

ORDINANCE NO. 485-19

ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ROCK VALLEY, IOWA, BY AMENDING CHAPTER 92, OF THE CODE OF ORDINANCES OF THE CITY OF ROCK VALLEY BY ADDING SECTION 92.10 TITLED “STORMWATER MANAGEMENT AND DRAINAGE SYSTEMS UTILITY” WITH SAID CHANGES TO BE EFFECTIVE MARCH 1, 2019.

WHEREAS, the City of Rock Valley, Iowa is authorized by Iowa Code Sec. 384.84 to establish, impose, adjust and provide for the collection of rates and charges to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise.

WHEREAS, the City has conducted a review and evaluation of the City’s stormwater management and drainage system and has determined therefrom that a policy and procedure for managing and controlling the quality and quantity of stormwater runoff, within the city limits of Rock Valley, Iowa, should be enacted.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ROCK VALLEY, IOWA:

SECTION 1. Chapter 92.10 of the Code of Ordinances for the City of Rock Valley, Iowa, is hereby amended to read in its entirety as follows:

92.10 Stormwater Management and Drainage Systems Utility.

1. Purpose and Objective.

- a.** The purpose of this Article is to establish a policy and procedure for managing and controlling the quantity and quality of stormwater runoff, within the city limits of Rock Valley, Iowa. The management shall include the establishment of a stormwater utility to provide revenues for whatever aspects of this requirement are deemed appropriate by the City.
- b.** The city finds, determines and declares that the stormwater drainage system provides benefits and services to all property within the city limits. Such benefits include, but are not limited to: the provision of adequate systems for collection, conveyance, detention, treatment and release of stormwater for quality and quantity management that minimize impacts on receiving waters.
- c.** In order to manage additions and improvements to the city stormwater systems, the City must have adequate and stable funding for its stormwater management program operating and capital investment needs.

2. Creation of a Stormwater Management and Drainage Systems Utility.

- a. The function of the Stormwater Management and Drainage Systems Utility [hereinafter referred to as “stormwater utility”] within the water and sewer dept. is to provide for the safe and efficient capture of stormwater runoff, mitigate the damaging effects of stormwater runoff, correction of stormwater problems, to fund activities of stormwater management, and include design, planning, regulations, education, coordination, construction, operations, maintenance, inspection and enforcement activities.
- b. There is hereby established a stormwater utility within the City of Rock Valley, Iowa which shall be responsible for creating revenue for stormwater management throughout the City’s corporate limits, and shall provide for the management, protection, control, regulation, use, and enhancement of stormwater systems and facilities. Such utility shall be under the operational direction of the public works director. The corporate limits of the City, as increased from time to time, shall constitute the boundaries of the stormwater utility district.
- c. The City shall establish a Stormwater Utility Fund in the City budget and accounting system, separate and apart from its General Fund, for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the utility.

3. Definitions.

- a. “City” City of Rock Valley
- b. “Adjustment” means a modification in a nonresidential customer’s stormwater service fee for certain activities that impact stormwater runoff or impact the City’s costs of providing stormwater management.
- c. “Director” means the director of the Stormwater Utility.
- d. “Detached Dwelling Unit” shall mean developed land containing one structure which is not attached to another dwelling and which contains one or more bedrooms, with a bathroom and kitchen facilities, designed for occupancy by one family. Detached dwelling units may include houses, manufactured homes, and mobile homes located on one or more individual lots or parcels of land.
- e. “Equivalent Residential Unit” (ERU) shall mean the average impervious area of a detached dwelling unit property within the City, and shall be used as the basis for determining stormwater service charges to detached dwelling unit properties. 6000 square feet shall be equivalent to 1 ERU. (*This is usually obtained by averaging single family resident’s impervious area using such tools as GIS maps and associated software.*)

- f.** “ERU Rate” The dollar value periodically determined and assigned to each ERU as a charge for stormwater management services, expressed as \$1.00 per ERU.
- g.** “Exempt Property” includes public streets, alleys and sidewalks; all undeveloped properties.
- h.** “Impervious Area” The number of square feet of hard-surfaced areas which either prevent or resist the entry of water into soil surface, as it entered under natural conditions as undeveloped property, and/or cause water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as undeveloped property. This includes but is not limited to roofs, roof extensions, patios, porches, driveways, sidewalks, pavement, athletic courts, and semi-impervious surfaces such as gravel which are used as driveways or parking lots.
- i.** “Occupant” shall mean the person residing or doing business on the property. In a family or household situation, the person responsible for the obligation imposed shall be the adult head of the household. In a shared dwelling or office situation, the adult legally responsible for the management or condition of the property shall be responsible.
- j.** “Owner” shall mean the legal owner(s) of record as shown on the tax rolls of Rock Valley, except where there is a recorded land sale contract, the purchaser thereunder shall be deemed the owner.
- k.** “Stormwater” means stormwater runoff, snowmelt runoff, and surface runoff and drainage. “Storm Sewer” means a sewer, which carries stormwater, surface runoff, street wash waters, and drainage, but which excludes sanitary sewage and industrial wastes, other than permitted discharges.
- l.** “Service Charges” shall mean the periodic rate, fee or charge applicable to a parcel of developed land, which charge shall be reflective of the service provided by the Rock Valley, Iowa, stormwater utility.
- m.** “Stormwater Drainage System” means all man-made facilities, structures, and natural watercourses owned by the city of Rock Valley, used for collection and conducting stormwater to, through, and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: conduits and appurtenant features, canals, creeks, catch basins, ditches, streams, gullies, ravines, flumes, culverts, siphons, streets, curbs,

gutters, dams, floodwalls, levees, and pumping stations.

- n. “Stormwater Management” means the tasks required to control stormwater runoff using stormwater management systems, to protect the health, safety, and welfare of the public, and comply with relevant state and federal regulations.
- o. “Stormwater Management Systems” address the issues of drainage management (flooding) and environmental quality (pollution, erosion, and sedimentation) of receiving rivers, streams, creeks, lakes, ponds, and reservoirs through improvements, maintenance, regulation and funding of plants, works, instrumentalities and properties used or useful in the collection, retention, detention, and treatment of stormwater or surface water drainage.
- p. “Stormwater Utility” means the utility established under this Section for the purpose of managing stormwater and imposing charges for the recovery of costs connected with such stormwater management.
- q. “Surface Water” means water bodies and any water temporarily residing on the surface of the ground including lakes, reservoirs, rivers, ponds, streams, puddles, channelized flow and runoff.
- r. “Undeveloped Property” describes land in its unaltered natural state or which has been modified to such minimal degree as to have a hydrologic response comparable to land in an unaltered natural state shall be deemed undeveloped. Undeveloped land shall have minimal concrete pavement, asphalt, or compacted gravel surfaces or structures which create an impervious surface.
- s. “User” means the owner and/or occupant of any developed property within the limits of Rock Valley, and shall mean any person who uses property which maintains connection to, discharges to, or otherwise receives services from the City for stormwater management. The occupant of any habitable property is deemed the user. If the property is not occupied, then the owner shall be deemed the user.
- t. “Water Course” A natural overland route through which water passes, including drainage courses, streams, creeks, and rivers.

4. Stormwater Utility Fund.

- a. Funding for the stormwater utility’s activities may include, but are not limited to: stormwater service charges; stormwater permits and inspection fees; other funds or income obtained from federal, state, local, and private

grants, or loans.

- b. All service charges and all sources of revenue generated by or on behalf of the stormwater utility shall be deposited in a stormwater utility fund and used exclusively for management of the stormwater utility.
5. **Stormwater Utility Budget.** The City shall adopt an operating and capital budget for the stormwater utility each fiscal year. The budget shall set forth revenues for such fiscal year and estimated expenditures for operations, maintenance, improvements, replacement and debt service.
6. **Rate Structure and Stormwater Service Charge.** Any property, lot, parcel of land, building or premises that is tributary directly or indirectly to the stormwater system of the city, shall be subject to a charge based upon the quantity of impervious area situated thereon. This charge is not related to the water and/or sewer service and does not rely on occupancy of the premises to be in effect. All properties having impervious area within the city of Rock Valley will be assigned an equivalent residential unit (ERU) or a multiple thereof, with all properties having any impervious area receiving at least one ERU, which shall be considered the base rate.

Establishment of Equivalent Residential Unit (ERU) rate and stormwater utility charge:

- a. For the purpose of this Ordinance, an ERU is equivalent to 6000 square feet of impervious area.
- b. Determination of Stormwater Utility Fee.
 - a. The stormwater utility fee for single-family residential shall be 100% of the ERU rate. The rate shall be \$1.00 per ECU. The monthly rate for each fiscal year thereafter shall be determined by resolution of the city council prior to July 1st of each year.
 - b. The stormwater utility fee for multi-family residential shall be \$1.00 per ERU. The monthly rate based for each fiscal year thereafter shall be determined by resolution of the city council prior to July 1st of each year. The number of ERUs on each property shall be determined by the stormwater utility.
 - c. The stormwater utility fee for commercial and industrial shall be \$1.00 per ERU.

The monthly rate based for each fiscal year thereafter shall be determined by resolution of the city council prior to July 1st of each year.

The number of ERUs on each property shall be determined by the stormwater utility.

7. **Powers of Director of the Stormwater Utility.** Stormwater service charges incurred pursuant to this ordinance may be collected by the stormwater utility director or designee who is also responsible for the regulation, collection, rebating and refunding of such stormwater charges.

8. **Powers and Duties of the City.**

a. The City shall have the following powers, duties, and responsibilities with respect to the stormwater utility:

a. Administer the design, construction, maintenance and operation of the utility system, including capital improvements designated in the comprehensive drainage plan.

b. Acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage, and finance such facilities, operations, and activities, as are deemed by the City to be proper and reasonably necessary for a system of storm and surface water management. These facilities may include, but are not limited to, surface and underground drainage facilities, storm sewers, watercourses, ponds, ditches, and such other facilities relating to collection, runoff, treatment and retention as will support a stormwater management system.

b. The City shall separately account for the stormwater utility finances. The stormwater utility shall prepare an annual budget, which is to include all operation and maintenance costs and costs of borrowing. The budget is subject to approval by the City Council. Any excess of revenues over expenditures in a year shall be retained in a segregated fund, which shall be used for stormwater utility expenses in subsequent years. Stormwater utility fees collected shall be deposited in the stormwater utility fund and shall be used for no other purpose.

9. **Responsibility for the Stormwater Management and Drainage System.**

a. The City stormwater management and drainage system consists of all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage ways, channels, ditches, swales, storm sewers, culverts, inlets, catch basins, pipes, head walls and other structures, natural or man-made, within the political boundaries of the City of Rock Valley, which control and/or convey stormwater through

which the City intentionally diverts surface waters from its public streets and properties. The City owns or has legal access for purposes of operation, maintenance and improvements to those segments of this system which:

- a. are located within public streets, rights-of-way, and easements;
 - b. are subject to easements of rights-of-entry, rights-of-access, rights-of-use, or other permanent provisions for adequate access for operation, maintenance, and/or improvement of systems and facilities; or
 - c. are located on public lands to which the City has adequate access for operation, maintenance, and/or improvement of systems and facilities. Operation and maintenance of stormwater systems and facilities which are located on private property or public property not owned by the City of Rock Valley and for which there has been no public dedication of such systems and facilities for operation, maintenance, and/or improvement of the systems and facilities shall be and remain the legal responsibility of the property owner.
- b. It is the intent of this section to protect the public health, safety and general welfare of all properties and persons in general, but not to create any special duty or relationship with an individual person or to any specified property within or without the boundaries of the City of Rock Valley. The City of Rock Valley expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the City, its officers, employees and agents arising out of any alleged failure or breach of duty or relationship as may now exist or hereafter be created.

10. Requirements for On-site Stormwater Systems, Enforcement and Inspections.

- a. All property owners and developers of developed real property within the City of Rock Valley shall provide, manage, maintain, and operate on-site stormwater systems sufficient to collect, convey, detain, and discharge stormwater in a safe manner consistent with all City, State, and Federal laws and regulations.
- b. Pursuant Iowa Code Section 364.12(3) or successor section of the State Code, any failure to meet this obligation may constitute a nuisance and may be subject to an abatement action filed by the City. In the event a nuisance is found to exist, which the owner fails to properly abate within such reasonable time as allowed by the City, the City may enter upon the property and cause such work as is reasonably necessary to be performed, with the actual cost thereof assessed against the owner in the same manner as a tax levied against the property. The City shall have the right, pursuant to the authority of this section, for its designated officers and employees to enter

upon private and public property owned by entities other than the City, upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to assure compliance.

11. Right to Appeal. Any customer who believes the provisions of this chapter have been applied in error may appeal in the following manner:

- a. An appeal must be filed in writing with the City of Rock Valley City Manager. In the case of service charge appeals, the appeal shall include a survey prepared by a registered Iowa land surveyor or professional engineer containing information on the total property area, the impervious surface area and any other features or conditions which influence the hydrologic response of the property to rainfall events.
- b. Using the information provided by the appellant, the City Manager shall conduct a technical review of the conditions on the property and respond to the appeal in writing within thirty (30) days.
- c. In response to an appeal, the City Manager may adjust the stormwater service charge applicable to a property in conformance with the general purpose and intent of this chapter.
- d. A decision of the City Manager which is adverse to an appellant may be further appealed to the City Council within thirty (30) days of receipt of notice of the adverse decision. Notice of the appeal shall be served on the City Council by the appellant, stating the grounds for the appeal. The City Council shall schedule a public hearing within thirty (30) days. All decisions of the City Council shall be served on the appellant by registered mail, sent to the billing address of the appellant.
- e. All decisions of the City Council shall be final.

12. Billing and Collection.

- a. A storm water service charge bill may be sent through the United States mail or by alternative means, notifying the customer of the amount of the bill, the date the payment is due, and the date when past due. Failure to receive a bill is not justification for non-payment. Regardless of the party to whom the bill is initially directed, liability for payment of the stormwater management charge attributable to that property shall be joint and several as to the owner and occupant.
- b. All comprehensive stormwater service charges are due and payable thirty days after the date of billing.
- c. A penalty of five percent shall be added to a comprehensive stormwater

service charge when the charge is not paid in said thirty days.

- d. Certification. The director shall certify to City Finance Officer a comprehensive stormwater service charge, which is owed after a sixty-day payment period. All certified charges constitute a lien up on the premises served by the stormwater system for which the service charges were made and shall be collected in the same manner as property taxes. Failure to send or receive a bill for comprehensive stormwater service charge is not a defense to the collection of service charges.
- e. Suits for collection shall be commenced by the City in the Iowa District Court for Sioux County. No lien shall be imposed for delinquent collections unless a judgment is first obtained from a court of competent jurisdiction. The City may employ any lawful means to collect funds owed, and is not restricted to filing a lawsuit.
- f. The stormwater utility service charge may be billed on a common statement and collected along with other city utility services, usually on a quarterly basis.

13. **Adjustments to Stormwater Service Charges.** Increase adjustments (debit) can be made to nonresidential service charges by property owners adding additional impervious area such as rooftops, parking lots, driveways and walkways.

14. **Exemptions and Credits Applicable to Stormwater Service Charges.** All public or private property shall be subject to stormwater utility service charges except as provided in this Ordinance below. A stormwater utility service charge formula is available in the office of the stormwater utility. The following areas are exempt from stormwater utility service charges:

- a. Undeveloped property as defined in this Ordinance.
- b. Streets, alley ways, and highways in the public and private domain are exempt from utility service charges or connection fees.
- c. Railroad right-of-way (tracks) shall be exempt from stormwater service charges. However, railroad stations, maintenance buildings, or other developed land used for railroad purposes shall not be exempt from storm water service charges.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the

ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect as of March 1, 2019.

Passed by the Council on the 10th day of January, 2019, and approved this 10th day of January, 2019.

By: _____
Kevin Van Otterloo, Mayor

Attest:

Tina Vande Kamp, City Clerk

I, Tina Vande Kamp, City Clerk of the City of Rock Valley, Iowa, certify that the foregoing was published on the _____ day of _____, 2019.

Tina Vande Kamp, City Clerk
Rock Valley, Iowa

(Seal)