

CHAPTER 55: STORMWATER MANAGEMENT UTILITY

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Cross Reference:

Utility Billing Policy, see Ch. 36

AN ORDINANCE ESTABLISHING A STORMWATER MANAGEMENT UTILITY FOR THE CITY OF LOWELL

BE IT ORDAINED by the City Council of the City of Lowell that Chapter 55 of Title V of the City of Lowell Code of Ordinances is established to read as follows:

CHAPTER 55: STORMWATER MANAGEMENT UTILITY

§55.01 FINDINGS

(A) North Carolina General Statute Chapter 160A, Article 16 authorizes the City to acquire, construct, enlarge, improve, maintain, own, operate, and contract for the operation of stormwater management programs designed to protect water quality by controlling the level of pollutants in and the quantity and flow of stormwater and structural and natural stormwater and drainage systems of all types.

(B) The establishment of a Stormwater Management Utility shall be accounted for as a separate enterprise fund of the City and will facilitate the provision of a stormwater management program.

(C) North Carolina General Statute Section 160A-314 authorizes the City of Lowell to establish and revise from time to time a schedule of rates and charges to fund the stormwater management program activities, including both structural and natural stormwater conveyance and drainage system services provided by the Stormwater Management Utility.

§55.02 PURPOSE

This ordinance establishes a Stormwater Management Utility as an identified fiscal and accounting fund for the purpose of comprehensively addressing the stormwater management

needs of the City through programs designed to protect and manage water quality and quantity by controlling the level of pollutants in stormwater runoff and the quantity and rate of stormwater received and conveyed by structural and natural stormwater and drainage systems of all types. It sets forth a schedule of charges and defines the control, collection, and disbursement of funds including penalties, appeals, exemptions, and credits.

§55.03 DEFINITIONS

For the purpose of this Chapter, the following words, terms, and phrases shall have the meanings given to them in this section, except when the context clearly indicates a different meaning:

CREDITS. Ongoing reductions in the stormwater management service charge applicable to a given lot or tract in recognition of on-site or off-site systems, facilities, measures, and/or actions undertaken to reduce or mitigate the stormwater quantity and/or quality impact(s) of the lot or tract that would otherwise impact the public stormwater management system. Credits shall be conditioned on the continuing performance of the mitigation systems, facilities, measures, or actions in reference to standards adopted by the Stormwater Management Utility, and may be revised or rescinded for cause. In no case shall credits exceed the amount of the stormwater management charge. The means and measures for identifying, issuing, and obtaining credits will be provided in a Credit Manual approved by the City Council.

DEVELOPED LAND. A lot or tract altered from its natural state to include impervious surface area equal to or greater than 200 square feet.

DRAINAGE SYSTEM. Natural and structural channels, swales, ditches, swamps, rivers, streams, wetlands, branches, reservoirs, ponds, drainage ways, inlets, catch basins, gutters, pipes, culverts, bridges, head walls, storm sewers, lakes, and other physical works, properties, or improvements that transfer, control, convey or otherwise influence the movement of stormwater runoff.

EQUIVALENT RATE UNIT (ERU). Two thousand and eight hundred and twenty-seven (2,827) square feet of impervious surface or fraction thereof.

IMPREVIOUS SURFACE AREA. Developed areas of land that prevent or significantly impede the infiltration of stormwater into the soil. Typical impervious surface areas include, but are not limited to: roofs, sidewalks, walkways, patios, swimming pools, private driveways, parking lots, access extensions, alleys and other paved, engineered, compacted, or gravel surfaces containing materials that prevent or significantly impede the natural infiltration of stormwater into the soil.

LOT. A legally subdivided lot (not a tract) shown on a legally recorded plat or deed, or a combination of such legally subdivided and recorded adjacent lots.

NATURAL STATE. Existing undeveloped land where the soil and vegetation characteristics have not been substantially modified or disturbed by human activities and the hydrologic function is in an unaltered or natural condition.

SERVICE AREA. All land within the corporate limits of the City of Lowell, including all land areas legally annexed thereto.

SERVICE CHARGE. A stormwater management service charge, applicable to a lot or tract, that generally reflects the impact on or demand for stormwater management services provided by the City to properly control and manage stormwater runoff quantity and/or quality associated with the lot or tract. The service charge may vary from one lot or tract to another, based on the impervious surface area.

STORMWATER. The runoff from precipitation that travels over natural state or developed land surfaces and enters a drainage system.

STORMWATER MANAGEMENT PROGRAM. An identified set of measures and activities designed to protect, restore, and/or manage stormwater quality by controlling and/or reducing pollutants and to reduce and/or manage quantity by controlling velocity, volume, and rate.

STORMWATER MANAGEMENT UTILITY. An organizational structure that is responsible for funding, administering, and operating the City's stormwater management program and that is supported through a rate structure based on the impervious surface area found on lots or tracts located within the service area.

TRACT. A parcel of land not previously recorded as a legally subdivided lot.

UNDEVELOPED LAND. All land that is not altered from its natural state to an extent that results in 200 or more square feet of impervious surface area.

§55.04 ESTABLISHMENT OF A STORMWATER MANAGEMENT UTILITY AND STORMWATER MANAGEMENT ENTERPRISE FUND

(A) There is hereby established a City of Lowell Stormwater Management Utility that shall be responsible for implementing, operating, and administering the City's stormwater management program as defined herein.

(B) There is hereby established a City of Lowell Stormwater Management Enterprise Fund for the purpose of dedicating and protecting funding applicable to the responsibilities of the Stormwater Management utility including but not limited to rates, fees, charges, fines, and penalties as may be established after due notice and a public hearing by the City Council. Funding may also include other funds transferred or allocated to the Stormwater Management Utility by the City Council. All revenues and receipts of the Stormwater Management Utility shall be placed in the Stormwater Management Enterprise Fund, and all expenses of the utility shall be paid from the Stormwater Management Enterprise Fund, except that other revenues, receipts, and resources not accounted for in the Stormwater Management Enterprise Fund may be applied to stormwater management activities as deemed appropriate by the City Council.

§55.05 JURISDICTION

The jurisdiction (service area) of the Stormwater Management Utility shall extend to the corporate limits of the City, including all areas legally annexed thereto.

§55.06 IMPERVIOUS SURFACE AREA AND EQUIVALENT RATE UNIT

(A) *Impervious surface area* on a given lot or tract directly relates to the volume, rate, and pollutant loading of stormwater runoff discharged from that lot or tract to the City's structural and natural drainage systems and facilities. Therefore, impervious surface area shall be the primary parameter for establishing a rate structure to distribute the cost of services associated with the operation, repair, improvement, and maintenance of public drainage systems and facilities through a schedule of rates, fees, charges, and penalties related to the operation of a Stormwater Management Utility and Stormwater Management Enterprise Fund as established in §55.04.

(B) Based on an analysis by the City of impervious surface area on properties throughout the City, an impervious surface area of 2,827 square feet shall be designated as one (1) *Equivalent Rate Unit (ERU)*.

§55.07 SCHEDULE OF FEES AND CHARGES

(A) The schedule of fees and charges set out in this section is hereby adopted and shall apply to all lots and tracts within the corporate limits of the City, except as may be altered by credits and exemptions provided in this Chapter.

(1) All lots and tracts of land within the corporate limits of the City shall be billed for one (1) Equivalent Rate Unit for each 2,827 square feet or fraction thereof of impervious surface area on the subject lot or tract.

All single-family residential lots or tracts as determined by Gaston County tax records shall be billed for one (1) ERU.

(2) Stormwater service charges shall be fixed and established from time to time by the City Council and maintained on file in the offices of the City Clerk. Stormwater service charges will be determined and modified from time to time by the City Council so that the total revenues generated by said charges will be used to pay the principal and interest on the debt incurred for stormwater purposes and such expenses as are reasonably necessary for providing stormwater services within the service area.

(3) The initial service charge per Equivalent Rate Unit shall be \$6.75 per month.

(B) There will be no service charge for zoning lots or tracts with fewer than 200 square feet of impervious surface area.

§ 55.08 BILLING METHODS, RESPONSIBLE PARTIES

(A) Bills for stormwater service charges shall be sent at regular, periodic intervals. Stormwater service charges may be billed on a combined utility bill. Stormwater service

charges that are shown on a combined utility bill may be for a different service period that that used for water or sewer service.

(B) Stormwater service bills for a property that receives water and/or sewer service may be sent to the customer receiving such service. However, where multiple water and sewer accounts exist for a single parcel, the stormwater service bill may be sent to the property owner.

(C) The property owner is ultimately responsible for payment of the stormwater service charge for property for which the party billed has not paid the service charge.

§55.09 PAYMENT PROVISIONS; UTILITY TERMINATION

(A) Where stormwater service charges appear on a combined utility bill and a customer does not pay the service charge for all utilities on the bill, the partial payment will be applied to the respective service charges in the following order: stormwater charges; water charges; and sewer charges.

(B) Stormwater service charges are due to the City withing the time period stated on the bill. Bills not paid within this time shall be charged a late fee as set forth in the City Council adopted ordinance for unpaid water and sewer bills (§51.21)

(C) Where a property receives water and/or sewer service, if stormwater service charges for that property ate not paid, other utility services to that property may be terminated, whether or not the stormwater charges were included on a combined utility bill.

(D) No property owner with outstanding stormwater service charges is entitled to receive other City utility services until the outstanding stormwater service charge on that property is paid. No customer with a delinquent stormwater service account is entitled to open another City utility account at the same or a different location until the delinquency has been satisfied.

(E) If a property is incorrectly billed, or not billed, or a bill is sent to the wrong party, the City may back bill a property for up to a twelve-month period for unpaid charges.

(F) If any citizen wishes to dispute a stormwater service charge billing or any other rates, fees, charges, or penalties adopted pursuant to this Chapter, that citizen must submit a written appeal within 60 days of receipt of the billing, stating the reasons for the appeal and providing information pertinent to the calculation of the billed charge. A timely appeal will stay the penalty deadlines. An appeal of a disputed bill shall be filed with the City's stormwater manager for review and disposition. If the citizen is not satisfied with the disposition of the appeal, the citizen may further appeal the disputed charge to the City Manager or his designee who shall make the final ruling on the validity of the appeal.

§55.10 CREDITS AND EXEMPTIONS

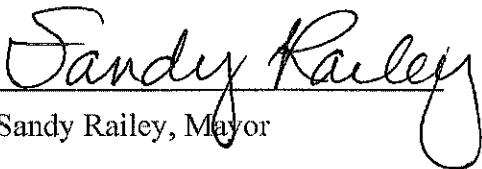
(A) *Credits.* Credits against stormwater management service charges are an appropriate means of adjusting rates, fees, charges, fines, and penalties, under some circumstances, to

account for applicable mitigation measures. Credit mechanisms may be established by the City Council and, if established, the means and measures for identifying, issuing, and obtaining credits will be provided in a Credit Manual approved by the City Council. No exception, credit, offset, or other reduction in stormwater management service charges shall be granted based on age, race, tax status, economic status, or religion of the customer, or other condition unrelated to the demand for and/or cost of services provided by the Stormwater Management Utility.

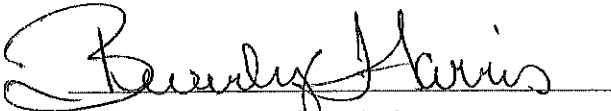
(B) *Exemptions.* Except as provided in this Chapter, no public or private property shall be exempt from Stormwater Management Utility service charges, with the following exceptions:

- (1) Public road rights-of-way that have been conveyed to and accepted for maintenance by the North Carolina Department of Transportation and that are available for use by the general public for transportation purposes shall be exempt from Stormwater Management Utility service charges.
- (2) Public road rights-of-way that have been conveyed to and accepted for maintenance by the City of Lowell and that are available for use by the general public for transportation purposes shall be exempt from Stormwater Management Utility service charges.
- (3) Railroad rights-of-way used for trackage and related appurtenances shall be exempt from Stormwater Management Utility service charges.

This Ordinance shall be effective on this, the 8 day of June 2021.


Sandy Railey, Mayor

ATTEST:


Beverly Harris, City Clerk

