



Legislation Text

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**Fiscal Note**

This amendment to the Storm Water Utility rate adjustment policy provides for a 10 5 year ‘phase out’ period for rate adjustments applied to properties used for Agricultural purposes. Based on 2011 billing rates, this would result in an approximate increase in revenues of \$198,000 per year at the end of the phase out period for all Agricultural properties.

**Title**

A Third substitute resolution revising the Rate Adjustment Policy as Provided by Section 37.05(4)(d) of the Madison General Ordinances.

**Body**

WHEREAS, the City established a Storm Water Utility in November of 2000 and began utility billings in the second half of 2001. The Ordinance creating the Storm Water Utility provided for application of rate adjustments based upon guidance from the Public Service Commission and previous court rulings. In March of 2002, the City Engineer established the Rate Adjustment Policy for the Storm Water Utility. The policy provided for Agricultural parcels to receive a reduction in billable area to 5 acres, for a period of 10 years (Section 3.5 of the Rate Adjustment Policy approved on March 5<sup>th</sup>, 2002), and;

WHEREAS, the purpose of this revision is to account for the Agriculture properties that have received the rate adjustment for 10 years as previously approved, and to establish a more equitable and uniform policy going forward.

WHEREAS, the revision to this policy provides for a ten year credit to certain parcels used for Agriculture followed by a 5 year phase out of that credit and includes other administrative revisions as follows:

~~NOW, THEREFORE, BE IT RESOLVED, Section 3.5 of the Rate Adjustment Policy approved on March 5<sup>th</sup>, 2002 is revised as follows: Any newly annexed parcel that requests and is determined to be eligible for a rate adjustment for Agricultural purposes, shall receive full credit for the year in which they annexed and the entirety of the following year. In subsequent years, the adjustment shall be reduced by 10% per year until fully eliminated. For the purposes of this policy, a ‘full credit’ is a reduction in the billable area to 5 acres, including all impervious areas and the homestead if one exists. Any other properties eligible for this credit and having never taken this credit, would be eligible for the full credit for the remainder of the year the request is made and the following year, with reductions beginning the year following that.~~

**Schedule for Rate Adjustments:**

Year of application and approval	Full Credit (reduced to 5 acres)
<del>1<sup>st</sup> Full Year following application</del>	<del>Full Credit</del>
<del>2<sup>nd</sup> Year</del>	<del>90% of Full Credit</del>
<del>3<sup>rd</sup> Year</del>	<del>80% of Full Credit</del>
<del>4<sup>th</sup> Year</del>	<del>70% of Full Credit</del>
<del>5<sup>th</sup> Year</del>	<del>60% of Full Credit</del>
<del>6<sup>th</sup> Year</del>	<del>50% of Full Credit</del>
<del>7<sup>th</sup> Year</del>	<del>40% of Full Credit</del>
<del>8<sup>th</sup> Year</del>	<del>30% of Full Credit</del>
<del>9<sup>th</sup> Year</del>	<del>20% of Full Credit</del>
<del>10<sup>th</sup> Year</del>	<del>10% of Full Credit</del>

## 1.0 **Purpose.**

Section 37.05(4)(d) of the Madison General Ordinances provides as follows:

Adjustments to the Measured Impervious and Pervious Areas: Individual property owners may submit, to the Administrative Authority, site and building surveys or documentation of mitigation or treatment measures which more accurately determine or reflect the total area, impervious area and/or pervious area. The Administrative Authority may reduce the measured impervious area and/or pervious area after taking into consideration the volume or peaking of stormwater or surface water discharge that is caused by the area of impervious surfaces, topography, and other surface characteristics, and the extent and reliability of mitigation or treatment measures that demonstrably and materially reduce the costs to the Stormwater Utility. It shall be the burden of the property owner to demonstrate by a preponderance of the evidence that a fee adjustment is warranted. Any such adjustments shall be made in accordance with the Rate Adjustment Policy established by the Administrative Authority and approved by the Common Council.

The purpose of this report is to establish a Rate Adjustment Policy for the Storm Water Utility.

## 2.0 **Regulatory Guidance.**

It is expected that rate adjustment policies for stormwater utilities will become uniform throughout Wisconsin as decisions are made by the courts and the regulatory agencies. The rules and procedures of a storm water utility are not approved by the Public Service Commission of the State of Wisconsin (PSC). However, customers can complain to the PSC regarding storm water service charges and rules of operation.

On August 9, 1999, Plainwell, a tissue manufacturer filed a complaint with the PSC regarding the storm water service charges and practices of the City of Eau Claire, which had established a storm water utility in 1996 and began billing customers in January of 1998.

Plainwell occupies approximately 50 acres of land along the banks of the Chippewa River. About 81% of its area drains directly to the river and Plainwell has a storm water discharge permit issued by the Environmental Protection Agency and the Wisconsin Department of Natural Resources.

On February 22, 2001, the Public Service Commission of the State of Wisconsin (PSC) issued its final order regarding the complaint filed by Plainwell Tissue Corporation Concerning the Storm Water Service Charges and Practices of the City of Eau Claire (PSC Docket No. 9500-SS-100.) That order found the Eau Claire storm water service charges to be unreasonable and unjustly discriminatory and ordered that the methodology developed by the PSC staff to be implemented.

## 3.0 **Rate Adjustment Policy.**

3.1 Following the approval of the annual budget for the Storm Water Utility by the Common Council, the City Engineer shall allocate the operating and capital costs to the following categories:

Customer Charge. This category shall be for those costs relating to the calculation, processing,

and collection of the bills to customers to recover the cost of the service, including interest and depreciation.

Water Quality Improvements. This category shall represent the cost of services related to water quality, including street cleaning, regulatory permitting, and the development and construction of facilities and practices to remove pollutants from storm water or from the receiving lakes and streams, including interest and depreciation.

Shoreline Protection. This category shall include those costs, including interest and depreciation, to protect the shorelines of lakes and streams from erosion.

Storm Water Conveyance System. This category shall include those costs to maintain, repair and construct the public stormwater system, including interest and depreciation, excepting those costs attributed to the previous categories.

3.2 Customers shall, upon request, be entitled to a reduction to their impervious area and pervious area which is determined to drain directly to Lakes Mendota, Wingra or Monona, the Yahara River, Wingra (Murphy) Creek, Nine Springs Creek or Starkweather Creek. The amount of this reduction shall be recalculated annually as part of the rate structure described in 3.1 and maintained on file with the City Engineer.

3.3 Customers shall, upon request, be entitled to a reduction to their impervious and pervious area which eliminates storm water runoff to the public stormwater system both throughout the one year and the 10 year design storm event. The amount of this reduction shall be recalculated annually as part of the rate structure described in 3.1 and maintained on file with the City Engineer.

3.4 Customers may provide more specific data with regard to the measurement and calculation of impervious or pervious area.

3.5 Ag Credit-

Customers who own parcels of land in excess of 5 acres of area and zoned in a classification that allows for agricultural use that request and are determined to be eligible for a rate adjustment for Agricultural purposes, shall receive full credit **from the time for the year in which the credit is granted for a period of 10 years or 10 years from the date the parcel is brought in to the Central Urban Service Area, which ever occurs later. In order to receive this credit, the Ag parcels must comply with State Standards for basic erosion control, prevention and control of gulley erosion, and employ practices such as 'no till' and grassed waterways.** and the entirety of the following nine years. After that time, the adjustment shall be reduced by 20% per year until fully eliminated. Existing customers already receiving the credit, **as of the date of the adaption of this revised policy,** will continue to do so until they have received it for a total of ten years, after which time the credit **can be renewed for up to 10 more years by meeting the State Standards described above.** ~~will be reduced by 20% per year until fully eliminated.~~

For the purposes of this section, a "full credit" is a reduction in the billable area to five acres, including all impervious areas and the homestead if one exists.

Credits due to agricultural use will be field verified bi-annually and must be certified to be in compliance with State Standards, by the Dane County Land Conservation Department. Parcels found to no longer be actively farmed, or no longer used for agricultural purposes, or no longer meeting the minimum State Standards as described above, will lose the credit in the next billing cycle, after being notified by letter. The City may backbill to recover any credits that were wrongfully applied. The land owner shall also receive written notice of expiration at least 6 months prior to any 10 year term expiration. Any fees to receive the Dane County certification are the responsibility of the customer.

3.6 Customers who own parcels of land that are zoned as wetlands or designated as wetland by a regulatory authority, shall, upon request, be entitled to a reduction of one-half of the area within the defined wetland. This adjustment shall be calculated prior to the adjustment provided by Paragraph 3.2.

The runoff from wetlands varies from site to site. A wetland can be considered a pond, in which all runoff would be expected to flow from the site. In the alternative, a wetland may be found to not discharge any water during a storm event. This adjustment is an average and does not preclude a property owner determining the runoff from a particular wetland with a more rigorous analysis in accordance with Paragraph 3.4 or 3.7.

3.7 Customers who own parcels of land used for Conservation purposes or parcels that have special or unique runoff circumstances may provide independent run-off calculations, to determine a percentage reduction in pervious area. The amount of the reduction will be based upon the runoff generated, compared to a normal pervious surface with a runoff coefficient of 68. The percentage reduction is subject to the approval of the City Engineer.

Rate adjustments due to independent run-off calculations shall remain in effect until conditions change to alter the runoff characteristics. Customers shall promptly report any changes to the City Engineer. At the time of application, the customer or his/her agent shall provide all necessary information to the City Engineer to document eligibility. This information could include runoff calculations, monitoring results, documentation of a double ring infiltrometer test, or other evidence, stamped by a registered professional engineer.

#### 4.0 Administration.

The customer shall be responsible for the preparation of a rate adjustment application. The applications shall be prepared by or under the direction of a professional engineer registered in the State of Wisconsin who shall certify that the application meets the adjustment criteria. Applications shall be submitted to the City Engineer and determination shall be applied administratively. If the customer does not accept the City Engineer's determination, the customer may request to schedule for a rate adjustment hearing before the City of Madison Board of Public Works.

NOW, THEREFORE, BE IT RESOLVED, that the Rate Adjustment Policy as provided by Section 37.05 (4)(d) of the Madison General Ordinances is hereby revised and approved.