

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

ORDINANCE NO. 08-041

**AN ORDINANCE AMENDING CHAPTER 53: STORM WATER MANAGEMENT
UTILITY TO ADJUST THE UTILITY FACTOR AND FEE CALCULATION FOR
AGRICULTURAL PROPERTIES**

SECTION 1. Recitals.

The City Council of the City of Lake Elmo, MN desires to update Chapter 53: Storm Water Management Utility to adjust the Utility Factor and Fee Calculation for Agricultural Properties.

In doing so, the City Council seeks to codify accepted practice of charging storm water and other similar fees against properties classified as agricultural based upon a per-acre calculation.

Such calculation recognizes the significant variation in sizes of such properties classified as agricultural. Establishment of a lower Utility Factor also recognizes the generally pervious nature of properties classified as agricultural.

In particular, the Storm Water utility Fee for properties classified as agricultural will now be calculated using a Utility Factor of 3, multiplied by the Utility Charge, established annually by the City Council, divided by a factor of 40 (based upon a typical quarter-quarter-section, or 40-acre farmstead) and then multiplied by the number of acres per agricultural parcel.

A low Utility Factor (effectively 3/40ths, or 0.075 per acre) similar to land uses classified as Vacant but more so because of farming activities that consistently turn over the soil, is reflective of the ability of such properties to accept storm water on site in greater proportion to those properties under permanent or temporary natural use (vacant land, golf course, parks, etc.) or those properties with identifiable impervious surface improvements (buildings, parking lots, etc.).

The City Council also seeks to clarify and codify annual establishment of a Storm Water Utility Charge and establishment of applicable City policies for adjudicating Appeals of the Storm Water Fee.

SECTION 2. The City Council of the City of Lake Elmo hereby amends Chapter 53: Storm Water Management Utility, by amending the following language:

§ 53.01 GENERAL OPERATION.

(A) The municipal surface water system shall be operated as a public utility (hereinafter called the surface water management utility), pursuant to M.S. § 444.075, as it may be amended from time to time, from which revenues will be derived subject to the provisions of this Chapter and Minnesota Statutes.

(B) In general, revenue from the surface water utility shall be used for preparation of a Surface Water Management Plan, maintenance of existing ditches, culverts, pond, and storm sewers, capital improvement in developed areas, equipment, planning, inventories, and water quality improvements, including weed control.

(Ord. 97-122, passed 7-15-2003)

§ 53.02 SURFACE WATER MANAGEMENT UTILITY EQUATIONS.

The Utility Charge (UC) shall be reviewed and determined annually by the City Council. The utility equation for various land uses to determine the surface water management fees are assigned as follows.

<i>Property Class Code</i>	<i>Current Land Use</i>	<i>Utility Factor (multiplied by the Utility Charge (UC))</i>
151-208,402	Residential	1.0 * UC per Lot /Lot
101-111, 401	Agricultural	6.0 3.0 * UC ÷ 40 * Total Acres /Parcel
210	Manufactured Home Park	0.52 * UC per Acre /Acre
230, 231, 233-241	Commercial/Industrial	3.08 * UC per Acre /Acre
250-252	Vacant Land	0.15 * UC per Acre /Acre
232	Golf/Park	0.35 * UC per Acre /Acre
900-999	School/Church	1.12 * UC per Acre /Acre
-	Conditional Use Permit	Site Specific

(Ord. 97-122, passed 7-15-2003)

§ 53.03 SURFACE WATER MANAGEMENT FEE.

Surface water management fees shall be established for a period of time as set by City Council resolution.

(Ord. 97-122, passed 7-15-2003)

§ 53.04 CREDITS.

The Council may adopt policies, by resolution, for adjustment of the surface water management fees. Information to justify a fee adjustment must be supplied by the property owner. The adjustments of fees shall not be retroactive, unless provided within the resolution. Credits will be reviewed annually by city staff.

(Ord. 97-122, passed 7-15-2003)

§ 53.05 EXEMPTIONS.

The following land uses are exempt from the surface water management fee:

- (A) Public right-of-way;
- (B) Parks;
- (C) Lakes; and
- (D) Railroad property.

(Ord. 97-122, passed 7-15-2003)

§ 53.06 STATEMENT OF SURFACE WATER MANAGEMENT CHARGES.

Statements for the preceding yearly surface water management service shall be mailed to each customer on or before March 5.

(Ord. 97-122, passed 7-15-2003)

§ 53.07 APPEAL OF FEE.

(A) If a property owner or person responsible for paying the surface water management fee believes that a particular assigned fee is incorrect, the person may request that the fee be recomputed.

(B) Appeals will be heard once a year, in a manner determined by the Council, ~~once a year~~ in accordance with the schedule established for credit applications, in established city policy.

(Ord. 97-122, passed 7-15-2003)

§ 53.08 DELINQUENT PAYMENTS.

A penalty equal to \$5 or 10% of the amount due, whichever is greater, shall be added to accounts not paid in full on or before May 1.

(Ord. 97-122, passed 7-15-2003)

§ 53.09 ANNUAL CERTIFICATION OF DELINQUENT ACCOUNTS.

(A) Each year the city staff shall prepare a list of delinquent surface water management service charge accounts, including accrued penalties thereon, in the form of an assessment roll.

(B) On or before October 1 of each year, the City Council shall review the delinquent surface water management service charge assessment roll and adopt an appropriate resolution directing that the assessment roll be certified to the County Auditor as a lien against the premises served and directing that the County Auditor collect the assessment as part of the ensuing year's tax levy.

(Ord. 97-122, passed 7-15-2003)

SECTION 3. Effective Date

This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

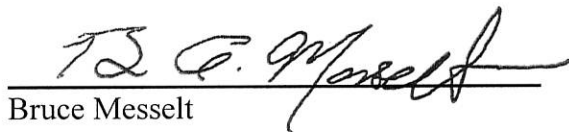
SECTION 4. Adoption Date

This Ordinance No. 08-041 was adopted on this 5th day of April, 2011, by a vote of 4 Ayes and 0 Nays.



Mayor Dean Johnston

ATTEST:

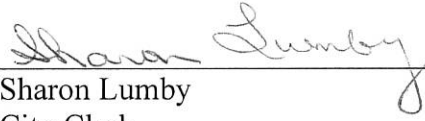


Bruce Messelt
City Administrator

This Ordinance No 08-041 was published on the 4th day of MAY, 2010.

CERTIFICATION

I hereby certify that the foregoing Resolution is a true and correct copy of an ordinance presented to and adopted by the Council of the City of Lake Elmo at a duly authorized meeting thereof held on the 5th day of April, 2011, as shown by the minutes of said meeting in my possession.



Sharon Lumby
City Clerk

(Seal)