

**CITY OF FRAZEE**

**ORDINANCE NUMBER 128**

**AN ORDINANCE ESTABLISHING A STORM WATER UTILITY**

THE CITY COUNCIL OF THE CITY OF FRAZEE DOES ORDAIN AS FOLLOWS:

**SECTION 1. Findings and Purposes.**

**Subd. 1** The purpose of this Ordinance is for the efficient, economic and safe operation of a storm water system for the protection of the health, safety and general welfare of the residents of the City of Frazee.

**Subd. 2** The system, as constructed heretofore, has been financed and paid for through the imposition of special assessments and ad valorem taxes. In addition to these funding sources, it is now necessary and desirable to provide an alternative method of recovering some or all of the future costs of improving, establishing, enlarging, replacing, repairing, maintaining, and operating the system through the imposition of charges as provided in this ordinance.

**SECTION 2. Water Utility Established.** A municipal storm water utility is hereby established and shall be operated as a public utility pursuant to Minnesota Statutes Section 444.075 from which revenues will be derived subject to the provisions of this Chapter and Minnesota Statutes.

**SECTION 3. Definitions.** Unless the context clearly indicates otherwise, the following words or phrases have the meanings given in this Subdivision.

**Subd. 1 Runoff Equivalent Factor (REF).** Rates and charges for the use and availability of the system are to be determined through the use of a “Runoff Equivalent Factor”. For the purposes of this section, one REF is defined as the ratio of the average volume of surface water runoff generated by one acre of a particular land use, to the average volume of runoff generated by one (1) acre of typical single-family residential land, during a standard one year rainfall event.

**Subd. 2 Storm Water Utility Rate.** The monthly rate charged against one (1) acre of land having an REF of one (1.0) shall be the storm water utility rate.

**Subd. 3 Standardized Acreage.** For the purpose of calculating storm water drainage charges, all developed parcels shall be considered to have an acreage of one (1) acre.

**SECTION 4. Calculation of Fee**

**Subd. 1 Land Use Classifications.** Storm water drainage fees shall be determined by

multiplying the REF for a parcel's land use by the parcel's acreage and then multiplying the resulting product by the storm water utility rate. The REF values for the various land uses are as follows:

<u>Classification</u>	<u>Typical Land Uses</u>	<u>REF</u>
1	Residential Single Family, Duplex, Town homes and Condominiums	1.0
2	Schools and Nursing Homes	5.0
3	Commercial, Apartments, and Trailer Parks	3.0
4	Churches and Industrial	4.0
5	Vacant land (e.g. undeveloped land, agricultural land without a dwelling)	.0

**Subd. 2 Other Land Uses.** Other land uses not listed in the foregoing table shall be classified by the City Council by assigning them to the classes most nearly like the listed uses from the standpoint of impervious coverage and run-off produced.

**Subd. 3 Storm Water Utility Rate.** The storm water utility rate shall be determined by the City Council on an annual basis in the same manner as for other utilities, and shall be charged to all parcels not listed as exempt in Subdivision 4.

**Subd. 4 Exemptions.** Public rights-of-way shall be exempt from storm water utility fees.

**SECTION 5. Billing and Payment.** Storm water utility charges shall be computed and billed periodically with, and included as a charge on, bills issued by the City for water and sewer services. If a parcel of land subject to the storm water utility is not served by other utilities, a separate bill shall be issued on a monthly basis. All charges shall be subject to:

**Subd. 1 Penalties and Remedies for Delinquencies.** All storm water utility charges shall be due on the date specified by the City for the respective amount and shall be delinquent thereafter. Delinquent accounts will be charged a late fee of 10% of the amount past due. The late charge will be added to the bill effective the first day of each month of the delinquency. The City shall attempt to collect delinquent accounts promptly.

Pursuant to Minn. Stat. Section 444.075, the Clerk-Treasurer shall prepare an assessment roll each year providing for assessment of any delinquent accounts against the respective properties served. The assessment roll shall be delivered to the Council for adoption on or before the regular City Council meeting in November of each year for certification to the County Auditor for collection along with taxes. The City shall also have the right to bring a civil action or to take other legal remedies to collect unpaid delinquent accounts.

**SECTION 6. Fee Appeal.** If a property owner or person responsible for paying for the storm water utility fee believes that a particular assigned fee is incorrect, such person may request, in writing, that the fee be recomputed. Such request shall be made within thirty (30) days of the mailing of the billing in question, and shall immediately be addressed by appropriate City Staff. If the property owner is not in agreement with the City's staff's determination of the fee, he or she may appeal the determination in writing by making a request for a hearing to the Storm Water Utility Board of Appeals within fourteen (14) days of the Staff's determination. The City Council shall act as the Storm Water Utility Board of Appeals.

A hearing before the Board of Appeals shall be scheduled to occur within forty-five (45) days of receiving the property owner's request for a hearing. Notice of the hearing must be served on the property owner at least fourteen (14) days in advance unless a shorter time is accepted by all parties. Service of the Notice shall be by first class mail and will be complete upon mailing. The property owner shall have the burden of proving that the storm water utility fee for his or her property is incorrect. The decision of the Board of Appeals is final without any further right of appeal. The property owner may obtain judicial review of the decision of the Board of Appeals by proceeding pursuant to a writ of certiorari in the appropriate court.

**SECTION 7. Establishment of Fund.** All fees collected for the storm water utility shall be placed in a fund for storm water purposes. Revenues shall be used to pay for the construction, reconstruction, repair, enlargement, improvement, or other obtainment and the maintenance, operation and use of the facilities, and all other purposes as permitted by Minnesota Statutes Section 444.075.

**SECTION 8. Severability Clause.** Should any section, subdivision, clause or other provision of this ordinance be held to be invalid by any Court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part held to be invalid.

**SECTION 9. Passage and Publication.** This Ordinance shall take full effect and be in full force from and after its passage and publication according to law.

Passed and adopted by the City Council of the City of Frazee this 10<sup>th</sup> day of October, 2005.

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Frederic Daggett, Mayor

ATTEST:

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Kelcey Klemm, Clerk-Treasurer

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