

**ORDINANCE #692**  
**AN ORDINANCE TO AMEND MARQUETTE CITY CODE CHAPTER 48 –  
UTILITIES BY REPEALING ARTICLE VI – STORMWATER UTILITY AND  
ADOPTING A NEW ARTICLE VI – STORMWATER UTILITY**

**The City of Marquette Ordains:**

**SECTION 1. Repeal.**

*Chapter 48 – Utilities, Article VI – Stormwater Utility* is hereby repealed.

**SECTION 2. Adoption.**

*New Chapter 48 – Utilities, Article VI – Stormwater Utility* is hereby adopted as follows:

**ARTICLE VI. - STORMWATER UTILITY**

**Sec. 48-186. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Best management practices* or *BMPs* means the combination of practices that form an effective, predictable means of preventing or reducing stormwater pollution generated by dischargers into the system.

*Clean Water Act* means the Federal Water Pollution Control Act, 33 USC 1251 et seq., as amended, and applicable regulations promulgated thereunder.

*Developed parcel* means a parcel upon which manmade improvements have been made, such as buildings, roads, parking areas and lawns. Undeveloped areas include forested areas and property in its natural state, free of manmade improvements.

*Discharger* means any individual, firm, partnership, association, public or private corporation or public agency or instrumentality or any other entity owning or in possession of a parcel of property which directly or indirectly impacts, influences or has an effect upon the system. For purposes of any judicial proceeding in connection with a violation of this article, the term "discharger" shall include any employee, officer, director, partner or other individual who was affiliated with such property owners or operator and was directly involved with, or responsible for, any act or omission which violated this article.

*Equivalent hydraulic acre* or *EHA* means a measure of the amount of stormwater runoff a parcel will produce from a precipitation event. A parcel's EHA is based upon the amount of

pervious and impervious areas within the parcel multiplied by the runoff factors applicable to each.

*Impervious land area* means the surface area within a parcel that is covered by any material which retards or prevents the entry of water into the soil. The term "impervious land area" includes, but is not limited to, surface areas covered by buildings, porches, patios, parking lots, driveways, walkways and other structures. Generally, all non-vegetative land areas shall be considered impervious.

*On-site detention* means any facility employed to reduce the rate of stormwater discharge from a property to the stormwater system.

*On-site retention* means the withholding of all stormwater from the system in an on-site area for a sufficient time to provide for it to dissipate by evaporation, infiltration into the soil, or other natural means in which no connection is made to the stormwater system directly or indirectly.

*Parcel* means a designated lot, tract or other area of land established by plat, subdivision, tax record description or as otherwise permitted or existing by law.

*Pervious land area* means all surface area within a parcel which is not impervious land area.

*Pollutant* means any substance defined as a pollutant under the Clean Water Act.

*Precipitation event* means any occurrence of atmospheric precipitation of water which can be characterized as a separate storm event. The terms "rain," "rainstorm," "rainfall," "snow," "snowstorm," "sleet," "hailstorm," etc., shall be considered synonymous with the term "precipitation event."

*Stormwater* means the runoff and drainage of precipitation resulting from rainfall or snowmelt or similar precipitation event.

*Stormwater system* means all rivers, streams, tributaries and lakes, including Lake Superior, within the city limits and all city-owned storm sewers, culverts, retention and detention facilities, lift stations, curbs, gutters, and all other appurtenances now and thereafter existing, used or useful, in connection with the collection, control, transportation, treatment, or discharge of stormwater. The stormwater system does not include sewers or facilities connected with the sanitary sewage disposal system, or streets.

*User charge* means a service fee imposed upon dischargers into the system established from time-to-time by resolution of the city commission as provided by this Article.

*Water quality factor* means a factor to adjust for the quality of stormwater leaving the parcel.

*Water quality treatment* means a system, either manufactured or constructed, that removes impurities from stormwater.

Sec. 48-187. - Stormwater service charge.

Dischargers shall be charged for the administration, construction, operation, maintenance, and replacement of the stormwater system. The charge shall be established from time-to-time by resolution of the city commission, based on the assigned or calculated equivalent hydraulic area, as modified by any applicable water quality factor as determined by the city engineer.

Sec. 48-188. - Flat rate charges.

The monthly flat rate charge per parcel for residential developed properties, four living units or less, shall be in the amount as established from time-to-time by resolution of the city commission based on the following parcel sizes:

- (a) 1/5 acres or less.
- (b) Over 1/5 acre to 1 acre.
- (c) Over 1 acre to 2 acres.
- (d) Over 2 acres to 6 acres.

Dischargers shall have the option to have their charges calculated pursuant to section 48-189 of this article if all or some of the parcel is serviced by a retention or detention facility designed by a licensed engineer in the state and approved by the city engineer.

Sec. 48-189. - Charges based on land area.

(a) *Monthly charges.* The monthly charges for properties other than described in section 48-188 shall be computed on a "Rate per EHA" basis, multiplied by any applicable water quality factor as determined by the city engineer. The rate to be applied per EHA shall be in the amount as established from time-to-time by resolution of the city commission.

(b) *Calculation of EHAs.* Individual EHAs are calculated by multiplying each parcel's pervious and impervious area by the following runoff factors:

- (1) 0.15 for pervious area.
- (2) 0.00 for impervious area discharging to an approved retention area. To receive credit under this section, the retention area shall be constructed and maintained pursuant to a permit approved by the city.
- (3) 0.15 for impervious area discharging to an approved detention facility. To receive credit, the detention facility shall be approved pursuant to a permit issued by the city or a permanent dedication in a deed or plat.
- (4) 0.00 for pervious area serviced by an approved retention area.
- (5) 0.95 for impervious area.

(c) *Detention basin permit.* Any detention basin permit issued pursuant to this section shall be supported by a certification of a professional engineer that runoff rates from the parcel for a 100-year, 24-hour duration storm event will not exceed a 10-year, 24-hour duration storm event for an equivalent undeveloped parcel.

(d) *Retention basin permit.* Any retention basin permit issued pursuant to this section shall be supported by a certification of a professional engineer that the basin volume is capable of holding the runoff from the parcel from a 100-year, 24-hour event.

Sec. 48-190. - Property affected.

All dischargers shall be subject to the stormwater service charge, regardless of whether privately or publicly owned property is involved, unless an exemption applies under section 48-188.

Sec. 48-191. - Billing.

The billing for stormwater service shall be sent to the property owner or his designee and may be:

- (a) Combined with the billing for other utility services;
- (b) Sent individually; or
- (c) Sent with property tax statements at the city's discretion.

The basis for the billing shall be computed by the city manager's designee.

Sec. 48-192. - Appeals.

Property owners may appeal to the city commission for a decision concerning the property classification or the computation of the service charge. Appeals of the decisions of the city commission shall be by petition to a court of appropriate jurisdiction. Each stormwater service bill sent out shall contain a telephone number that may be called for information regarding the appeal process. All due and delinquent stormwater charges must be paid, or satisfactory arrangements for payment made with the city commission, prior to the commission's consideration of the appeal.

Sec. 48-193. - Payment.

All charges not paid on or before the established due date shall be considered delinquent and subject to the following:

- (a) Interest charges.
- (b) Rebilling charges.
- (c) Property lien.
- (d) Attorney fees, if a civil suit is filed to collect delinquent charges.

Sec. 48-194. - Collection.

Unpaid stormwater service charges shall constitute a lien against the property affected from the date the charges were incurred. Charges which have remained unpaid for a period of three

months prior to April 1 of any year may, after notice to the owner, by resolution of the city commission, be certified to the city assessor who shall place the charges on the city tax roll. In the alternative, the city may file suit to collect unpaid charges.

**Sec. 48-195. - Use of funds.**

(a) All funds collected for stormwater service shall be placed in an enterprise fund and used solely for the administration, construction, operation, maintenance and replacement of the stormwater system.

(b) The stormwater utility or enterprise fund shall be deemed to regulate and manage stormwater quality and quantity in the city.

**Sec. 48-196. - Regulations.**

The city manager is authorized to promulgate regulations that require dischargers to implement pollution prevention measures, best management practices, and other methods to prevent or reduce the discharge of pollutants into, or by, stormwaters. Regulations promulgated hereunder shall be effective ten days after approval by the city commission.

**Sec. 48-197. - Water quality treatments.**

(a) *Manufactured stormwater treatment units.* Manufactured stormwater treatment units, if approved and installed, shall reduce the stormwater fee charged to a lot through the use of the water quality factor. For a manufactured stormwater treatment unit to be approved, it must remove, at a minimum, 80 percent of total suspended solids (TSS) annually. Proof of 80 percent TSS removal shall be provided by an independent third party for review. The water quality factor shall be 0.5 if the unit can treat 100 percent of the peak flow from a post-developed ten-year, 24-hour storm. The water quality factor for the lot shall be proportionally increased to 1.0 maximum at the discretion of the city engineer for units that treat less than the peak flow from a ten-year, 24-hour storm.

(b) *Constructed stormwater treatment systems.* Other treatment systems such as detention basins, retention basins, bio-swales, rain gardens, etc., are encouraged and may qualify for lower stormwater fees through the assignment of a smaller water quality factor. Water quality factors for various types of treatment methods are listed in the city stormwater design standards. Final determination of the water quality factor shall be made by the city engineer.

**Sec. 48-198. - Penalty.**

A person who violates any section of this article shall be responsible for a municipal civil infraction.

**SECTION 3. Severability.**

Sections of this Ordinance shall be deemed severable and should any section, clause or provision of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

**SECTION 4. Saving Clause.**

The amendment or repeal by this Ordinance of any ordinance or ordinance provision shall have no effect upon prosecutions commenced prior to the effective date of this Ordinance or prosecutions based upon actions taken by any person prior to the effective date of this Ordinance. Those prosecutions shall be conducted under the ordinance provisions in effect prior to the effective date of this Ordinance.

**SECTION 5. Conflict.**

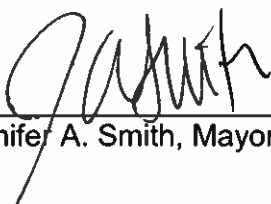
Except as otherwise expressly provided, the provisions of this Ordinance shall control in the event of any inconsistency or conflict between this Ordinance and any other provision of any other ordinance of the City.

**SECTION 6. Publication.**

This Ordinance shall be published by publishing a summary of the Ordinance in a newspaper of general circulation in the City of Marquette, including the designation in the publication of the location in the City where a true copy of the Ordinance can be inspected or obtained, as authorized by State law.

**SECTION 7. Effective Date.**

This Ordinance shall take effect ten days after adoption, but not before the date of publication of the notice of its adoption as provided in Section 6, above, and as certified by the Clerk, below.



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Jennifer A. Smith, Mayor



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Kyle Whitney, City Clerk

Adopted this 14<sup>TH</sup> day of SEPTEMBER, 2020, by the City Commission, City of Marquette, Michigan.

On roll call, the vote was:

Yeas: Mayor Smith. Mayor Pro-Tem Hill.

Commissioners: Bonsall, Davis, Frazer, Schlegel, Stonehouse.

Nays: None

Date Published: 9/17/2020

**Certification**

I, Kyle Whitney, Clerk of the City of Marquette, Michigan, do hereby certify that the foregoing is a true copy of the ordinance adopted by the City of Marquette City Commission at a regular meeting held on SEPT. 14, 2020, at 6 p.m., and that it was published in MARQUETTE on 9/17, 2020.  
MINING JOURNAL

, Clerk