

A CHARTER ORDINANCE EXEMPTING THE CITY OF ABILENE FROM THE PROVISIONS OF THE WATER POLLUTION ACT AS CONTAINED IN K.S.A. 12-3101 ET SEQ. BY PROVIDING ADDITIONAL PROVISIONS RELATING TO THE ESTABLISHMENT, OPERATION, AND MAINTENANCE OF A STORM WATER UTILITY THEREBY ADDING CHAPTER 7, ARTICLE 12 TO THE CITY OF ABILENE MUNICIPAL CODE.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ABILENE, KANSAS.

SECTION 1:

The City of Abilene, Kansas, by virtue of the powers vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself from the provisions of the Water Pollution Act as contained in K.S.A. 12-3101 et seq. and in lieu thereof does here adopt the following provisions relating to the establishment, operation, and maintenance of a Storm Water Utility thereby adding Chapter 7, Article 12 to the City Code, creating a Storm Water Utility to read as follows:

ARTICLE 12. STORM WATER UTILITY

7-1201 DEFINITIONS

In addition to the words, terms and phrases elsewhere defined in this Chapter, the following words, terms and phrases as used in this Chapter shall have the following meanings:

- A. "BONDS" - means revenue or general obligation bonds or notes heretofore or hereafter issued to finance the costs of improvements.
- B. "CENTRAL BUSINESS DISTRICT" - means all property as set forth in Attachment "A".
- C. "COMMERCIAL AND INDUSTRIAL DEVELOPED PROPERTY" - means developed property other than residential developed property and includes multi-family residential developed property for two (2) family units or more.
- D. "COSTS OF CAPITAL IMPROVEMENTS" - means costs incurred in providing capital improvements to the storm water management system or any portion thereof, including professional services and studies connected thereto, payment of principal and interest on bonds, heretofore or hereafter issued, including payment of delinquencies of principal and interest due on bonds that are not otherwise payable from special assessments; studies related to the operation of the system; and the costs of any studies performed heretofore in relation to the establishment of the storm utility and other start-up costs of the Storm Water Utility.

- E. "DEBT SERVICE" - means an amount equal to the sum of:
- (i) all interest payable on bonds during a fiscal year, plus
 - (ii) any principal installments payable on such bonds during such fiscal year.
- F. "DEVELOPED PROPERTY" - means real property other than undeveloped property.
- G. "DRAINAGE FEE" or "DRAINAGE FEES" - means a monetary fee authorized by resolution of the City Commission, which may be amended from time to time by the Commission, that has been established to pay operation and maintenance, extension and replacement, costs of capital improvements, and debt service associated with the storm water management system.
- H. "DRAINAGE UNIT" - means the equivalent amount of storm water runoff generated by the impervious surfaces of an average single-family residence and its accessory uses.
- I. "EXEMPT PROPERTY" - means public right-of-way, public streets, public alleys, public sidewalks, and other property as may be exempted from time to time by Storm Water Appeal Board; it also means public property upon which publicly owned and maintained storm drainage facilities are constructed.
- J. "EXTENSION AND REPLACEMENT" - means costs of extension, addition and capital improvements to, or the renewal and replacement of capital units of, or purchasing and installing of equipment for, the storm water management system, or land acquisition for the storm water management system and any related costs thereto, or paying extraordinary maintenance and repairs, including the costs of capital improvement or other expenses that are not costs of operation and maintenance or debt service.
- K. "IMPERVIOUS SURFACE" - means any building, structure or surfaced area consisting of gravel, rock, brick, bituminous, concrete or other material in a compacted condition used for storage, parking, driving or other activities.
- L. "MULTIPLE-FAMILY DWELLING UNIT" - means a single structure used as permanent housing and containing two or more households in separate dwelling units.
- M. "OPERATION AND MAINTENANCE" - means without limitation the current expenses, paid or accrued, of operation, maintenance, and current repair of the system, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, equipment costs, labor costs, and the cost of materials and supplies used for current operations.

N. "REVENUES" - means all notes, fees, assessments, rents, or other charges or income received by the Storm Water Utility in connection with the management and operation of the Storm Water Utility system, including amounts received from the investment or deposit of monies in any fund or account, and bond revenues.

O. "SINGLE FAMILY DWELLING UNIT" - means a single structure used as permanent housing for a single family, including those units in manufactured home parks.

P. "STORM WATER MANAGEMENT SYSTEM", "SEWER SYSTEM", or "SYSTEM" - means storm sewers and related facilities that exist at the time of the adoption of this ordinance or that are hereafter established and all appurtenances necessary in the maintaining and operating of the same, including, but not limited to, pumping stations, lateral sewers, main sewers, interceptor sewers, out-fall sewers, drain channels, rivers, streams, and other flood control facilities and works for the collection, transportation, pumping, treatment, and disposing of storm or surface water.

Q. "STORM WATER UTILITY" or "UTILITY" - means the utility created by this ordinance to operate, maintain, and improve the storm water management system, and for such other purposes as are set forth in this ordinance.

R. "UNDEVELOPED PROPERTY" - means real property which has not been altered from its natural condition in a manner which disturbs or alters the topography or soil on the property to the degree that the entrance of water into the soil mantle is prevented or retarded.

7-1202 CREATION OF STORM WATER UTILITY:

In order to protect life and property throughout the City from the hazards and potential damage from storm water runoff, there is hereby established a Storm Water Utility and Management System, the purpose of which is to assist the City of Abilene in its responsibility for the operation, construction, maintenance, and repair of storm water drainage system facilities to provide adequate systems of collection, conveyance, detention, treatment, and release of storm water.

7-1203 PROGRAM RESPONSIBILITY:

The City Manager shall be empowered to administer the Storm Water Utility and Management System may delegate such duty and responsibility as is necessary to carry out the provisions of this Ordinance within the limits of the budget, directives, and storm drainage regulations adopted by the City commission for this utility. The City Manager or his designee shall have the following responsibilities:

- (a) To develop a plan for construction, operation, reconstruction, repair and maintenance of the various facilities that make up the City's storm drainage and sewer system including but not limited to curbs and gutters, storm drain inlets, storm drain pipes, ditches, culverts, canals, detention basins, berms and levees;

- (b) To develop a recommended five (5) year capital improvement plan for needed improvements to existing facilities and/or development of new facilities;
- (c) To carry out a program of work directives, and resolutions as adopted by the City Commission;
- (d) To enforce all regulations pertaining to storm water including the retention of or discharge from private property;
- (e) Review private systems as necessary to determine the compliance of such systems with this Chapter;
- (f) Advise the Mayor, City Commission, and staff on matters relating to this utility;
- (g) Prepare and review a comprehensive drainage plan for the City of Abilene;
- (h) Review plans and approve, deny, inspect, and accept extensions and connections to the system;
- (i) To analyze the costs of services and benefits provided and to recommend fees, charges, fines, and other revenues of the Storm Water Utility.

7-1204 OPERATING BUDGET:

The City shall adopt an operating budget for each fiscal year for said Storm Water Utility. The operating budget shall set forth for each fiscal year the estimated revenues and the estimated costs for operation and maintenance, extension, replacement, and debt service. The initial operating budget shall be for the fiscal year commencing January 1, 2000.

7-1205 DRAINAGE UNIT ASSESSMENT:

- (a) There is hereby established for each and every single family dwelling, multiple family dwelling, and all commercial and industrial developed property within the City, other than property declared exempt by the provisions of this Chapter, a drainage assessment. Such drainage assessment shall be established based on the following formula:
 - (i) Drainage Assessment for Single Family Dwelling Unit: All property shall be assessed one drainage unit.
 - (ii) Drainage Assessment for Multiple Family Dwelling Unit shall be assessed as follows:

- A. Up to six units, 0.7 DU per unit.
 - B. Up to 40 units, 0.5 DU per unit.
 - C. Over 40 units, 0.4 DU per unit.
- (iii) Drainage Assessment for Central Business District Property: One drainage unit for each 25 feet or increment of frontage, with double-frontage and corner lots assessed for the shortest frontage.
- (iv) Drainage Assessment for Commercial and Industrial Developed Property, excluding the central business district as shown in Exhibit "A": All such property shall be assessed drainage units based on the following Table:

<u>Impervious Surface Area</u>	<u>Drainage Units</u>
Less than 20,000 SF	3.00
20,000 to 29,999 SF	3.50
30,000 to 39,999 SF	4.00
40,000 to 49,999 SF	5.40
50,000 to 59,999 SF	6.80
60,000 to 69,999 SF	8.50
70,000 to 79,999 SF	10.20
80,000 to 89,999 SF	11.90
90,000 to 99,999 SF	13.60
100,000 to 119,999 SF	17.00
120,000 to 139,999 SF	20.40
140,000 to 159,999 SF	23.80
160,000 to 179,999 SF	27.30
180,000 to 199,999 SF	30.70
200,000 to 219,999 SF	34.10
220,000 to 239,999 SF	37.50
240,000 to 259,999 SF	40.90
260,000 to 279,999 SF	44.30
280,000 to 299,999 SF	47.70
300,000 to 319,999 SF	51.10
320,000 to 339,999 SF	54.50
340,000 to 359,999 SF	57.90
360,000 to 379,999 SF	61.30
380,000 to 399,999 SF	64.80
400,000 to 419,999 SF	68.20
420,000 to 439,999 SF	71.60
440,000 to 459,999 SF	75.00
460,000 to 479,999 SF	78.40
480,000 to 499,999 SF	81.80
500,000 and Over	85.20

- (v) Undeveloped property in its natural state with no buildings or impervious areas will not be assessed a drainage unit.

7-1206 APPEAL PROCEDURE:

- (a) Any person disagreeing with the calculations of the drainage unit assessment may appeal such determination to the City Engineer. Any appeal must be in writing. The City Engineer or his/her designee shall thereupon hold an informal hearing. The City Engineer or designee, prior to such hearing, may request that the appealing party provide information concerning the basis of the appeal, including a land survey prepared by a registered surveyor of the area in question, if such information is deemed to be material by the City Engineer or designee. Based upon information provided, the City Engineer or designee shall make a determination of the drainage assessment for such property. The City Engineer shall notify the parties in writing of the City Engineer's decision.
- (b) A person shall have the right to appeal the decision of the City Engineer to the Storm Water Appeal Board. Such appeal shall be made within twenty (20) days of the date of the City Engineer's notification of the decision in the informal proceedings. Such appeals shall be in writing and shall be filed with the City Engineer.
- (c) The Storm Water Appeal Board shall consist of the following members:
 - City Manager or designee
 - Director of Planning
 - Director of Public Works
- (d) A hearing on such appeal shall be held within thirty (30) days from the date the notice of appeal is received and the appealing party shall be given seven (7) days advance notice of the time and date of the appeal hearing. At such hearing, the appealing party shall present evidence concerning the drainage assessment for the property in question and the City Engineer or his or her designee shall present evidence concerning their findings from the informal proceedings. The Storm Water Appeal Board shall render a decision in writing that sets forth such findings that support their decision within seven (7) days of the hearing. The decision of the Storm Water Appeals Board shall be final and any further appeal of such decision shall be to the District court of Dickinson County, Kansas, in accordance with the provisions of K.S.A. 60-2101(d).

7-1207 FEE SCHEDULE ESTABLISHED:

There is hereby imposed on all developed property within the City, except property declared exempt under the provisions of this Chapter, a Storm Water Utility fee. The amount of the Storm Water Utility fee for such property shall be based on the number of drainage units assessed against the property and shall be set by Commission Resolution.

7-1208 STORM WATER UTILITY FEE COLLECTION:

- (a) Storm Water Utility fees shall be billed and collected monthly with the monthly water and sewer utility for those properties utilizing such City utilities and shall be billed and collected separately at intervals as set by the City Engineer for those properties not utilizing such City utilities. The Storm Water Utility fee for those properties utilizing City utilities shall be part of a consolidated statement for utility customers which shall be paid in a single payment. In the event that a partial payment is received, the payment shall be applied proportionately between all accounts appearing on the consolidated billing. Unless otherwise provided for herein, all billings for drainage fees shall become due and payable in accordance with sections of the Code of the City and with rules and regulations which pertain to City utilities that relate to collection of utility charges. Storm Water Utility fee billing for any given property shall initially be the responsibility of the person who is paying for water and/or sewer service for the property. If the property is not using water and/or sewer services, then drainage fees shall be the responsibility of the person in possession of the property. If no person is in possession of the property, the drainage fee shall be the responsibility of the property owner. The property owner is responsible for Storm Water Utility fees not paid by the occupant.

- (b) Storm Water Utility fees shall be subject to a penalty for late payment which is the same as that imposed for late payment of water and sewer utility charges. In addition to any other remedies or penalties provided by this Chapter or any other Ordinance of the City, failure of any user of the Storm Water Management System to pay said charges promptly when due shall subject such user to discontinuance of city utility services and the City Manager of the City, or the City Manager's designee, is hereby empowered and directed to enforce this provision as to any and all delinquent users in accordance with provisions set forth in the City Code. Users shall be entitled to notice before city utility services are disconnected for failure to pay Storm Water Utility fees.

7-1209 STORM WATER UTILITY FUND:

- (a) All Storm Water Utility fees collected shall be paid into an Enterprise Fund which is hereby created to be known as the Storm Water Utility Fund. Such funds shall be used for the purpose of paying the costs of operation, capital improvements, construction, reconstruction, repair and maintenance of the storm water facilities of the City and to carry out all other purposes of this utility. To the extent that the Storm Water Utility fees collected are insufficient to construct the needed storm water drainage facilities, the costs of same may be paid from such City funds as may be determined by the City Commission, but the City may order reimbursement of such fund if additional fees are thereafter collected. When the fund has surplus dollars on hand in excess of current needs, the surplus dollars shall be invested to return the highest yield consistent with proper safeguards. Any interest earned on invested funds, bond revenues, and other revenues shall be placed in the Storm Water Utility fund.

- (b) Storm Water Utility fees and charges paid and other revenue received shall not be used for general or other governmental or proprietary purposes of the City.
- (c) Nothing in this Chapter shall be so construed as to limit or restrict the planning, engineering, capital improvements, construction, reconstruction, repair, operation, or maintenance of storm water facilities through other means including but not limited to other City fees and taxes, bonds, grants, special improvement districts, contributions from other agencies, interlocal cooperation agreements, or private contributions.

SECTION 2:

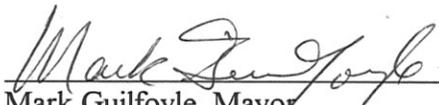
Any provisions of the existing City Code inconsistent or in conflict with the provisions of this Ordinance are hereby repealed to the extent of any such conflict; otherwise, all other provisions of the Code are hereby ratified and confirmed.

SECTION 3:

The City Clerk shall make proper publication of this Charter Ordinance once each week for two (2) consecutive weeks in the official City newspaper. this charter Ordinance will take effect 61 (sixty-one) days after final publication unless a sufficient Petition for a referendum is filed requiring a referendum to be held on this Ordinance as provided in Article 12, Section 5(c)(3) of the Constitution of the State of Kansas in which case this Ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED BY THE GOVERNING BODY this 13th day of December, 1999.





Mark Guilfoyle, Mayor



Doris M. Arneson, City Clerk