

ORDINANCE NO. 2018-09

**VILLAGE OF YORKVILLE
RACINE COUNTY, WISCONSIN**

**AN ORDINANCE TO AMEND ARTICLE IV, SECTIONS 54-274 THROUGH
54-284 OF THE CODE OF ORDINANCES OF THE VILLAGE OF YORKVILLE,
RACINE COUNTY, WISCONSIN RELATED TO THE VILLAGE'S
STORMWATER UTILITY**

**THE VILLAGE BOARD OF THE VILLAGE OF YORKVILLE, RACINE COUNTY,
WISCONSIN, DO ORDAIN AS FOLLOWS:**

1. That Article IV, Sections 54-274 through 54-284 of the Code of Ordinances for the Village of Yorkville be, and hereby is, amended to read as follows:

“Article IV. Stormwater Utility

Sec. 54-274. Purpose and necessity.

The village board does hereby find that the management of stormwater and other surface water discharges to bodies of water within the village is a matter that affects the public health, safety and welfare of the village, its citizens and businesses.

Surface water runoff may cause erosion of lands, threaten residences and businesses with water damage, and create environmental damage to the rivers, streams and other bodies of water within the village.

A system for the collection, conveyance and disposal of stormwater provides services to all properties within the village including those properties that are exempt by law from taxation.

The cost of operating and maintaining the village's stormwater management system and financing necessary repairs, replacements, improvements, and extensions thereof should, to the extent practicable, be allocated in relationship to the services received from the system.

Failure to effectively manage stormwater affects the operations of the village sanitary sewer utility by, among other things, increasing the likelihood of infiltration and inflow into the sanitary sewer system.

In order to protect the health, safety and welfare of the public, the village board hereby exercises its authority to establish a stormwater utility and establish the rates for stormwater management services.

By adopting and publishing as required by law the regulations contained in this chapter, the village board is acting pursuant to authority granted by Wis. Stat. chs. 61 and 66.

Sec. 54-275. Authority.

The village board, acting through the stormwater utility, may acquire, construct, lease, own, operate, maintain, improve, modify, extend, expand, replace, clean, dredge, repair, conduct and manage programs, finance, borrow monies, assess and/or levy fees for such facilities, operations, and activities, as are deemed by the village board to be proper and reasonably necessary for a system of storm and surface water management and to obtain compliance with applicable local, state and federal stormwater management requirements with which the village must comply. Neither the village, nor the stormwater utility, shall exercise authority with respect to stormwater matters affecting only private property interests, except where otherwise permitted by law.

Sec. 54-276. Establishment of stormwater utility.

In order to protect the health, safety, and welfare of the public, the village board is exercising its authority to establish a villagewide utility known as the "Yorkville Storm Water Utility" and set the rates for stormwater management services.

Sec. 54-277. Establishment of Yorkville Storm Water Commission.

- (a) There is hereby established a stormwater commission in the Village of Yorkville which shall be designated as the "Yorkville Storm Water Commission." The commission shall be comprised of five members consisting of one village board member and four village residents, one of whom may be a member of the village plan commission or village board. All commissioners shall serve at the pleasure of the village board. The village residents shall be appointed for staggered five-year terms by the village board, with each term commencing May 1. Initially, the terms of the various village resident commission members shall be staggered so that one term shall expire each year. The village board shall annually appoint the village board and plan commission members to serve on the commission, with said appointments being made by the end of May.

Sec. 54-278. Powers and duties of utility.

- (a) *Facilities.* The village, through the stormwater utility, shall exercise authority with respect to stormwater facilities. Facilities may include, without limitation due to enumeration, surface and underground drainage facilities, inlets, manholes, catch basins, sewers, channels, watercourses, retaining walls, ponds, detention and retention basins, infiltration facilities,

streets, roads, curbs, gutters, ditches and such other facilities as will support a stormwater management system.

- (b) *Rates and charges.* The village, through the stormwater utility, may establish such charges as are necessary to finance planning, design, construction, maintenance, and operation of the facilities and to conduct necessary stormwater programs and activities in accordance with the procedures set forth in this article. Any expenditure of funds shall be consistent with the approved budget, and shall require the approval of the village board. The bases for charges imposed under the ordinance are set forth in the "Town of Yorkville Storm Water Utility Creation and Rate Structure Study," dated July 11, 2011 and incorporated herein by reference. All references in the Study are made applicable to the village pursuant to its incorporation as a village as certified by the Wisconsin Department of Administration on April 18, 2018.
- (c) *Budgeting process.* The village through the stormwater utility shall prepare an annual budget, which is to include all capital, operation and maintenance costs, extension and replacement costs, regulatory compliance costs, debt service, and other costs related to the operation of the stormwater utility.
- (d) *Excess revenues.* The village will retain any excess of revenues over expenditures in a year in a segregated stormwater enterprise fund which shall be used exclusively for purposes consistent with this article.

Sec. 54-279. Definitions.

Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary. The word "shall" is mandatory and the word "may" is permissive.

- (a) *Base charge* means a uniform charge established by the village board to be imposed on all parcels within the village to defray a portion of the costs of the stormwater utility which may include, but not be limited to, capital, operating and maintenance costs, extension and replacement costs, regulatory compliance costs, and stormwater related public education expenses.
- (b) *Condominium* means property subject to a condominium declaration established under Wis. Stat. ch. 703.
- (c) *Cubic feet per second (cfs)* means a standard unit of measurement for flow. When applied to stormwater runoff calculations it means the rate at which stormwater leaves a parcel, drainage basin or watershed.

- (d) *Developed property* means real property which has been altered from its natural state by the addition of any improvements, such as buildings, structures or impervious surfaces.
- (e) *Duplex* means a residential space containing two dwelling units.
- (f) *Dwelling unit* means one or more rooms that are arranged, designed, or used as living quarters for occupancy by a single-family unit or as classified by the Racine County Zoning Code, and incorporated into the Village Code of Ordinances. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included for each dwelling unit.
- (g) *Equivalent runoff unit (ERU) charge* means the charge established by the village board on all parcels within the village, tax-exempt or not, to defray, in part, the costs of the stormwater utility which may include, but not be limited to, capital, operating and maintenance costs, extension and replacement costs, regulatory compliance costs and stormwater related public education expenses. The ERU charge is determined utilizing a methodology that is based on each parcel's gross area, intensity of development, and modeling established by the National Resources Conservation Service and set forth in Technical Release 55 ("TR-55").
- (h) *Geographic information system (GIS)* is any system that captures, stores, analyzes, manages, and presents groups of data that are linked to a specific location.
- (i) *Impervious area* or *impervious surface* means a relatively horizontal or semi-horizontal surface which 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, semi-impervious surfaces such as compacted clay and gravel as well as streets, roofs, sidewalks, patios, parking lots, driveways and other similar surfaces.
- (j) *Life cycle replacement cost* means the sum of all recurring and one-time (non-recurring) costs over the full life span, or a specified period, of a good, service, structure, or system. It includes purchase price, installation cost, operating costs, maintenance and replacement cost. For example, if a 30-inch reinforced concrete storm sewer has a useful design life of 40 years, 1/40th of its original installed cost should be collected every year for 40 years in order to have sufficient funds available to replace it at the end of its life span. (This scenario assumes inflation rates = savings interest rates.)

- (k) *Lot* means a parcel of land having a width and depth sufficient for one principal building and its accessory building together with open spaces required by the village's subdivision ordinance and abutting a public street or access easement.
- (l) *Multifamily residential* means a residential space consisting of three or more dwelling units.
- (m) *Nonresidential property* means any developed lot or parcel not exclusively residential property as defined herein, including, but not limited to, transient rentals (such as hotels and motels), mobile home parks, commercial, industrial, institutional, governmental property, and parking lots.
- (n) *100-year storm* is an event of the magnitude that has a one percent chance of occurrence in any given year (also called a "1-in-100 chance storm event"). A 100-year storm event in the Village of Yorkville equals 5.88 inches of rainfall in any given 24-hour period.
- (o) *Percent of impervious coverage* means the total coverage by impervious surfaces in an area, such as a parcel or watershed, usually expressed as a percentage of the total land mass.
- (p) *Property owner* includes, but is not limited to, natural persons, partnerships, corporations, limited liability companies, limited liability partnerships, joint ventures, and all other legal entities of any kind or nature.
- (q) *Residential property* means any parcel of land developed exclusively for residential purposes including, but not limited to, single-family homes, manufactured homes, duplex units, multifamily apartment and condominium units, but not including transient rentals (such as hotels and motels).
- (r) *Runoff* means "stormwater runoff" which is a term used to describe water that originates during precipitation events. It may also be used to apply to water that originates with snowmelt or runoff water from overwatering that enters a stormwater system. Stormwater runoff does not soak into the ground, therefore becoming surface runoff, which either flows directly into surface waterways or is channeled into storm sewers, which eventually discharge to surface waters.
- (s) *Runoff curve numbers (CN)* (also called a curve number) is an empirical parameter used in hydrology for predicting the amount of direct runoff or infiltration from a rainfall event. The runoff curve number is based on the

area's hydrologic soil group, land use treatment and hydrologic condition. It is widely used and is an efficient method for determining the approximate amount of direct runoff from a rainfall event in a particular area.

- (t) *Runoff coefficient* means the ratio of the amount of water that is not absorbed by the surface to the total amount of water that falls during a rainstorm.
- (u) *Single-family home* means any residential property consisting of a single dwelling unit.
- (v) *Stormwater management program* means activities required to control stormwater runoff to protect the health, safety, and welfare of the public, and to comply with state and federal regulations. It includes construction and maintenance of physical infrastructure as well as development, implementation and management of policies, procedures and programs necessary for regulatory compliance. It includes, but is not limited to, street sweeping, erosion control, stormwater basin improvements and maintenance, culvert and storm sewer maintenance, stormwater testing, stormwater management planning and related public education.
- (w) *Stormwater system* means the system of streets, curbs, gutters, berms, swales, detention and retention ponds or basins, infiltration basins, pipes, outfalls, inlets, and other components of infrastructure owned and/or maintained by the municipality for the purpose of managing, gathering, transmitting, treating or conveying stormwater. This term includes tributaries, creeks, rivers, canals, and streams.
- (x) *Stormwater utility* means the utility established under this article for the purpose of managing stormwater and imposing charges for the recovery of costs connected with such stormwater management.
- (y) *Technical Release 55 (TR-55)* presents simplified procedures to calculate storm runoff volume, peak rate of discharge, hydrographs, and storage volumes required for floodwater reservoirs. These procedures were developed by the USDA Soil Conservation Service (SCS) and are applicable to small watersheds.
- (z) *Time of concentration (T_c)* is a concept used in hydrology to measure the response of a watershed to a rainfall event. It is defined as the time needed for water to flow from the most remote point in a watershed to the watershed outlet. It is a function of the topography, geology, and land use within the watershed.

- (aa) *Village* means the Village of Yorkville, Racine County, Wisconsin.
- (bb) *Village board* means the village board of the Village of Yorkville, Racine County, Wisconsin or designee.
- (cc) *2-year storm* is an event of the magnitude that has a 50-percent chance of occurrence in any given year (also called a "50-in-100 chance storm event"). A 2-year storm event in the Village of Yorkville equals 2.57 inches of rainfall in any given 24-hour period.
- (dd) *Undeveloped property* means any real property with no artificial impervious area, but due to surface area, soil type, topography and natural imperviousness, generates runoff and has an impact on the village's stormwater drainage system.
- (ee) *Watershed* means an area of land that drains downslope to a single low point with water moving through a network of drainage pathways, both underground and on the surface. The pathways generally converge into streams and rivers, which become progressively larger as the water moves on downstream, eventually reaching an estuary and the ocean. Other terms used interchangeably with watershed include drainage basin or catchment basin.

Sec. 54-280. Utility rates and charges.

- (a) By this article, the village is establishing the basis for the rates that will be used to calculate and impose charges upon each parcel within the village for services and facilities provided by the village board consistent with this article.
- (b) The actual rate of charges to be imposed and any future changes in those rates for each customer classification shall be made by resolution. All rates established pursuant to this article shall be fair and reasonable. A schedule of current charges shall be maintained and on file in the office of the village clerk.
- (c) Charges shall be imposed to recover all or a portion of the costs incurred by the village for stormwater management purposes. Such charges may include the following components:
 - (1) *Base charge*. A base charge may be imposed on all parcels in the village. The base charge is established in recognition of the fact that all properties in the village receive services from the stormwater management activities of the village and that all

properties contribute to some degree to the stormwater discharge that must be managed by the village.

- (2) *Equivalent runoff unit (ERU) charge.* The ERU charge shall be assessed for each parcel in the village based upon the village engineer's methodology that incorporates the use of gross area, intensity of development and modeling established by the National Resources Conservation Service and set forth in Technical Release 55 ("TR-55"). The village engineer shall prepare a list of all parcels within the village, utilizing the statutory land use classification(s) for each parcel as determined by the village assessor or State Department of Revenue. The ERU charge shall be updated by the village engineer based on any additions to the impervious area as approved through the building permit process, as well as changes in land use classifications as determined by the village assessor or State Department of Revenue.

Sec. 54-281. Land use classifications.

- (a) For purposes of imposing one or more of stormwater utility charges, all lots, parcels or portions thereof within the village are classified into the following classes:
 - (1) Residential lots with an area of less than one acre.
 - (2) Residential lots with an area of one acre or more.
 - (3) Agricultural - Crop land.
 - (4) Agricultural - Improved.
 - (5) Commercial.
 - (6) Manufacturing.
 - (7) Forest land.
 - (8) Parkland.
 - (9) Municipal/institutional.
 - (10) Railroad.

- (b) The village board may make such other classifications in accordance with this article as will be likely to provide reasonable and fair distribution of the costs of the stormwater utility.

Sec. 54-282. Billing and payment.

Stormwater charges at the rate set annually by resolution of the village board, shall be billed to the owners of each parcel within the Yorkville Storm Water Utility at the same time and in the same manner as the village tax bill, as a charge for stormwater services. The full stormwater charge shall be due with the first tax installment. Alternatively, stormwater charges may be levied and collected as a special charge against property in the village, under Wis. Stat. § 66.0627 and as provided in this section. The mailing of the bill containing the stormwater charges shall serve as notice to the property owner that failure to pay the stormwater charges when due may result in the fee being levied, imposed and collected as a special charge, pursuant to the procedures set forth in Wis. Stat. § 66.0627.

Sec. 54-283. Lien.

All stormwater charges shall be a lien upon the property, as provided in Wis. Stat. § 66.0809.

Sec. 54-284. Credits and adjustments.

- (a) *Credit policy.* The village board shall utilize the following provisions in considering any request for a stormwater charge credit:
 - (1) No credit shall be given for the installation of stormwater management facilities required by the village, Racine County, or state stormwater regulations.
 - (2) No credit shall be considered for structural or nonstructural best management practices that are required in order to comply with village or county ordinance or state statute or regulation.
 - (3) No credits shall be considered for any "natural" features such as, but not limited to, wetlands, lakes and floodplains or water impoundment of any kind in existence prior to passage of this section.
 - (4) The village board may, in its sole discretion, extend a credit in other situations that warrant relief from the stormwater ERU charge (e.g., where a property owner installs a stormwater facility that provides a regional benefit).

- (5) The base charge is not eligible for credit or adjustment.
- (b) *Adjustment of fees and appeal procedure.*
- (1) The village elects not to be subject to the administrative review provisions contained in Wis. Stat. ch. 68, except as set forth below, and establishes the following as a complete and final review procedure. Appeals shall be limited to a determination of the ERU charge or ERU credits made for nonresidential properties. There shall be no right of appeal as to the underlying findings and necessity of this article or the ERU charge as applied to the following classifications:
 - a. Residential lots with an area of less than one acre.
 - b. Residential lots with an area of one acre or more.
 - c. Agricultural - Crop land.
 - d. Agricultural - Improved.
 - (2) Requests for adjustment. Requests for adjustment of the ERU Charge, including requests for stormwater charge credits, shall be submitted to the Yorkville Storm Water Commission, which is hereby given the authority to develop and administer the procedures and standards for the adjustment of fees as established herein. All requests shall be judged on the basis of the amount of impervious area on the site, and other criteria deemed relevant by the village engineer. The commission shall not have the authority to revise a property's classification of uses as established by the village assessor, but shall alert the assessor where it appears there is merit to a property owner's complaint on the basis of classification.
 - a. Any property owner who has paid a stormwater ERU charge and believes the charge to be incorrect, may, within 60 days of the timely payment of such charge and subject to the limitations set forth in this section, submit an adjustment request to the commission. To defray the village's costs for reviewing the request, an adjustment review fee may be imposed and collected from an applicant in such amount, if any, as is set periodically by resolution of the village board.
 - b. Adjustment requests shall be in writing and set forth in detail, the grounds upon which relief is sought.

- c. The property owner requesting the adjustments may be required, at his/her own expense, to provide supplemental information to the commission, including, but not limited to, survey data prepared by a registered land surveyor (R.L.S.) and engineering reports prepared by a professional engineer (P.E.). Failure to provide such information may result in the denial of the adjustments request.
- d. The commission shall issue a written determination as to whether the request for adjustment shall be granted. For adjustments that are granted, a credit shall be applied to the property owner's account. Denials of adjustment requests shall be made, in writing, by the commission.

2. That this ordinance shall become effective upon adoption and publication as provided by law.

Adopted by the Village Board of the Village of Yorkville, Racine County, Wisconsin, this 9th day of July, 2018.

VILLAGE OF YORKVILLE

By: 
Sherry E. Gruhn
Village President

Attest: 
Michael McKinney
Village Clerk-Treasurer

Ayes: 5

Nays: Ø

Abstentions: Ø

Village of Yorkville
Notice of Newly Enacted Ordinances

Please take notice that, on Monday, July 9, 2018, the Village Board of the Village of Yorkville enacted the following ordinances:

- Ordinance 2018-08 entitled "An Ordinance to amend Division 3, Sections 2-201 through 2-207 of the Code of Ordinances of the Village of Yorkville, Racine County, Wisconsin related to the Village's Plan Commission". This ordinance changes the membership of the Plan Commission and updates language throughout Division 3, Sections 2-201 through 2-207 to reflect Yorkville's status as a village.
- Ordinance 2018-09 entitled "An Ordinance to amend Article IV, Sections 54-274 through 54-284 of the Code of Ordinances of the Village of Yorkville, Racine County, Wisconsin related to the Stormwater Utility". This ordinance changes the membership of the Stormwater Utility District Commission and updates language throughout Article IV, Sections 54-274 through 54-284 to reflect Yorkville's status as a village.

These ordinances take effect upon publication of this notice. The full text of these ordinances may be obtained from the Village of Yorkville Clerk-Treasurer's Office, 925 15th Avenue, Union Grove, Wisconsin 53182, or through the Village's website at www.villageofyorkville.com. The phone number for the Clerk-Treasurer is (262) 878-2123.

Michael McKinney
Clerk-Treasurer