively, a fee schedule may be generated that would assign a cost per acre for various ranges of percentage of imperviousness of a site. If identification of the exact imperviousness of each site is not feasible, the municipality could alternatively determine a "typical" imperviousness for various land uses, based on lot size. Generally, smaller properties have higher percentages of imperviousness than larger lots, and a fee per acre for a range of land use types and parcel sizes could be generated. A landowner will have the opportunity to appeal for a reduction in the fee if the actual imperviousness of the site is less than "typical." To be conservative, the "typical" value for imperviousness could be higher than what might be an average imperviousness.

Credits for LID-BMPs must be provided so that landowners can limit their use of the municipality's stormwater services. A good strategy for determining the value of these credits would be to identify what impact the BMP would have on the overall stormwater runoff within the community. This could be relative to the percent reduction in runoff from a "typical" site, or relative to the percent reduction in runoff for the entire system.

