

ORDINANCE NO. 301

AN ORDINANCE ESTABLISHING A STORM WATER UTILITY BY AMENDING THE CODE OF ORDINANCES OF THE CITY OF BADGER, WEBSTER COUNTY, IOWA, BY ADDING PROVISIONS PERTAINING TO A STORM WATER UTILITY

Be it enacted by the City Council of the City of Badger, Iowa:

WHEREAS the City of Badger will add Chapter 100 to the City Code of Ordinance pertaining to creating a Storm Water Utility.

100.01 PURPOSE. The purpose of this chapter is to establish a Storm Water Utility which shall be responsible for storm water management within the corporate boundaries of the City of Badger, Iowa, and shall provide for the management, protection, control, regulation, use and enhancement of storm water management systems and facilities.

100.02 DEFINITIONS.

1. "Customers of storm water utility" includes all persons, properties and entities served by and/or benefiting from the utility's acquisition, management, maintenance, extension and improvement of the public storm water management system and facilities.
2. "Service charge" means the periodic rate, fee or charge applicable to a parcel of developed land, which shall be reflective of the service provided by the City of Badger, Iowa storm water utility. Service charges shall be based upon the actual costs of operation, maintenance, acquisition, extension and replacement of the City's storm water management systems and facilities, including the costs regulation, administration, and services of the City.
3. "Storm water management systems and facilities" addresses the issue of drainage management and environmental quality (pollution, erosion and sedimentation) of receiving rivers, streams, creeks, lakes and ponds through improvements, maintenance, regulation and funding of plants, structures and property used in the collection, retention, detention and treatment of storm water or surface water drainage.

100.03 SCOPE AND RESPONSIBILITY FOR THE STORM WATER UTILITY. Badger storm water utility consists of all rivers, streams, creeks, branches, lakes, ponds, drainage ways, channels, ditches, swales, storm water, culverts, inlets, catch basins, pipes, dams, head walls and other structures, natural or man-made, within the corporate boundaries of the City of Badger which control and/or convey storm water through which the City intentionally diverts surface waters from its public streets and properties. The City of Badger owns or has legal access for

purposes of operation, maintenance and improvement to those segments of this system which (1) are located within public streets, right-of-ways and easements; (2) are subject to easement or other permanent provisions for adequate access for operation, maintenance and improvement of systems or facilities; or (3) are located on public lands to which the City of Badger has adequate access for operation, maintenance and improvement of systems or facilities. Operation, maintenance and improvement of storm water systems and facilities which are located on private property or public property not owned by the City of Badger and for which there has been no public dedication of such systems and facilities shall be and remain the legal responsibility of the property owner, or its occupant.

100.04 PROHIBITED ACTS. No person shall do, or allow, any of the following:

1. Damage Storm Water Management Systems and Facilities. Maliciously, willfully or negligently break damage, destroy, uncover, deface or tamper with any structure, pipe, appurtenance or equipment which is part of the storm water management systems or facilities.
2. Illicit Discharges. No person shall throw, drain or otherwise discharge or cause to throw, drain, run or allow seeping or otherwise be discharged into the City of Badger storm water management system and facilities, including but not limited to pollutants or waters containing any pollutants, other than storm water.
3. Manholes. Open or enter any manhole, structure or intake of the storm water system, except by authority of the City.
4. Connection. Connection of any private storm water system to the City's storm water management system and facilities, except by authority of the City.

100.05 RIGHT OF ENTRY. Employees of the City of Badger bearing proper credentials and identification shall be permitted to enter all private properties for the purpose of inspection, observation, measurement, sampling and testing all private storm water discharges directly or indirectly entering into any public storm water management system or facility in accordance with the provisions of this chapter.

100.06 PENALTIES. The following penalty provisions shall apply to violations of this chapter:

1. Notice of Violation. Any person found to be violating any provisions of this chapter shall be served by the City of Badger with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently remedy all violations.
2. Continuing Violations. Any person, who shall continue any violation beyond the time limit provided for in subsection 1 thereof, shall be subject to a civil penalty as set forth in the Schedule of Civil Penalties in Chapter 3 of this Code of Ordinances. Each day which said violation shall continue shall be deemed a separate offense.
3. Liability Imposed. Any person violating any of the provisions of this chapter shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

100.07 SERVICE CHARGE. Each residential, commercial and industrial customer of the storm water utility within the corporate limits of the City shall pay a service charge of \$2.00 per month. Exempt from these charges are property owned by a public governmental entity.

100.08 BILLING FOR STORMWATER SERVICE. All storm water service charges shall be billed as part of the combined service account and shall be due and payable under the same terms and conditions as set forth in Section 92.03 of this Code of Ordinances.

100.09 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for storm water service charges to the premises. Storm water service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and may be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

100.10 LIEN NOTICE. A lien for delinquent storm water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer. If the customer is a tenant and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty (30) days prior to certification of the lien to the County Treasurer.

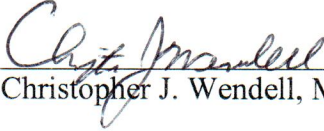
100.11 DISCONTINUANCE OF SERVICE. The City may discontinue water service to a customer who is delinquent in payment of the combined service account in accordance with the provisions contained in Section 92.04 of this Code of Ordinances. The fees for discontinuance of service, disconnection and reconnection, as set forth in Sections 92.05 and 92.06 of this Code of Ordinances shall apply.

100.12 ANNUAL REVISION OF RATES. The City will review the storm water service charges at least yearly and revise the storm water service charges as necessary to ensure that such charges as herein established and specified generate adequate revenues to pay the costs of maintenance and operation (including replacement and debt service) of a storm water management system and facilities. The liability of a storm water service user to pay for charges as provided in this chapter shall not be contingent, however, upon any such review or revision.

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.

WHEN EFFECTIVE: This ordinance shall be in effect Oct. 1, 2016 after its final passage, approval and posted as provided by law.

Passed and approved by the Council the 12 day of September, 2016.


Christopher J. Wendell, Mayor

ATTEST:


Nadine Odor, MMC