

Topic: Stormwater Management
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State: New York
Jurisdiction Type: Municipal
Municipality: City of Ithaca
Year: 2014
Community Type – applicable to: Rural; Suburban; Urban
Title: City of Ithaca (NY) Municipal Code, Chapter 283: Stormwater Utility
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Abstract

The City of Ithaca’s Stormwater Utility chapter describes the calculation of stormwater user fees charged for costs incurred by the City in providing stormwater services. This monthly fee is equal to the product of \$4 and the number of Equivalent Residential Units (ERUs) of impervious surface area on the lot, less any credits for the lot approved by the Superintendent of Public Works. One ERU is equal to 2,300 square feet, the average amount of impervious surface area on a residential property as determined by the Common Council. The stormwater user fee may be reduced if the lot is eligible for credits. An engineered structure or practice for stormwater management that provides quality treatment and/or quantity attenuation shall be considered for credits by the Superintendent. Credits are calculated by the product of the lot’s stormwater user fee, the percentage of the total impervious surface area on a lot mitigated by the practice or structure, the practice or structure’s credit rate, and the practice or structure’s treatment efficiency. Practices or structures eligible for credits are enumerated in a list of “approved stormwater user fee credits” maintained and updated by the Superintendent and the Board.

Resource

Chapter 283

STORMWATER UTILITY

GENERAL REFERENCES

Flood damage prevention — See Ch. 186.

Stormwater management and erosion and sediment control — See Ch. 282.

Intermunicipal sewers and water — See Ch. 262.

Water and sewers — See Ch. 348.

Sewer use — See Ch. 264.

§ 283-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BOARD — The Board of Public Works.

CREDIT RATE — The scaling factor that shall be applied in the calculation of stormwater user fee credits. For structures or practices that, as determined by the Superintendent, are anticipated to provide:

- A. Both treatment quality and quantity attenuation, the credit rate shall be 20%;
- B. Either treatment quality or quantity attenuation, the credit rate shall be 10%.

DEVELOPED LOT — A lot which has an impervious surface area greater than or equal to 25% of an equivalent residential unit.

EQUIVALENT RESIDENTIAL UNIT ("ERU") — The average amount of impervious surface area on a residential property in the City, as determined by the Common Council.

IMPERVIOUS SURFACE — Any surface on a lot that, because of the surface's composition or compacted nature, impedes or prevents natural infiltration of water into the soil, including, but not limited to, roofs, solid decks, driveways, patios, sidewalks (other than public walks located in the City's right-of-way), parking areas, tennis courts, concrete, asphalt, or crusher/run streets or paths, or compacted gravel or dirt surfaces, as determined by the Department of Public Works.

IMPERVIOUS SURFACE AREA — As recorded or calculated by the Department of Public Works, the number of square feet of horizontal surface on a lot covered by an impervious surface.

LOT — Lot or parcel of land, as set forth by the current City of Ithaca Tax Maps on file with the Tompkins County Department of Assessment.

NONRESIDENTIAL LOT — All developed lots other than residential lots.

PROPERTY CLASS CODE — The property type classification code, as defined by the New York State Office of Real Property Services in the Assessors' Manual, assigned to a lot by the Tompkins County Department of Assessment, as may be updated by that Department from time to time.

PROPERTY OWNER or OWNER — The owner of a lot as shown on the Tompkins County tax records.

RESIDENTIAL LOT — A developed lot with a Property Class Code of 210, 215, 220, 230, 240, 250, or 270, or substantially identical successor designations.

STORMWATER — The runoff from all forms of precipitation that travels over natural or developed surfaces to the nearest stream, other conduit, or impoundment and appears in lakes, rivers, ponds, or other bodies of water.

STORMWATER SERVICES — The City program for protection of stormwater quality and for the partial control and conveyance of stormwater, including, but not limited to: public education; monitoring, removing, and regulating stormwater pollutants; other activities described in the City's New York SPDES permit; mapping; planning; regulating, reviewing and inspecting private stormwater infrastructure; operating, constructing, improving, cleaning, and maintaining the City's Stormwater System; and any and all expenses deemed reasonably necessary to the management of stormwater within the City in the judgment of the Superintendent of Public Works, as instructed from time to time by the Board of Public Works, including but not limited to the payment of debt principal and debt service, and the establishment of a reserve fund, to pay for these services.

STORMWATER SYSTEM — The system of natural and constructed conveyances for collecting and transporting stormwater, including but not limited to lakes, ponds, rivers, perennial, intermittent, and/or channeled streams, connected wetlands, open ditches, catch basins and other inlets, pipes, sewers, drains, culverts, and created stormwater management facilities that provide partial treatment by passive means such as wet detention ponds, detention basins, and stormwater wetlands.

STORMWATER USER FEE — The fee charged for costs incurred by the City in providing stormwater services.

SUPERINTENDENT — The Superintendent of Public Works, or his or her designee.

TREATMENT EFFICIENCY — As determined by the Superintendent, the calculated effectiveness, expressed as a percentage of total possible effectiveness of an ideal stormwater management practice or structure, of a stormwater management practice or structure designed to remove a desired component through quality treatment, quantity attenuation, or both, as applicable.

§ 283-2. Stormwater user fees.

A. Each developed lot in the City shall be subject to a monthly stormwater user fee equal to the product of \$4 and the number of ERUs of impervious surface area on the lot as calculated below, less any credits for the lot approved by the Superintendent pursuant to § 283-3.

- (1) Every residential lot, and each nonresidential lot with an impervious surface area less than or equal to one ERU, shall be deemed to have an impervious surface area equal to one ERU.
- (2) The number of ERUs of impervious surface area on a nonresidential lot with an impervious surface area greater than one ERU shall be calculated by dividing the lot's impervious surface area by the value of one ERU, and rounding the result up to the nearest 1/4 of an ERU.

B. Equivalent residential unit.

- (1) An equivalent residential unit is equal to 2,300 square feet.

- (2) At least once every five years, the Superintendent shall report to the Board and Common Council regarding changes in the average impervious surface areas of residential lots.
- C. Measurement of impervious surfaces.
- (1) Any owner may file an application with the Superintendent contesting the calculation of impervious surface area on the lot as of the date of the application. The applicant must submit satisfactory evidence as required by the Superintendent, such as square footage measurements and descriptions of the relevant buildings or materials. For applications submitted prior to July 1, 2015, any approved changes in calculations will take effect retroactive to January 1, 2015. For all other applications, any approved changes in calculations will take effect on the first day of the billing period beginning after the application was submitted, even if retroactive as of date of approval; no refunds or credits shall be granted for amounts billed prior to submission of the application. The applicant may appeal the determination of the Superintendent as set forth in § 283-5A.
 - (2) The Superintendent shall endeavor to update the Impervious Surface data in the City's geographic information systems at least once every five years.
 - (3) Upon close-out of any building permit under which the associated documentation or other data indicates that at least 1/4 of an ERU of impervious surface has been constructed upon a lot, the Director of Planning and Development or authorized code enforcement personnel shall provide to the Superintendent notice of the number of square feet of impervious surface added, in net, to the lot, as indicated on documentation associated with said permit, together with the applicable tax lot number. The Superintendent shall thereafter update the data in the City's geographic information systems to reflect the adjusted impervious surface area on the lot.

§ 283-3. Stormwater user fee credits.

- A. The stormwater user fee for a nonresidential lot shall be reduced as provided herein if the Superintendent certifies that the lot is eligible for one or more credits in accord with this section.
- B. Calculation of credits. The credit for a practice or structure shall be the product of: the lot's stormwater user fee, the percentage of the total impervious surface area on a lot mitigated by the practice or structure, the practice or structure's credit rate, and the practice or structure's treatment efficiency.
- C. Eligible practices. Credits are available for those stormwater management practices or structures enumerated in a detailed list entitled "approved stormwater user fee credits," maintained by the Superintendent, established by resolution of the Board, and updated from time to time by additional resolution of the Board on consultation with the Superintendent. Such updates shall only be effective in conjunction with this chapter if, at least 14 days before the Board finally votes on any such update, the Superintendent provides to the Board and to the City Controller an estimate of the probable annualized budget impact of such updates upon the stormwater account maintained by the City Controller.

- D. Review criteria. An engineered structure or practice that provides quality treatment and/or quantity attenuation shall be considered by the Superintendent using the criteria set forth herein.
- (1) The proposal must demonstrate that the practice will provide a quantifiable treatment and/or runoff control benefit to the site through engineered design principles.
 - (2) The watershed subcatchment leading to the practice must be clearly defined including the area, amount of impervious cover, flowpath, and existing and proposed land use.
 - (3) The credit for a structure will be prorated based on that structure's treatment efficiency. For example, the credit for an otherwise-qualifying structure that is designed for 10% water quality volume treatment efficiency will be reduced by 90%, as compared with a structure designed for 100% efficiency.
 - (4) Designs must follow the New York State Department of Environmental Conservation's Stormwater Management Design Manual guidelines, as amended or replaced by substantially identical guidelines.
 - (5) The owner must assume all responsibility for practice operation and maintenance. Failure to maintain the structure shall result in cancellation of the credit pursuant to § 283-3E.
- E. Administration of credits.
- (1) In order to obtain a credit, an owner must apply in a form satisfactory to the Superintendent.
 - (2) If an application is approved by the Superintendent, the resulting reduction in the stormwater user fee shall take effect with the beginning of the next billing period that begins at least 30 days after the application was approved. The Superintendent shall have the discretion to make the credit retroactive to the next billing period beginning after the application was submitted if the interests of justice so require. Unless otherwise specified, an approved credit shall continue to be applied on each future bill so long as the lot continues to be eligible for the credit; provided, however, that the Superintendent shall cancel any credit for failure to provide the City with access to inspect and confirm the lot's continuing eligibility for a particular recurring credit.
 - (3) The applicant may appeal the Superintendent's denial of an application or cancellation of a previously approved credit as set forth in § 283-5A.

§ 283-4. Stormwater account and billing.

- A. The City Controller shall create and maintain a dedicated stormwater account separate from all other City accounts or funds. All stormwater user fees, and any penalties or interest on such user fees, shall be deposited into that account, and shall be used by the City solely to provide stormwater services.
- B. Billing.
- (1) The City Chamberlain shall issue bills for stormwater user fees on a quarterly basis, or another regular, periodic basis, not less regularly than annually. The stormwater user

fees may be billed on a combined utility bill that contains other charges, including for water and/or sewer service. Stormwater user fees that are shown on a combined bill may be for a different service period than that used for other utility services.

- (2) Bill recipient.
 - (a) Single water and/or sewer account. For a lot associated with only one water and/or sewer account, the City will bill the stormwater user fee to the individual or entity receiving the utility bill for such account. The owner may elect to receive the bill or redirect the bill to a third party, with the third party's consent, by executing and submitting a form provided by the City Chamberlain.
 - (b) All other lots. For all other lots, the City will bill the stormwater user fee to the owner on a separate utility bill. The Owner may elect to redirect the bill to a third party, with the third party's consent, by executing and submitting a form provided by the City.
 - (c) In all cases, the owner is finally responsible for any unpaid stormwater user fees, including penalties and/or interest.
- (3) If a lot is incorrectly billed, or not billed, or a bill is sent to the wrong party, the City may backbill a property for a period not to exceed two years.
- (4) The Superintendent, the City Controller, and the City Chamberlain are authorized to develop billing forms, guidelines, and practices not inconsistent with this section.

C. Effect of nonpayment.

- (1) No certificate of occupancy or certificate of compliance shall be issued by the Director of Planning and Development or authorized code enforcement personnel for any building or structure located on a lot if the stormwater user fee for such portion of the lot is in arrears.
- (2) The stormwater user fee shall be payable without penalty for 30 days following the billing date. On all amounts unpaid at the expiration of such period, 5% of the amounts unpaid shall be added and collected. On all amounts remaining unpaid after 30 days following the expiration of such period, and after each period of 30 days or portion thereof thereafter, 1% of the amounts unpaid shall be added and collected, up through and including October of each year.
- (3) Any uncontested portion of the stormwater user fee, with any added penalty or interest, remaining unpaid on or before November 1 of any year shall be listed as a separate item on the subsequent year's City property tax bill. Fees which have been contested in a timely manner and which have been determined by the Board to be due and payable before November 1 of any year shall be similarly listed.

D. The Board shall prescribe, in its discretion, a schedule of application and/or inspection fees to be charged in connection with this chapter. Such fees shall be deposited in the stormwater account.

§ 283-5. Appeals and reissuance of fees.

- A. Any applicant aggrieved by the Superintendent's determination pursuant to §§ 283-2C(1) or 283-3E may appeal such decision to the Board at an open meeting thereafter. Such appeal must be in writing and explain why the Superintendent's decision should be reversed. The applicant may present evidence to the Board at the open meeting at which the appeal is considered, but such evidence must be limited to the matters stated in the written appeal.
- B. Whenever any stormwater user fee charged under the provisions of this section shall be set aside or shall be decided by any court having jurisdiction thereof to have been improperly or illegally charged or whenever it shall be ascertained that the proceedings under which said fee has been issued shall have been so far irregular and erroneous as to make the collection of such fee illegal, then the City Chamberlain is authorized to issue a new fee with the same force and effect as if it had been the original fee.

§ 283-6. Retention of existing powers.

Nothing herein shall be construed to modify or alter any power of the Common Council, Board of Public Works, Superintendent of Public Works, Planning and Development Board, or Director of Code Enforcement to require the construction, maintenance, or repair of privately maintained stormwater infrastructure at the cost of the property owner as part of site plan review or other applicable regulation.