

**ORDINANCE TO
AMEND ARTICLES I & II OF CHAPTER 453, STORMWATER UTILITY
OF THE CITY OF WATERTOWN GENERAL ORDINANCES**

**SPONSOR: ALDERPERSON WETZEL, CHAIR
FROM: PUBLIC WORKS COMMISSION**

Whereas, amendments are required to Articles I & II of Chapter 453, Stormwater Utility, to reflect current Stormwater Utility practices; and,

Whereas, the Public Works Commission reviewed the proposed Article I and II of Chapter 453 at its February 14, 2023 meeting and recommends adoption of said Article I and II.

THE COMMON COUNCIL OF THE CITY OF WATERTOWN DOES ORDAIN AS FOLLOWS:

SECTION 1. Article I of Chapter 453 is hereby amended to read as follows:

Article I
Stormwater Management Utility

§ 453-1 Scope.

This article shall apply to the City of Watertown Stormwater Management Utility, as hereinafter defined in § **453-4**, and all appurtenances thereof.

§ 453-2 Findings.

- A. The management of stormwater and other surface water discharges within and beyond its border is a matter that affects the public health, safety and welfare of the City of Watertown, its citizens and businesses and others in the surrounding area.
- B. Failure to effectively manage stormwater and other surface water discharge from already developed and vacant property may create, among other things, erosion of lands, threaten businesses and residences with water damage and create sedimentation and other environmental damage.
- C. The City's Stormwater Management System, which provides for the regulation, collection and disposal of stormwater and surface water discharge, is of benefit and provides services to all real property within the incorporated City limits.
- D. The costs of operating and maintaining the City's Stormwater Management System, ensuring regulatory compliance and financing necessary plans, studies, repairs, replacement, improvements, and extension thereof should, to the extent practicable, be allocated among properties in proportion to the contribution to the system from each property.
- E. The final report entitled "Report of the Stormwater Management Committee on the Feasibility of a Stormwater Utility," prepared by Ruekert & Mielke, Inc. and dated February 2005, is hereby declared to constitute the study and description of the analytical

determinations that demonstrate a rational basis for the enactment of this article.

§ 453-3 Establishment of Stormwater Management Utility.

In order to protect the health, safety and welfare of the public, there is hereby established the City of Watertown Stormwater Management Utility.

§ 453-4 Definitions.

As used in this article, the following terms shall have the meanings indicated:

ADMINISTRATIVE COSTS

The costs of general management and administration of the Utility, development plan and erosion control plan review, and compliance with the requirements of Wisconsin Administrative Code Chapter NR 216 include, but are not limited to, the following:

- A. Wages, salaries and related employee expenses for management and administration of the Utility together with fringe benefits and premiums paid on such wages and salaries for the state workers' compensation coverage.
- B. Utility billing and accounting expenses.
- C. Office supplies.
- D. Permit fees.
- E. Consultant and legal fees.

ADMINISTERING AUTHORITY

The City of Watertown.

CAPITAL COST

The cost of acquiring, purchasing, leasing, planning, designing, constructing, extending and improving all or any part of the stormwater management system and any principal, interest or premiums on any indebtedness incurred for these purposes.

COUNCIL

The Common Council of the City of Watertown.

DEBT SERVICE

All annual principal and interest requirements and obligations of the City, including debt service reserves and coverage requirements, that relate to Stormwater Management System improvements.

EQUIVALENT RUNOFF UNIT (ERU)

An amount of impervious surface area on a lot or parcel that is equivalent to the amount of impervious surface on a typical developed single-family residential lot. The square feet of impervious surface area per ERU shall be as established by the Council from time to time by resolution and set forth in a Stormwater Service Charge Rate Table.

IMPERVIOUS AREA or IMPERVIOUS SURFACE

A horizontal surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rainwater. It includes but is not limited to asphalt, concrete, streets, roofs, sidewalks, parking lots, and other similar surfaces.

OPERATION AND MAINTENANCE COSTS (O&M)

All direct and indirect costs, excluding capital costs, necessary to ensure adequate drainage and control of stormwater and surface waters on a continuing basis and assure optimal long-term function of Stormwater Management System facilities. O&M costs may include expenses for, but not limited to, the following purposes:

- A. Wages and salaries and related employee expenses for operating and maintenance of the stormwater management system and supervisory personnel, together with fringe benefits and premiums paid on such wages and salaries for the state workers' compensation coverage.
- B. Fuel and other operating supplies.
- C. Repairs to and maintenance of the equipment associated therewith.
- D. Premiums for hazard insurance.
- E. Premiums for insurance providing coverage against liability for injury to persons and/or property.
- F. Rents and leasing costs.
- G. Operation, licensing and maintenance costs for trucks and heavy equipment.
- H. Consultant and legal fees.
- I. Replacement costs.

REPLACEMENT FUND

Expenditures for obtaining and installing equipment, accessories and appurtenances which are necessary during the useful life of the stormwater management system to maintain the performance for which such system was designed and constructed.

STORM SEWER

A sewer that carries storm and surface drainage but excludes domestic wastewater and industrial wastes.

STORMWATER MANAGEMENT FUND

A fund established by the City for the deposit of Utility revenues and the payment of Utility expenses.

STORMWATER MANAGEMENT PROGRAM

Any activities undertaken by the City of Watertown for the collection, transportation, storage, treatment, and disposal of stormwater and surface water and for the reduction or elimination of pollutants in stormwater and surface water, including, but not limited to administration, operation and maintenance of the stormwater management system and Utility, constructing stormwater sewerage facilities, and complying with the requirements of the Wisconsin Statutes and Administrative Code.

STORMWATER MANAGEMENT SYSTEM

Any plant, facilities, fixtures or equipment owned or leased by the City for the

collection, transportation, storage, treatment, and disposal of stormwater and surface water. Such facilities may include, without limitation by enumeration, surface and underground drainage conduits of any type, storm sewers, watercourses, retaining walls and ponds, and such other facilities as will support a stormwater management system.

STORMWATER SERVICE CHARGES

Charges imposed on properties in the City to recover the administrative costs, operations & maintenance costs, and capital costs relating to a stormwater management program benefiting properties in the City. Stormwater service charges may include user charges or any other special fees and charges that may be required to provide for an equitable sharing of Utility costs by properties in the City.

UTILITY

The Stormwater Management Utility of the City of Watertown.

§ 453-5 Applicability.

This article, its rules, regulations and rates shall apply to all real property within the incorporated limits of the City of Watertown.

§ 453-6 Acquisition of facilities; rates and charges.

- A. Facilities. The City through the Utility may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such facilities as are deemed by the City to be proper and reasonably necessary for a system of stormwater and surface water management. These facilities may include, without limitation by enumeration, surface and underground drainage facilities, storm sewers, watercourses, retaining walls and ponds, and such other facilities that will support a stormwater management system.
- B. Rates and charges. Rates and charges for the City of Watertown Stormwater Management Utility are as follows: **[Amended by Ord. No. 12-01; 12-1-2015 by Ord. No. 15-44]**
 - (1) ERU definition. One volume equivalent runoff unit (ERU) shall be equal to 2,900 square feet of impervious surface area. The number of ERUs assigned to each parcel shall be rounded to the nearest 0.50 ERU. **[Amended 7-21-2020 by Ord. No. 20-18]**

Service Charge Rates

Customer Class	Monthly Administrative Charge per Customer	Monthly Volume Charge per ERU	Monthly Pollutant Charge per ERU
Single-family, condominium and duplex residential	\$2.13	\$5.61	\$4.78

Service Charge Rates

Customer Class	Monthly Administrative Charge per Customer	Monthly Volume Charge per ERU	Monthly Pollutant Charge per ERU
Public authority	\$2.13	\$5.61	\$2.64
Multifamily residential	\$2.13	\$5.61	\$3.63
Commercial	\$2.13	\$5.61	\$5.14
Industrial	\$2.13	\$5.61	\$4.24
Institutional	\$2.13	\$5.61	\$2.64

- C. Budgeting. The City through the Utility shall prepare an annual budget, which is to include all administrative, regulatory compliance, operation and maintenance costs, debt service, and other costs related to the operation of the Utility. All costs shall be allocated amongst users of the stormwater management system as recommended by the Finance Committee and determined by the Council.
- D. Authority. The City may utilize the full authority provided in § 66.0821, Wis. Stats., with respect to financing methods, stormwater service charges, and other matters therein dealt with, and shall have all legal authority permitted for municipal utilities to impose reasonable charges for services.

§ 453-7 Management of Utility.

- A. Oversight by Common Council. The oversight of the Utility is hereby vested in the Common Council. The Council shall direct and delegate the management and operation of the Utility to City staff and shall prescribe the functions thereof as may be necessary to operate and manage the Utility.
- B. Public Works Commission. The Public Works Commission, appointed in accordance with Chapter **136**, Article **I**, of the City of Watertown Municipal Code, shall make recommendations to the Common Council concerning the operation of the Utility.
- C. Finance Committee. The Finance Committee of the Council, in consultation with the Public Works Commission, shall make recommendations to the Council concerning the Utility budget, service charge rates and expenditures.
- D. Public Works Director/City Engineer. The Public Works Director/City Engineer shall be responsible for the day-to-day management of the Stormwater Management Utility. These day-to-day responsibilities include, but are not limited to, budget preparation,

recommending utility rates, coordinating compliance with all relevant permitting requirements, approval of expenditures, directing daily activities of personnel and making reports to the Public Works Commission, Finance Committee, Mayor and Common Council. **[Amended by Ord. No. 10-01]**

- E. Stormwater Management Fund. The City shall establish a Stormwater Management Fund, which shall be used for collection of revenues and payment of expenses relating to the Utility. Any excess of revenues over expenditures in a year shall be retained by the fund for subsequent years' needs.
- F. Utility receipts. All Utility receipts shall be collected and accounted for by the City Clerk/Treasurer.
- G. Annual audit. The Council shall cause an annual audit of the books of the Utility to be made and shall make the books and records relating to the Utility available for inspection during regular business hours.

§ 453-8 Stormwater service charges.

A. General.

- (1) Charges established. There is hereby established a uniform system of stormwater service charges that shall apply to each and every lot or parcel with impervious surface area within the City. It shall be the policy to establish stormwater service charges in such amount in order to pay for all or a part of the following costs relating to the Utility: operations and maintenance costs; administrative costs; contributions to a replacement fund; capital costs and debt service. The Council may establish and modify stormwater service charges as necessary so as to assure that the charges generate adequate revenues to pay the costs of the stormwater management program and that costs are allocated fairly and proportionately to all parcels in the City.
- (2) Service charge categories.
 - (a) Volumetric service charge. A volumetric service charge shall be imposed on all property that has impervious surface area. This charge shall be related to the costs of managing stormwater runoff volume. The charge for each parcel shall be equal to the product of the service charge rate in terms of dollars per ERU and the number of volume ERUs assigned to the parcel. The number of volume ERUs assigned to each lot or parcel shall be determined based on the amount of impervious surface area.
 - (b) Pollutant loading service charge. A pollutant loading service charge shall be imposed on all property that has impervious surface area. This charge shall be related to the costs of managing pollutants in stormwater runoff. The charge for each parcel shall be equal to the product of the service charge rate in terms of dollars per ERU and the number of pollutant ERUs assigned to the parcel. The number of pollutant ERUs assigned to each lot or parcel shall be determined based on the amount of impervious surface area and the land use.
 - (c) Special charge. A special charge may be imposed on property that is in an area specially benefited by a particular stormwater management facility. This charge will be developed to reflect the benefits in a particular area that may not be appropriate to allocate to property

throughout the City.

- (d) Administrative charge. An administrative charge shall be imposed upon each property that has impervious surface area. The administrative charge shall recover a portion of costs related to stormwater flow not directly attributable to users (i.e., stormwater runoff from streets and roads) and customer costs (including accounting and billing). The administrative charge shall be imposed on each user subject to stormwater service charges and will consist of a flat fee per customer account. **[Added by Ord. No. 11-28]**

(3) Billing and payment.

- (a) Billing. The City shall compute the amounts due the City for stormwater service charges and shall render a statement thereof, at periodic intervals, to the owner or occupant of any premises subject to such charge.
- (b) Payment. Property owner is held responsible for all stormwater service charges on real property owned. All stormwater bills and notices of any nature relative to the stormwater management program will be addressed to the owner and delivered to the addressee by first class mail. All amounts due hereunder shall be payable at the office of the City Clerk/Treasurer. Failure to receive a bill does not relieve a party of his/her obligation, nor relieve him/her of payment of the penalty if not paid before the due date. Claims or complaints must be made within five days from due date of bill. **[Amended by Ord. No. 10-28]**
- (c) Late charges. If stormwater service charges are not paid in full on the due date, a charge shall be made on the balance as set forth in the fee schedule set by Common Council. **[Amended 4-6-2020 by Ord. No. 20-12]**
- (d) Failure to receive bills. Reasonable care will be taken in the delivery of stormwater service charge bills. Failure of any person to receive bills for stormwater service charges shall not be considered an excuse for nonpayment nor shall such failure result in an extension of the period of time during which the net bill should have been paid.
- (e) Lien on property. Unpaid stormwater service charges shall be a lien upon the property served and shall be enforced as provided in § 66.0809(3), Wis. Stats.
- (4) Rates set by resolution. All stormwater service charge rates shall be established from time to time by written resolution of the Common Council. The rates shall be reviewed by the Common Council on an annual basis and adjusted as necessary.

B. Determination of ERUs.

- (1) For purposes of imposing the service charges, all lots and parcels in the City shall be classified into the following seven customer classifications:
 - (a) Single-family residential.
 - (b) Condominium residential.
 - (c) Duplex and multifamily residential.

- (d) Industrial.
- (e) Commercial.
- (f) Institutional.
- (g) Undeveloped.

(h) Public Authority.

(2) Volume ERUs shall be calculated for each classification as follows:

- (a) Single-family residential: one ERU per dwelling unit.
 - (b) Condominium residential. The Public Works Director/City Engineer shall be responsible for determining the total impervious area of each condominium parcel based on the best available information, including but not limited to data supplied by the City Assessor, Building Inspector or Zoning Administrator; aerial photography; the property owner, tenant or developer; or actual on-site measurement. The total impervious area of the parcel shall be divided equally among the condominium units to determine the square feet of impervious area per unit. This amount shall be divided by the number of square feet per ERU as established by the Common Council and set forth in the Stormwater Service Charge Rate Table in § 453-6B(1) to determine the number of ERUs to assign to each unit, except that in no case shall a condominium unit be assigned less than 0.5 ERU. The number of ERUs per unit shall be rounded to the nearest 0.5 ERU.
 - (c) Duplex and multifamily residential: 0.50 ERU per dwelling unit.
 - (d) Industrial, commercial, **public authority** and institutional property. The Public Works Director/City Engineer shall be responsible for determining the impervious area of each nonresidential parcel based on the best available information, including but not limited to data supplied by the City Assessor, Building Inspector or Zoning Administrator; aerial photography; the property owner, tenant or developer; or actual on-site measurement. The total impervious area of the parcel shall be divided by the number of square feet per ERU as established by the Common Council and set forth in a Stormwater Service Charge Rate Table in § 453-6B(1) to determine the number of ERUs to assign to the parcel. The number of ERUs per parcel shall be rounded to the nearest 0.5 ERU.
 - (e) Undeveloped property. For any lot or parcel that has no impervious surface area, no volume ERUs shall be assigned for purposes of imposing service charges under this article.
- (3) Pollutant ERUs shall be calculated for each classification as follows:
- (a) Single-family and duplex residential: one ERU per dwelling unit.
 - (b) Condominium residential. The number of volume ERUs shall be multiplied by a factor of 1.0 to determine the number of pollutant ERUs.
 - (c) Multifamily residential. The number of volume ERUs shall be multiplied by a factor of ~~1.0~~ **1.0** to determine the number of pollutant ERUs.

- (d) Industrial. The number of volume ERUs shall be multiplied by a factor of ~~0.90~~ 1.0 to determine the number of pollutant ERUs.
- (e) Commercial. The number of volume ERUs shall be multiplied by a factor of ~~1.10~~ 1.0 to determine the number of pollutant ERUs.
- (f) Institutional. The number of volume ERUs shall be multiplied by a factor of ~~0.50~~ 1.0 to determine the number of pollutant ERUs.
- (g) Undeveloped property. For any lot or parcel that has no impervious surface area, no pollutant ERUs shall be assigned for purposes of imposing service charges under this article.
- (h) **Public Authority. The number of volume ERUs shall be multiplied by a factor of 1.0 to determine the number of pollutant ERUs.**
- (4) New construction. For all classifications other than single-family, duplex and multifamily residential, the construction of new or expanded buildings, driveways or other structures or improvements that add impervious surface area to the lot or parcel shall be subject to an increase in the number of ERUs assigned to a lot or parcel. The City shall **confirm the recalculation of** ~~recalculate~~ the number of ERUs upon completion of new construction.

C. Appeals and credits. **[Amended by Ord. No. 10-01; Ord. No. 11-28]**

- (1) Nonresidential credits for the provision of stormwater mitigation facilities and/or activities. Owners of nonresidential properties that have facilities for on-site detention and runoff control or pollutant loading reduction, that undertake activities designed to reduce the quantity of or pollutant loadings in stormwater runoff from the lot or parcel, or that conduct a public education and information program designed to increase public awareness regarding the water quality impacts of stormwater runoff may be eligible for a reduction in the volumetric and/or pollutant loading service charges for their lot or parcel. In order to be eligible for a credit, the facilities or practices must exceed the City stormwater discharge standards that were in effect at the time that the lot or parcel was developed for its current use. Such property owners may apply for a review of the service charges for the lot or parcel. The amount of the credit or adjustment will be determined based on the amount of reduction in the peak rate or total annual volume of stormwater runoff or the percentage reduction in pollutant loadings that the facilities or activities are designed to achieve. No credits will be provided for the administrative charges.
 - (a) Application for credit. Any property owner desiring to apply for a reduction in the stormwater service charge shall submit an application to the Public Works Director/City Engineer on forms supplied by the City. By submitting an application, the applicant is authorizing the Public Works Director/City Engineer to enter the property to obtain information required for the review of the credit request. The application shall be accompanied by the following:
 - [1] Plans and studies. The applicant shall provide, as applicable, a written description of the proposed practices or public education program, hydrologic and/or hydraulic studies, plans, computations, etc., that demonstrate, to the satisfaction of the City, that the practices, programs or facilities meet the requirements for the credit requested.

- [2] Maintenance agreement. The applicant shall provide a plan for maintenance of the facilities or practices.
 - [3] Ongoing documentation. For as long as the credit is in effect, the property owner or occupant shall supply to the City copies of any documentation required to demonstrate that the proposed practices or public education program is being carried out in accordance with the plans submitted to the City or that the facilities are being properly maintained in accordance with the maintenance agreement.
- (b) Determination of credit. Within 30 days of receipt of a complete application and supporting documentation, the Public Works Director/City Engineer shall review the application and supporting documentation and shall make a recommendation to the Public Works Commission regarding the credit request. The Public Works Commission shall review said application along with the Public Works Director/City Engineer's recommendation and shall determine whether a reduction in the stormwater service charge is due the applicant. The applicant shall be provided five business days' prior written notice of the time and place of the Commission's consideration of the credit at the address listed in the application. The Commission shall base its decision on the record submitted to it at its meeting. The Public Works Director/City Engineer shall notify the applicant in writing of the Commission's determination by first class mail addressed to the applicant using the address listed in the application. The credit shall be applied to the next practicable billing for stormwater service charges and all subsequent billings for as long as the facilities or practices are operated or carried out in accordance with the plans submitted with the application for the credit.
 - (c) Amount of credit. Any credit to the stormwater service charge shall be in the form of a reduction in the volume ERUs, a reduction in the pollutant ERUs, or both. The percentage reduction in the number of ERUs shall be equal to the percentage reduction in the peak rate or total annual volume of stormwater runoff or pollutant loadings beyond what is required by the City's stormwater discharge standards, up to a maximum reduction of 75% in the number of volume and/or pollutant ERUs assigned to the parcel.
- [1] Parcels developed under current stormwater discharge standards. Parcels developed under the stormwater discharge standards in effect at the time of a credit application shall not be eligible for a reduction in stormwater service charges unless the facilities or practices exceed the City's stormwater discharge standards.
 - [2] Parcels developed prior to current stormwater discharge standards. Parcels that were developed prior to the stormwater discharge standards in effect at the time of a credit application may be eligible for a reduction in stormwater service charges if the facilities or practices exceed the City's stormwater discharge standards that were in effect when the parcel was developed. The credit shall be a percentage reduction in the number of volume and/or pollutant ERUs assigned to the parcel equal to the percentage reduction in the peak rate or total annual volume of stormwater runoff or pollutant loadings beyond what was required by the City's stormwater discharge standards in effect at the time the parcel was developed, up to a maximum reduction of 75% in the number of volume and/or pollutant ERUs assigned to the parcel.
- (d) Appeals. The stormwater service charge, a determination of ERUs or ERU credits may be appealed by filing a written appeal with the Public Works Director/City Engineer prior to

the due date, if not paid, or within 30 days of payment. The appeal shall specify all bases for the challenge and the amount of the stormwater service charge the appellant asserts is appropriate. Failure to timely file an appeal waives all right to contest such charge.

- [1] The administrative review board shall review said written appeal and shall determine whether the stormwater service charge, the ERU determination or the ERU credit is fair and reasonable or whether an adjustment or refund is due the appellant. The applicant shall be provided five business days' prior written notice of the time and place of the administrative review board's consideration of the appeal to the owner at the address listed in the appeal. The administrative review board shall base its decision on the record submitted to it at its meeting. The Public Works Director/City Engineer shall notify the appellant in writing of the administrative review board's determination by first class mail addressed to the owner using the address listed in the appeal.
- [2] If as a result of any appeal a refund is due the owner, such refund shall be applied as a credit on the owner's next practicable stormwater charge bill.
- (2) Rebates to residential properties for the provision of stormwater mitigation facilities. Residential properties that provide a rain barrel, ~~or~~ construct a rain garden, **install permeable pavement or other stormwater mitigation practice** to mitigate the volume of stormwater and/or pollutant loadings discharged from the property shall be eligible for a one-time rebate of ~~\$15~~ **\$40**. Property owners may apply for the rebate by completing an application supplied by the Public Works Director/City Engineer and supplying a receipt or other appropriate documentation of the purchase or installation of the rain barrel or rain garden.

§ 453-9 Amendments.

The City reserves the right to amend this article in part or in whole whenever it may deem necessary, but only after due notice and hearing, as provided by law.

SECTION 2. Article II of Chapter 453 is hereby amended to read as follows:

ARTICLE II

Nonstormwater Discharges to Stormwater System

§ 453-10. Legislative purpose.

The purpose of this article is to provide for the health, safety and general welfare of the citizens of the City of Watertown through the regulation of nonstormwater discharges to the storm drainage system to the maximum extent practicable, as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit process. The objectives of this article are:

- A. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.
- B. To prohibit illicit connections and discharges to the municipal separate storm sewer system.

- C. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article.

§ 453-11. Definitions.

For the purposes of this article, the following terms shall have the meanings indicated:

ADMINISTERING AUTHORITY — The Public Works Director/City Engineer and their designees is designated by the City of Watertown to administer this article.[Amended by Ord. No. 10-01]

BEST MANAGEMENT PRACTICES (BMPs) — Structural or nonstructural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

CLEAN WATER ACT — The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY — Activities subject to City of Watertown or WPDES construction permits. Such activities include but are not limited to clearing and grubbing, grading, excavating and demolition.

HAZARDOUS MATERIALS — Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLEGAL DISCHARGE — Any direct or indirect nonstormwater discharge to the storm drain system, except as exempted in § 453-15 of this article.

ILLICIT CONNECTION — Either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including but not limited to any conveyances which allow any nonstormwater discharge, including sewage, process wastewater, and wash water, to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by the administering authority, or any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps or equivalent records and approved by the administering authority.

INDUSTRIAL ACTIVITY — Activities subject to WPDES industrial permits as defined in 40 CFR 122.26(b)(14).

NONSTORMWATER DISCHARGE — Any discharge to the storm drain system that is not composed entirely of stormwater.

PERSON — Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT — Has the meaning given in § 283.01(13), Wis. Stats.

PREMISES — Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

STORM DRAINAGE SYSTEM — Publicly owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs and other drainage structures for which a municipal separate stormwater permit (also known as a "MS4 Permit") has been issued by the WDNR to the City of Watertown under Ch. NR 216, Wis. Adm. Code.

STORMWATER — Any surface flow, runoff and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORMWATER POLLUTION PREVENTION PLAN — A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

VIOLATION — Any act performed by a person that falls under the categories outlined in § 453-15 or as determined by the administering authority. See § 453-22.

WASTEWATER — Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

WISCONSIN POLLUTANT DISCHARGE ELIMINATION SYSTEM (WPDES)

STORMWATER DISCHARGE PERMIT — A permit issued by WDNR that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

§ 453-12. Applicability.

This article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands, unless explicitly exempted by the administering authority.

§ 453-13. Responsibility for administration. [Amended by Ord. No. 10-011]

The Public Works Director/City Engineer and their designees, shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the administering authority may be delegated in writing by the City of Watertown to persons or entities acting in the beneficial interest of or in the employ of the City of Watertown.

§ 453-14. Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore, this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

§ 453-15. Discharge prohibitions.

- A. Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants, that cause or contribute to a violation of applicable water quality standards, other than stormwater. Examples of illegal discharges include but are not limited to: vehicle fluids, lawn fertilizers, grass clippings, concrete washouts, sanitary sewage and hazardous wastes. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:
- (1) The following discharges are exempt from discharge prohibitions established by this article: waterline flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air-conditioning condensation, springs, individual residential washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated, typically less than 1 ppm chlorine), firefighting activities, and any other water source not containing pollutants.
 - a. Permit required. No mini-storm sewer system or sump discharge shall be connected to the municipal storm sewer system without a permit issued by the Engineering Division.
 - b. If a storm sewer system is not available for connection in proximity to the source of the sump discharge, a seasonal (Nov. 1 – March 31) permit may be issued by the Water/Wastewater Division to connect to the sanitary sewer system to minimize the amount of potential icing on surfaces in cold weather per Ch. 508-8, Municipal Code.
 - (2) Discharges specified in writing by the administering authority as being necessary to protect public health and safety.
 - (3) Dye testing is an allowable discharge, but requires a verbal notification to the administering authority prior to the time of the test.
 - (4) The prohibition shall not apply to any nonstormwater discharge permitted under an WPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of the Wisconsin Department of Natural Resources, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

- B. Prohibition of illicit connections. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

(1) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(2) A person is considered to be in violation of this article if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

§ 453-16. Suspension of MS4 access.

The administering authority may suspend, prohibit and disconnect a person from access to the storm drain system under the following conditions:

- A. Suspension due to illicit discharges in emergency situations. The administering authority may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the administering authority may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.
- B. Suspension due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this article may have its MS4 access terminated if such termination would abate or reduce an illicit discharge. The administering authority will notify a violator of the proposed termination of its MS4 access. The violator may petition the administering authority for a reconsideration and hearing.
- C. Suspension due to unauthorized connection to MS4. A person commits a violation of this article if the person reinstates MS4 access to premises terminated pursuant to this section without the prior approval of the administering authority.

§ 453-17. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity WPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the administering authority prior to the allowing of discharges to the MS4.

§ 453-18. Monitoring of discharges.

- A. Applicability. This section applies to all facilities or structures that have stormwater discharges ~~associated with industrial activity~~, including construction activity.
- B. Access to facilities or structures.

- (1) The administering authority shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the administering authority.
- (2) Facility operators shall allow the administering authority ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of a WPDES permit to discharge stormwater and the performance of any additional duties as defined by state and federal law.
- (3) The administering authority shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the administering authority to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (4) The administering authority has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Public Works Director/City Engineer or their designees and shall not be replaced. The costs of clearing such access shall be borne by the operator. **[Amended by Ord. No. 10-01]**
- (6) Unreasonable delays in allowing the administering authority access to a permitted facility is a violation of a stormwater discharge permit and of this article. A person who is the operator of a facility with a WPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the administering authority reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this article.
- (7) If the administering authority has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the administering authority may seek issuance of a special inspection warrant or a search warrant from any court of competent jurisdiction.

§ 453-19. Requirement to prevent, control, and reduce stormwater pollutants by use of best management practices.

The administering authority may provide requirements identifying best management practices for any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at its own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises which is, or may be, the source of an illicit discharge may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system or watercourses. Compliance with all terms and conditions of a valid WPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the WPDES permit.

§ 453-20. Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

§ 453-21. Notification of spills.

Notwithstanding other requirements of law, as soon as the property owner, agent, lessee, person in possession of any premises or any person responsible for a facility or operation or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the United States, said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the administering authority in person or by phone or ~~facsimile~~ electronic mail within 24 hours of becoming aware of the release. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the administering authority within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 453-22. Violations and ~~E~~nforcement.

A. Violation of this article. It shall be unlawful to discharge any substance in violation of any of the provisions of this article, or otherwise neglect, refuse or fail to comply with this article's requirements. Any person who violates or fails to comply with any of the provisions of this article shall be subject to the penalties set forth in Subsections B through D and, in addition, shall pay all costs and expenses, including actual reasonable attorneys' and other fees involved in the case.

~~A.B. Penalties. Any person, firm or corporation who or which fails to comply with the provisions of this article or any order of the Director of Public Works/City Engineer or their designees shall forfeit not more than \$500 and costs of prosecution for each violation. Each day a violation exists or continues shall constitute a separate offense. Any person violating any of the provisions of this article shall be subject to a forfeiture of not less than \$100 nor more than \$1,000 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.~~ Notice of violation. Whenever the administering authority finds that a person has violated a prohibition or failed to meet a requirement of this article, the administering authority may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The performance of monitoring, analyses and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (5) Payment of a fine to cover administrative and remediation costs; ~~and~~
- (6) The implementation of source control or treatment BMPs; ~~and-~~
- (7) Forfeiture of not more than \$500; not less than \$100 nor more than \$1,000 and the costs of prosecution

C. Citable offenses. Any action performed which results in a prohibited substance entering the storm drainage system (including but not limited to discharges such as waste oil, grass clippings and pet waste) shall be considered citable offenses and a violation of this article, subject to the penalties of Subsections B and C.

D. Notice of abatement. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor, and the expense thereof shall be charged to the violator.

§ 453-23. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the administering authority. The notice of appeal must be received within five days from the date of the notice of violation. Hearing on the appeal before the City of Watertown Public Works Commission, which is designated as the appropriate authority to hear and determine such appeal, shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the City of Watertown Public Works Commission shall be final, subject to appeal to a court of competent jurisdiction under law.

§ 453-24. Enforcement measures after appeal.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation or, in the event of an appeal, within 10 days of the decision of the City of Watertown Public Works Commission upholding the decision of the administering authority, then representatives of the administering authority shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent, lessee or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

§ 453-25. Cost of abatement of the violation.

Within 15 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid within 60 days after receipt of the final bill, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the administering authority by reason of such violation. Interest may be assessed on the balance beginning on the 31st day following notice to the property owner of the cost of the abatement.

§ 453-26. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the administering authority may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

§ 453-27. Compensatory action.

In lieu of enforcement proceedings, penalties and remedies authorized by this article, the administering authority may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

§ 453-28. Violations deemed public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health,

safety and welfare and is declared and deemed a nuisance and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken.

§ 453-29. Criminal prosecution.

Any person that has violated or continues to violate this article shall be liable to criminal prosecution to the fullest extent of the law and shall be subject to a criminal penalty adopted by the Wisconsin Legislature and imposed by the Wisconsin Department of Natural Resources at its discretion. This criminal penalty shall be on file in the offices of the Police Chief and the City Clerk/Treasurer.

§ 453-30. Recovery of costs of abatement and enforcement.

The administering authority may recover any and all attorney's fees, court costs and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

§ 453-31. Remedies not exclusive.

The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the administering authority to seek cumulative remedies.

SECTION 3. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed.

SECTION 4. This ordinance shall take effect and be in force the day after its passage and publication.

<i>DATE:</i>	<i>March 21, 2023</i>		<i>April 3, 2023</i>	
<i>READING:</i>	<i>1ST</i>		<i>2ND</i>	
	<i>YES</i>	<i>NO</i>	<i>YES</i>	<i>NO</i>
DAVIS				
LAMPE				
RUETTEN				
BARTZ				
LICHT				
SMITH				
SCHMID				
WETZEL				
ROMLEIN				
MAYOR MCFARLAND				
<i>TOTAL</i>				

ADOPTED April 3, 2023

CITY CLERK

APPROVED April 3, 2023

MAYOR