

Division 9.2.200 Stormwater Utility

Sec. 9.2.201 Creation of Stormwater Utility

Pursuant to the provisions of K.S.A. 12-3101 et seq., the City's general home rule authority, nuisance authority, police powers, and all other authority, the City Commission does establish a stormwater utility and a stormwater management system, and declares its intention to operate, construct, maintain, repair, and replace the public stormwater management system and operate the stormwater utility. (Ord. No. 3829, § 2, 4-14-2011)

Effective on: 8/31/2016

Sec. 9.2.202 Findings and Determinations

- A. **Findings, Determinations, and Declarations.** The City Commission finds, determines, and declares that the elements of the stormwater management system providing for the collection, conveyance, detention, retention, treatment, and release of stormwater benefit and provide services to real property within the incorporated city limits.
- B. **Benefits.** The benefits of the stormwater management system include, but are not limited to:
1. The provision of adequate systems of collection, conveyance, detention, retention, treatment, and release of stormwater;
 2. The reduction of hazards to property and life resulting from stormwater runoff;
 3. Improvement in general health and welfare through reduction of undesirable stormwater conditions;
 4. Improvement of water quality in the storm and surface water system and its receiving waters; and
 5. Appropriate balancing between development and preservation of the natural environment.
- C. **Achievements.** The stormwater management system will also:
1. Initiate innovative and proactive approaches to stormwater management within the City to address problems in areas of the City that currently are prone to flooding;
 2. Protect against replication of these types of problems and the creation of similar problems in newly developing areas of the City; and
 3. Assist in meeting the mandates of the National Pollutant Discharge Elimination System (NPDES), as created under the Federal Clean Water Act and associated State and Federal laws and their supporting regulations.
- D. **Necessities.** Both standard and innovative stormwater management are necessary in the interest of the public health, safety, and general welfare of the residents, businesses, and visitors of the City.
- E. **Public Monies.** Implementation of the stormwater management system will require the expenditure of significant amounts of public money.
- F. **Beneficiaries.** All developed property in the City will benefit from the stormwater management system.
- G. **Cost Distribution.** The City desires to fairly distribute costs of the stormwater management system implementation among all developed property which generates the need therefore.
- H. **Establishment of Stormwater Utility.** The City has determined that the establishment of a stormwater utility is an appropriate method of funding certain portions of the costs of implementing the stormwater management system.
- I. **Study.** The City commissioned a study that was prepared by Camp Dresser & McKee, Inc., to assist the City in developing the stormwater utility and to recommend an ERU and an ERU rate.
- J. **Fees Determined Reasonable.** The governing body has evaluated the study and recommendations and hereby determines that the fees set forth are reasonable and necessary.
- K. **Fee Determination.** The stormwater utility user fee imposed by this Code, is calculated by a formula that reasonably relates classes of property within the City to their anticipated use of or benefit from the stormwater management system, and such fee is neither a tax nor a special assessment, but a charge for services rendered or available.

- L. **Fee Collection.** The City has researched collection options and hereby determines that in order to promote efficiency, eliminate duplication of services, and utilize the most economically feasible method of fee collection, the stormwater utility user fee should be included as a separate item on the City of Hays monthly utility bill. (Ord. No. 3829, § 3, 4-14-2011)

Effective on: 8/31/2016

Sec. 9.2.203 Administration

Refer to Sec. [11.1.305](#), *Stormwater Superintendent*.

Effective on: 8/31/2016

Sec. 9.2.204 Operating Budget

The City shall, as part of its annual budget process, adopt an operating budget for the stormwater utility. The operating budget shall conform with state law, City policy, and generally accepted accounting practices. (Ord. No. 3829, § 5, 4-14-2011)

Effective on: 8/31/2016

Sec. 9.2.205 Stormwater Management Service Fee

- A. **Service Fee Established.** Subject to the provisions of this Article, there is imposed on each and every residential developed property and nonresidential developed property, other than property that is not serviced by the stormwater management system or exempt property, a stormwater management service fee. This stormwater management service fee shall be determined and set by the provisions of this Article in accordance with the ERU and the ERU rate. The fee shall be established by ordinance of the City Commission and may be amended from time to time by the City Commission, by resolution.
- B. **ERU.** The ERU is hereby established for the purposes of calculating the stormwater utility user fee. The ERU is hereby established to be 3,369 square feet of impervious area.
- C. **ERU Rate.** The initial ERU rate to be used to calculate the stormwater utility user fee is \$3.62 per ERU per month and may hereafter be reviewed every year, with recommended revisions set by resolution of the City Commission.
- D. **Stormwater Management Service Fee for Residential Developed Property.** The stormwater management service fee for residential property shall be the ERU rate multiplied by the number of individual dwelling units existing on the property. For a newly constructed dwelling unit, the charge for the stormwater management service fee attributable to that dwelling unit shall commence upon the issuance of the temporary certificate of occupancy, certificate of occupancy, certificate of compliance, or issuance of the first billing of the water utility, whichever is issued first for that dwelling unit. The minimum stormwater management service fee for any residential developed property shall be equal to one ERU rate.
- E. **Stormwater Management Service Fee for Nonresidential Developed Property.** The stormwater management service fee for nonresidential developed property shall be the ERU rate multiplied by a numerical factor calculated by dividing the total impervious area of the property by the number of square feet in one ERU. In performing this calculation, the numerical factor shall be rounded to the nearest whole number. The minimum stormwater management fee for any nonresidential developed property shall be equal to one ERU. For a newly developed nonresidential developed property, the charge for the stormwater management service fee attributable to that development shall commence upon the issuance of the temporary certificate of occupancy, certificate of occupancy, certificate of compliance, or issuance of the first billing of the water utility, whichever is issued first. In the event of additional development to property that is already developed property, the charge for the stormwater management service fee attributable to that additional development shall commence upon the issuance of the temporary certificate of occupancy, certificate of occupancy, certificate of compliance, or issuance of the first billing of the water utility, whichever is issued first.
- F. **Dwelling Unit and Impervious Surface Calculation.** The Stormwater Superintendent shall initially, and from time to time, determine the number of dwelling units located on residential developed property in order to establish the stormwater management service fee as provided for in this Section. Nonresidential developed property in the City shall have its square footage of impervious area calculated in order to establish the stormwater management service fee as provided for in this Section. The Stormwater Superintendent shall make the initial calculation with respect to existing nonresidential developed property and may from time to time change this calculation from the information

and data deemed pertinent by the Stormwater Superintendent. With respect to property proposed to be nonresidential developed property, the applicant for development approval shall submit square footage impervious area calculations, in accordance with the submission requirements, as set forth in Section 11-479 of the Code of Ordinances of the City of Hays, Kansas. (Ord. No. 3829, § 6, 4-14-2011)

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Sec. 9.2.206 Appeal Procedure

Refer to Sec. 11.2.311, *Appeal of Stormwater Management Service Fee*.

Effective on: 8/31/2016

Sec. 9.2.207 Stormwater Management Service Fee Collection

- A. **Method of Payment.** The stormwater management service fee shall be billed and collected in the same manner as other City utility fees. The stormwater management service fee shall be shown as a separate item on the City of Hays utility bill. The payment of stormwater management service fee bills for any given property shall be the responsibility of the owner of the property.
- B. **Penalty for Late Payment.** To the extent permitted by applicable law, stormwater management fees shall be subject to interest and penalties for late payment, shall constitute a lien on the applicable property, and shall be collected in a manner as like assessed fees for nuisance abatements, regardless of whether the stormwater management service fees were incurred when a property owner was in possession of the property or a non-owner was in possession of the property. (Ord. No. 3829, § 8, 4-14-2011)

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Sec. 9.2.208 Stormwater Utility Fund

Stormwater management service fees collected by the City shall be paid into a fund that is hereby created and shall be known as the "stormwater utility fund." This fund shall be used for the purpose of paying costs of capital improvements, administration of the stormwater utility, operation and maintenance, and debt service of the stormwater management system, and for carrying out all other lawful purposes of the utility. (Ord. No. 3829, § 9, 4-14-2011)

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