

ORDINANCE 304

AN ORDINANCE REPEALING AND REPLACING ORDINANCE 273 ESTABLISHING A STORM WATER DRAINAGE UTILITY AND AUTHORIZING THE IMPOSITION OF STORM WATER DRAINAGE CHARGES

THE CITY COUNCIL OF THE CITY OF ARLINGTON, MINNESOTA TO PROMOTE THE PUBLIC SAFETY, HEALTH AND WELFARE, HEREBY ORDAIN AS FOLLOWS:

SECTION 1. ESTABLISHMENT.

The City hereby establishes a storm water drainage utility, pursuant to Minnesota Statutes, Section 444.075, from which revenues will be derived subject to the provisions of this Ordinance and said Minnesota Statutes. The storm water drainage utility shall be established and operated as a separate public utility and shall be supervised by the City Administrator or their designee. Just and reasonable charges for use, access, connection, and availability of storm sewer drainage facilities shall be calculated and determined based on expected and typical storm water run-off as may be calculated within reasonable and practical limits.

SECTION 2. DEFINITIONS.

The following terms are defined for purposes of this Ordinance:

Residential Equivalency Factor (REF). As used in this Ordinance, shall be defined as the ratio of the average volume of run off generated by one acre of a given land use to the average volume of run off generated by one acre of typical single family residential land during a standard one year rainfall event.

Total Residential Equivalency (TRE). As used in this Ordinance, shall be defined as the resultant product of the multiplication of a parcel's acreage by the REF for the parcel's land use classification.

SECTION 3. FINDINGS AND DETERMINATIONS.

In the exercise of its governmental authority and in order to promote the public health, safety, convenience and general welfare, the City has constructed, operated and maintained a storm water drainage system ("the system"). This Ordinance is adopted in the further exercise of such authority and for the same purposes.

- A. The system, as constructed, heretofore has been financed and paid for through the imposition of special assessments and ad valorem taxes. It is now necessary and desirable to provide an alternative method of recovering some or all of the future costs of improving, maintaining and operating the system through the imposition of charges as provided in this Ordinance.
- B. In imposing charges, it is necessary to establish a methodology that undertakes to make them just and equitable. Taking into account the status of completion of the system, past methods of recovering system costs, the topography of the city and other relevant factors, it is determined that it would be just and equitable to assign responsibility for some or all of the

future costs of operating, maintaining and improving the system, on the basis of the expected storm water runoff from the various parcels of land within the city during a standard rainfall event.

- C. Assigning costs and making charges based upon expected typical storm water runoff cannot be done with mathematical precision but can only be accomplished within reasonable and practical limits. The provisions of this Ordinance undertake to establish a reasonable and practical methodology for making such charges.

SECTION 4. FINANCE.

For the purpose of paying the cost of building, constructing, reconstructing, repairing, enlarging, improving, or in any other manner obtaining the facilities or any portion of them, or administering the City’s storm water drainage system, the City may issue and sell general or special obligations in accordance with Chapter 475 of the Minnesota Statutes. These obligations may be payable from any of the sources as set forth in Minnesota Statutes, Section 444.075, Subd. 2 which include, but are not limited to, those revenues derived by the utility as set forth below.

SECTION 5. STORM WATER DRAINAGE UTILITY FUND.

There shall be maintained within the City’s accounting system a separate fund to be known as “Storm Water Drainage Utility Fund”. All revenues derived by the utility shall be deposited in such fund. Such fund shall be used for the purpose of paying the cost of building, constructing, reconstruction, repairing, enlarging, improving, or in any other manner obtaining the facilities or any portion of them, or administering the City’s storm water drainage system.

SECTION 6. RATES AND CHARGES.

- A. Rate Determination. Minnesota Statutes, Section 444.075, Subd. 3a states that storm water utility rates may be established using one of the following systems:
 - 1. By reference to the square footage of the property charged, adjusted for a reasonable calculation of storm water runoff; or
 - 2. By reference to a reasonable classification of the types of premises to which service is furnished; or
 - 3. By reference to the quantity, pollution qualities, and difficulty of disposal of storm water runoff produced; or
 - 4. On any other equitable basis, including any combinations of equitable bases referred to in 1 to 3.
- B. Storm Water Drainage Fees. Fees for use and availability of storm drainage facilities for parcels of land shall be determined by multiplying the REF for the parcel’s land use classification by the parcel’s acreage resulting in a TRE. The REF for various land uses as defined under city zoning laws are as follows:

<u>LAND USE</u>	<u>REF</u>
Single Family	1
Commercial	5
Institutional	3
Industrial	5

For the purpose of calculating storm sewer water drainage fees, all developed single family parcels shall be considered to have an area of one-third acre. The storm water drainage rate schedule shall be established by Resolution.

- C. Multi-family Land Uses. Commercial multi-family residence complexes shall be treated as Commercial. This shall include apartment complexes, mobile home parks and senior care facilities. Small multi-family rental dwellings of four units or less shall be treated as Institutional for use and charges; to be divided equally to each dweller unit.

- D. Other Land Uses. Land uses not listed in the foregoing table are to be classified by the City Administrator by assigning those uses to classes most nearly like the listed uses. An appeal from the Administrator's determination of the property classification may be made to the City Council.

- E. Exemptions. The following land uses are exempt from storm water drainage fees:
 - 1. Public right-of-way;
 - 2. Wetlands and public waters as defined by state law;
 - 3. Vacant, undeveloped land with sufficient ground cover so as not to create any significant runoff as determined by the City Administrator;
 - 4. Agricultural Land; and
 - 5. Land owned by the City.

SECTION 7. ACCESS OR CONNECTION CHARGES.

A Storm Water Access or Connection Charge (SWAC) to every new or improved property in the storm water utility system will be charged a SWAC. A SWAC of \$1.00 per 100 square feet of a lot size or area, with a minimum charge of \$100, will be charged to every new or improved property. Future access or connection charges may be established by a Resolution of the City Council in a fair and equitable manner.

SECTION 8. PAYMENT OF MONTHLY CHARGES.

Statements for storm water drainage fees for use and availability of storm water drainage facilities shall be made a part of the present utility billing system involved on a monthly basis. Revenue from storm drainage fees shall be credited to storm water drainage funds.

SECTION 9. LATE PAYMENT PENALTY.

Each billing for storm water drainage fees for use and availability which are not paid when due shall incur a penalty charge. Interest rate charges established by the City Council for other utilities shall apply to storm water utility bills.

SECTION 10. ADJUSTMENT OF CHARGES.

The City Council may by Resolution adopt policies providing for the adjustment of charges for parcels or groups of parcels, based upon land use data supplied by affected property owners. The adjustment will be made only upon recommendation of the City Administrator and may not be made effective retroactively.

SECTION 11. SUPPLYING INFORMATION.

The owner, occupant or person in charge of any premises shall supply the City with such information as the City may reasonably request related to the use, development and area of the premises. Willful failure to provide such information or to falsify it is a violation of this Ordinance.

SECTION 12. ESTIMATE CHARGES.

If the owner, occupant or person in charge of any premises fails or refuse to provide the information requested, as provided in Section 8, the charge for such premises shall be estimated and billed in accordance with such estimate, based upon information then available to the City.

SECTION 13. BILLING METHOD.

Statements for storm water drainage utility fees will be computed every month and collected by the City monthly along with the water, sewer and electric utilities. Any prepayment or overpayment of charges shall be retained by the City and applied against subsequent monthly fees. Delinquent accounts will be treated the same as water, sewer and electric accounts.

SECTION 14. CERTIFICATION OF PAST DUE FEES ON TAXES.

Any storm water utility fees past due on October 1 of any year may be certified to the County Auditor for collection with real estate taxes in the following year or any year thereafter. In addition, the City shall also have the right to bring a civil action or to take other legal remedies to collect unpaid fees.

SECTION 15. RECALCULATION OF CHARGES.

If a property owner or person responsible for paying the storm water drainage fees or charges questions the correctness of an invoice for such charge or fee, such person may have the determination of the charge recomputed by written request to the City Administrator made within 90 days of mailing of the invoice in question by the City.

SECTION 16. EFFECTIVE DATE.

This Ordinance is effective upon its adoption and publication as prescribed by law.

For City of Arlington:

By Rich Nagel
It's Mayor

By Liza M. Donabauer
It's Administrator

First Reading: December 7, 2015
Second Reading: December 21, 2015
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