

CITY OF ESSEX JUNCTION, VT**MUNICIPAL CODE****CHAPTER 21****REGULATION OF STORMWATER UTILITY****SECTION 2101. PURPOSE**

- a) The Essex Junction Stormwater Utility is established pursuant to 24 App, V.S.A. c. 4 §201; 24 V.S.A. 1971; and 24 V.S.A. Chapter 101, including 24 V.S.A 3616(b)(6) defines the Equivalent Residential Unit (ERU) concept and 24 V.S.A3616(c). The basic purpose of the utility is to administer the City's Stormwater Management Program, including stormwater infrastructure maintenance and repair, permitting, and capital improvements. The utility is a division of the City's Stormwater Department.
- b) The purpose of this Ordinance is to provide for the health, safety, and general welfare of the citizens of the City through the regulation of stormwater discharges to the stormwater system.
- c) The stormwater utility provides a stable and adequate source of revenue for the City's Stormwater Management Program which allocates the costs of stormwater services across every stormwater "user" in the City through a stormwater utility fee (or user *fee*). The impervious surface area on individual properties is the basis for the fee charged to property owners in the City. The stormwater fee that a property owner pays is directly proportional to the impervious surface found on the property.

SECTION 2102. ADMINISTRATION

Except where specifically noted in this Ordinance, the Water Quality Superintendent shall administer, implement, and enforce the provisions of this Ordinance. The powers and duties granted to and held by the Water Quality Superintendent in Chapters 19-21 of the City of Essex Junction Municipal Code may be delegated by the Water Quality Superintendent, at the Superintendent's discretion, to another qualified employee of the City of Essex Junction if the delegation is deemed appropriate and necessary by the Superintendent to achieve the intent and purpose of these Chapters.

SECTION 2103. DOCUMENTS REFERENCED

- a) City of Essex Junction Utility Billing Policy
- b) City of Essex Junction Stormwater Utility Credit Manual
- c) City of Essex Junction Land Development Code

SECTION 2104. DEFINITIONS

“Best Management Practices” or “BMPs” shall mean any structural or non-structural site improvements recognized as the most effective and practical means to prevent and reduce stormwater

volumes and flows to achieve water quality goals. BMPs include measures to prevent pollution and measures to mitigate pollution. BMPs include schedules of activities, prohibitions of practices, pollution prevention, education practices, natural resource protection, maintenance and operating procedures, management and treatment practices, and measures to control site runoff, spills, or leaks and reduce pollution.

“Credit” shall mean an annual reduction in a parcel’s normally calculated stormwater fee for certain qualifying activities that reduce the impact of increased stormwater runoff resulting from development, or provide an ongoing public benefit related to stormwater management. The annual reduction in fee is subject to continued compliance with the terms of this manual.

“Department of Stormwater” shall mean the employees, contractors, or designees of the City of Essex Junction Water Quality Superintendent.

“Developed Property” shall mean any property that is altered from a natural state by construction, or installation of improvements such as buildings, structures, or other impervious surfaces.

“Equivalent Residential Unit” (“ERU”) shall refer to the unit of measurement used to bill stormwater fees. It is equal to the square footage that represents the median of the area of impervious surface for all Single-Family Residential properties in the city.

“Exempt from stormwater fee” shall refer to 1) properties included within the limits of a railroad track right-of-way (property on which railroad stations, maintenance buildings, or other developed land used for railroad purposes is located shall not be exempt), , 2) properties that are required to develop and meet “Required Agricultural Practices” Sect.10V.S.A.§1264 and 3) those included within the limits of a public road right-of-way.

“Impervious area, surface, or cover” shall mean developed areas of land that prevent or significantly impede the infiltration of stormwater into the soil. Typical impervious surfaces include, but are not limited to roofs, sidewalks, walkways, driveways, parking lots, access extensions, alleys, and other paved, engineered, compacted, or gravel surfaces.

“Municipal Separate Storm Sewer System” and “MS4” shall mean a collection system or conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains): (i) owned or operated by the City of Essex Junction or another designated MS4 entity that discharges to surface waters or groundwater; (ii) designed or used for collecting or conveying or discharging stormwater and groundwater entering the system; (iii) which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works (POTW) as defined in 40 CFR, Section 122.2.

“Non-Single Family Residential” (“NSFR”) shall refer to all properties that are not Single Family Residential. This includes government properties, including those owned by the City of Essex Junction, the State of Vermont, and the federal government.

“Non- Structural BMPs” BMPs that use natural measures involving site characteristics to reduce the volume of stormwater or eliminate the source of the pollutant.

“Parcel” and “Property” shall mean any lot, subdivided piece of land or real property, unit of land, any subset of land, land owned in common, or a condominium unit or condominium association in the City of Essex Junction that could legally be sold as a separate entity as of January first of the year the fee is based on, and has a separate parcel identification number, map identification number or is identified as a

separate parcel. Included in this definition are all roadways owned by the City, the State, and the Federal Government.

“Single Family Residential” (“SFR”) shall mean property comprised of the following property types as defined in the city’s Land Development code: Dwelling, Single-Family, Dwelling, Two-Family or Duplex, or Dwelling, Three-Family or Triplex.

“Stormwater” shall mean any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

“Stormwater Runoff” shall mean flow on the surface of the ground, resulting from precipitation.

“Stormwater Treatment Practice (STP)” shall mean measures, either structural or non-structural, that are determined to be the most effective, practical means of preventing or reducing point source or non-point source stormwater pollution inputs to stormwater runoff and water bodies.

“Structural BMPs” are devices engineered and constructed to provide treatment and temporary storage of stormwater runoff.

“Transportation Separate Storm Sewer System, or TS4” shall mean Vermont Agency of Transportation owned or controlled state highways, sidewalks, multi-use pedestrian paths, welcome centers, airports, gravel pits, mineral mining facilities, maintenance facilities, park & rides, truck weigh stations, and other impervious surfaces, and Vermont Agency of Transportation owned facilities leased to third parties, except for rail lines, rail yards, public transit facilities, and rail trails.”

“Undeveloped Property” shall mean any property that exists in a natural state.

“Water Quality Superintendent” shall mean the person who manages the stormwater and wastewater departments. Also referred to as the Superintendent in this document.

SECTION 2105. ESTABLISHMENT OF STORMWATER UTILITY AND USER FEES

- a) A user fee based on an equivalent residential unit (“ERU”) shall be imposed on every owner of non-exempt Developed Property within the City, including tax-exempt properties.
- b) The City Council shall have the authority to set and modify the user fee rates so that the total revenue generated by said charges, and any secondary sources of revenue, shall be sufficient to fund the City's Stormwater Program.
- c) The City Council shall establish by motion the annual rate for each ERU.
- d) Impervious areas in the City shall be re-evaluated periodically. The City Council shall, by motion, establish the square footage that constitutes one ERU on a periodic basis.
- e) Fees will be calculated in accordance with the property customer class: SFR or NSFR, as defined in Section 2104 above.

SECTION 2106. ASSIGNMENT OF ERUs

- a) Parcels containing less than 500 square feet of impervious area shall be assigned zero (0) ERU, regardless of customer class.
- b) Each SFR property is assigned one (1) ERU.
- c) Each NSFR property is assigned the number of ERUs equal to the measured impervious surface on the parcel divided by ERU value and rounded up to the nearest integer.
- d) Exempt properties shall include property regulated under the Required Agricultural Practices for discharges of agricultural waste or agricultural nonpoint source pollution pursuant to 24 V.S.A § 4414(9) as amended; properties included within the limits of a railroad track right-of-way (property on which railroad stations, maintenance buildings, or other developed land used for railroad purposes is located shall not be exempt) and those included within the limits of a public road right-of-way

SECTION 2107. CREDITS

- a) The City stormwater utility offers credits against the stormwater fee for stormwater service customers who undertake specific, approved actions that reduce the impact of stormwater runoff on the public stormwater system, or provide an ongoing public benefit related to stormwater management. A credit is an ongoing reduction in the fee.
- b) Stormwater fee credits are offered by the stormwater utility to NSFR properties. Refer to the City's Stormwater Utility Credit Manual for detailed definitions of each credit type, credit policies, and the application approval process.
- c) To qualify for any of the user fee credits, the stormwater utility customer must submit a complete credit application form and submit it by mail or electronically by email to the Water Quality Superintendent. The application will be evaluated to determine the amount of credit that an individual parcel will be given, which shall be within the Water Quality Superintendent's sole discretion. Eligibility for user fee credits is independent of the State Stormwater permitting process. Properties both with and without valid State Stormwater permits are equally eligible for user fee credits.

SECTION 2108. BILLING AND COLLECTIONS

- a) Stormwater user fees will be billed tri-annually and shall be reflected on the utility bills for each property owner, where applicable, or a separate Stormwater bill. The bill shall also state the ERUs allocated to each property.
- b) A Property owner may appeal an allocation of ERUs to the Water Quality Superintendent by submitting a written notice of appeal within fifteen (15) calendar days of the mailing date of the bill. The Water Quality Superintendent shall promptly communicate with the property owner and issue a decision on the allocation of ERUs. A property owner may appeal the Water Quality Superintendent's determination regarding credit revocation in the same manner. The filing of an appeal shall not relieve a property owner of the obligation to pay the user fee when due.

- c) In the event any Stormwater user fee is not paid within thirty (30) days from the billing date, a late penalty charge will be added to the fee together with interest charges. The amount of the late penalty charge and the interest rate on the overdue accounts shall be the same as those applied to delinquent utilities. If such payment is not made, Stormwater user fees will be collected using the City's Delinquent Utility and Shut Off policy.
- d) Property owners have a right to appeal their bills if they believe that the fee is in error. The City's Stormwater bill appeal policies shall be up to the discretion of the City Manager and are outlined in the Billing Policy document.

SECTION 2109. ESTABLISHMENT OF ENTERPRISE FUND

- a) The user fees, as well as any secondary sources of revenue, shall be used to fund the City's efforts to manage Stormwater in the municipality and operate the City's system for Stormwater collection, conveyance, and treatment.
- b) Revenues from user fees will be placed into the Stormwater Enterprise Fund and may be retained and expended in the manner set forth herein.
- c) The City Council shall establish a dedicated Stormwater Enterprise Fund in the City budget and an accounting system to manage all funds collected for the purposes and obligations of the Stormwater program. All revenues and receipts of the Stormwater program shall be placed in the Stormwater Enterprise Fund, which shall be separate from all other funds. Fees will be set at a rate that covers the costs associated with Stormwater management, collection, conveyance, treatment, planning, staffing, engineering, maintenance and repair, public education, capital improvements, technical assistance, customer service, and other services approved by the City to implement the purposes of the Stormwater program as set forth herein. The City Council may consider both Stormwater quality and quantity management needs in determining whether to expend any funds in the Stormwater Enterprise Fund, and the use of the fund is limited to operating expenses, nonoperating expenses such as equipment, payment of principal and interest on debt obligations, capital improvement projects, reserve expenses, and other costs as deemed necessary by the City Council. Excess revenues may be placed into a reserve fund and may be retained and expended pursuant to the provisions of this Chapter.

SECTION 2110. PENALTY

Any person violating any of the provisions of Chapters 21 of the City of Essex Junction Municipal Code ("this Ordinance") shall be subject to a civil penalty of Five Hundred Dollars (\$500) for each violation. Each day that any violation of any of the provisions of this Ordinance or a permit issued hereunder continues shall constitute a separate offense. The City may recover all attorney's fees, court costs, and other expenses associated with the enforcement of this Ordinance including sampling and monitoring expenses.

SECTION 2111. APPEALS TO CITY COUNCIL

Any interested person who believes that the staff has committed an error in making a decision or taking an action may appeal such act or decision to the City Council by filing a written Notice of Appeal with the City Clerk within 15 calendar days of the subject action or decision. The Notice of Appeal must identify the decision or action appealed from and identify the issues on appeal.

The Council shall conduct a duly warned Public Hearing. The Council shall take testimony and consider all relevant evidence before it and issue a written decision. A party aggrieved by a decision of the City Council may appeal the decision to the Vermont Superior Court, Civil Division, within 30 days of the date of the decision pursuant to Vermont Rule of Civil Procedure 75.