

CITY OF GARFIELD

ORDINANCE NUMBER 128

AN ORDINANCE ESTABLISHING A STORM WATER UTILITY

THE CITY COUNCIL OF THE CITY OF GARFIELD DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings and Purposes.

Subd. 1 The purpose of this Ordinance is for the efficient, economic and safe operation of a storm water system for the protection of the health, safety and general welfare of the residents of the City of Garfield.

Subd. 2 The system, as constructed heretofore, has been financed and paid for through various grants and a general obligation bond. It is now necessary and desirable to provide a method of recovering the costs associated with the general obligation bond, and to recover some or all of the future costs of improving, establishing, enlarging, replacing, repairing, maintaining, and operating the system through the imposition of charges as provided in this ordinance.

Subd. 3 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 cost, the topography of the City and other relevant factors, it is determined that it would be just and equitable to assign the incurred and future costs to the City of operating, maintaining and improving the system on the basis of a flat charge to all utility users within the City.

SECTION 2. Storm Water Utility Established. A municipal storm water utility is hereby established and shall be operated as a public utility pursuant to Minnesota Statutes Section 444.075 from which revenues will be derived subject to the provisions of this Chapter and Minnesota Statutes.

SECTION 3. Definitions. Unless the context clearly indicates otherwise, the following words or phrases have the meanings given in this Subdivision.

Subd. 1 Utility User. any individual, firm, company, association, society, corporation, or group which receives a user charge from the City of Garfield for the use of sewer and/or water, whether or not such property is occupied or improved.

SECTION 4. Fee.

Subd. 1 Storm Water Utility Fee. The stormwater utility fee under this chapter shall be established in the city's Ordinance Establishing Fees and Charges, as it may be amended from time to time, and shall be charged to all utility users not listed as exempt in Subdivision 2.

Subd. 2 Exemptions. The following utility users are exempt from the Storm Water Utility Fees established herein: 1) Property owned by the City of Garfield.

SECTION 5. Billing and Payment. Storm water utility charges shall be computed and billed periodically with, and included as a charge on, bills issued by the City for water and sewer services. All charges shall be subject to:

Subd. 1 Penalties and Remedies for Delinquencies. All storm water utility charges shall be due on the date specified by the City for the respective amount and shall be delinquent thereafter. Delinquent accounts will be charged a late fee as established by the City Council from time to time. The late fee will be added to the bill effective the first day of each month of the delinquency. The City shall attempt to collect delinquent accounts promptly.

Pursuant to Minn. Stat. Section 444.075, the Clerk-Treasurer shall prepare an assessment roll each year providing for assessment of any delinquent accounts against the respective properties served. A certification fee adopted by resolution of the city council will be assessed along with the delinquent bill. The assessment roll shall be delivered to the Council for adoption on or before the regular City Council meeting in November of each year for certification to the County Auditor for collection along with taxes. The City shall also have the right to bring a civil action or to take other legal remedies to collect unpaid delinquent accounts.

SECTION 6. Fee Appeal. If a utility user or person responsible for paying for the storm water utility fee believes that a particular assigned fee is incorrect, such person may request, in writing, that the fee be reduced or eliminated. Such request shall be made within sixty (60) days of the mailing of the billing in question to the Storm Water Utility Board of Appeals. The City Council shall act as the Storm Water Utility Board of Appeals, unless a separate Board of Appeals is established.

A hearing before the Board of Appeals shall be scheduled to occur within forty-five (45) days of receiving the property owner's request for a hearing. Notice of the hearing must be served on the property owner at least fourteen (14) days in advance unless a shorter time is accepted by all parties. Service of the Notice shall be by first class mail and will be complete upon mailing. The property owner shall have the burden of proving that the storm water utility fee for his or her property is incorrect. The decision of the Board of Appeals is final without any further right of appeal. The property owner may obtain judicial review of the decision of the Board of Appeals by proceeding pursuant to a writ of certiorari in the appropriate court.

SECTION 7. Establishment of Fund. All fees collected for the storm water utility shall be placed in a fund for storm water purposes. Revenues shall be used to pay for the past or future construction, reconstruction, repair, enlargement, improvement, or other obtainment of storm water

infrastructure and the maintenance, operation and use of the facilities, and all other purposes as permitted by Minnesota Statutes Section 444.075.

SECTION 8. Severability Clause. Should any section, subdivision, clause or other provision of this ordinance be held to be invalid by any Court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part held to be invalid.

SECTION 9. Passage and Publication. This Ordinance shall take full effect and be in full force from and after its passage and publication according to law.

Passed and adopted by the City Council of the City of Garfield on the ____ day of _____, 2014.

Dan Kalina, Mayor

ATTEST:

Paulynn Terhark, Clerk-Treasurer

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