

Ordinance No. 415
Ordinance Creating Chapter 15 of the Village of
West Salem Code of Ordinances Establishing a
Stormwater Utility

The West Salem Village Board of Trustees do hereby ordain as follows:

Section 1: Chapter 15 of the Village Code of Ordinances is hereby created to read as follows:

15.01 Findings, Purpose, and Necessity. The Village Board of the Village of West Salem finds that the management of stormwater and other surface water discharges within and beyond the La Crosse River, and other bodies of water within the Village is a matter that affects the health, safety and welfare of the Village, its citizens and businesses and others in the surrounding area. Failure to effectively manage stormwater affects the sanitary sewer utility operations of the Village by, among other things, increasing the likelihood of infiltration and inflow into the sanitary sewer system. Surface water runoff may cause erosion of lands, threaten residences and businesses with water damage, and create environmental damage to the rivers, streams, and other bodies of water within and adjacent to the Village. A system for the collection and disposal of stormwater provides services to all properties within the Village of West Salem and surrounding areas, including those properties not currently served by the system. The cost of operating and maintaining the Village Stormwater Management System and financing necessary repairs, replacements, improvements, and extensions thereof should, to the extent practicable, be allocated in relationship to the services received from the system. A system of financing stormwater management functions and facilities should be based on the direct relationship to the impact such properties have on the cost of stormwater management.

15.02 Creation and Authority. In order to protect the health, safety, and welfare of the public, the Village Board hereby exercises its authority to establish a Stormwater Utility and establish the rates for Stormwater Management Services. In promulgating the regulations contained in this Chapter, the Village is acting and this Ordinance is adopted under the authority granted by Chapters 62 and 66 of the Wisconsin Statutes, including, but not limited to Sections 62.04, 62.11, 62.16(2), 62.18, 66.0621, 66.0809, 66.0811, 66.0813, 66.0821, and 66.0627. The requirements of this Ordinance do not preempt more stringent stormwater

management requirements that may be imposed by any of the following:

Wisconsin Department of Natural Resources administrative rules, permits, or approvals, including those authorized under Sec. 281.16 and 283.33, Wis. Stats.;

Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under Sec. NR151.004, Wis. Adm. Code; or

Village of West Salem approved or adopted stormwater management plans for specific areas or watersheds.

The operation of the Stormwater Utility shall be under the supervision of the Village Administrator. The Village, acting through the Stormwater Utility, may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such facilities, operations and activities, as are deemed by the Village to be proper and reasonably necessary for a system of storm and surface water management. These facilities may include, without limitation due to enumeration, surface and underground drainage facilities, sewers, watercourses, retaining walls, ponds, streets, roads, ditches and such other facilities as will support a Stormwater Management System.

15.03 Definitions. For the purpose of this Chapter, the following definitions shall apply. Words used in the singular shall include the plural, and the plural, the singular. Words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. In this Chapter:

(A) "Base charge" means a charge to all undeveloped and developed properties in the Stormwater Utility.

(B) "Billing period" means a three (3) month period commencing on the first day of the month and ending on the last day of the month of the applicable period.

(C) "Board" means the West Salem Village Board of Trustees.

(D) "Calendar year" means a twelve (12) month period commencing on the first day of January of any year.

(E) "Charge" means the fee imposed under this Chapter for the rendering of Stormwater Utility Services by the Village.

(F) "Customers" shall include all persons, properties, and entities serviced by and/or benefiting the Stormwater Utility's acquisition, management, maintenance, extension, and improvement of the public Stormwater Management Systems and facilities and regulation of public and private stormwater

systems, facilities, and activities related thereto, and person and properties and entities which will ultimately be served or benefited as a result of the Stormwater Management System.

(G) "Developed property" means real property other than undisturbed property and vacant improved property.

(H) "Director" shall mean the Director of Public Works or his or her designee.

(I) "Duplex" means a residential dwelling having two dwelling units.

(J) "Dwelling unit" means a singular unit or apartment providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(K) "Equivalent runoff unit" or "ERU" is the basic unit by which a storm sewer charge is calculated under this Chapter and is based upon the impervious area reasonably determined by the Village.

(L) "Impervious area" means a surface, which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rainwater. The term includes, without limitation due to enumeration, all areas covered by structures, roof extensions, patios, porches, driveways, loading docks and sidewalks, and semi-impervious surfaces such as compacted gravel, all as measured on a horizontal plane.

(M) "Multifamily unit" means any residential property comprised of three (3) or more dwelling units, including condominiums.

(N) "Nonresidential property" means a lot or parcel of land, with improvements such as a building, structure, grading, or substantial landscaping, which is not residential property, excluding publicly-owned rights of way, airport runways, airport taxiways, recreational trails, and publicly-owned or privately-owned rail beds utilized for railroad transportation.

(O) "Operations and maintenance" means the current expenses, paid or accrued, of operation, maintenance, and current repair of the System, as calculated in accordance with sound accounting practice, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation, and cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with generally accepted accounting practices.

(P) "Owner" shall mean the legal owner(s) of record as shown on the tax rolls of the Village of West Salem, except where there is a recorded land sale contract, the purchaser thereunder shall be deemed to be the owner.

(Q) "Residential property" means a lot or parcel of land developed exclusively for residential purposes, including single-family units and duplexes not exceeding one (1) acre in area, and multifamily units. The term includes manufactured homes.

(R) "Runoff" means stormwater or precipitation, including rain, snow, or ice melt or similar water that moves on the land surface via sheet or channelized flow.

(S) "Single family unit" means any residential property, including manufactured homes, consisting of one (1) dwelling unit.

(T) "Stormwater Management System" or "System" means the existing stormwater management of the Village and all improvements thereto that by this Chapter are constituted as the property of the Village, to be operated as a special revenue fund to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such System.

(U) "Stormwater user fee" means a fee authorized by Ordinance and established from time to time by Resolution of the Village Board to pay operations and maintenance, extension and replacement, and debt.

(V) "Stormwater Utility" means the utility established under this Chapter for the purpose of managing stormwater and imposing charges for the recovery of costs connected with such stormwater management.

(W) "Undeveloped property" means property that is not developed by the addition of an improvement such as a building, structure, grading or substantial landscaping. A property shall be considered to be developed if:

(1) A certificate of occupancy has been issued for a building or structure on the property or, if no certificate of occupancy has been issued, upon substantial completion of construction or final inspection; or

(2) Construction of an improvement on the property is at least Fifty (50%) percent completed and such construction has ceased for a period of at least three (3) months, whether consecutive or not.

15.04 Rates and Charges.

(A) The Village Board shall establish such rates and charges as are necessary to finance any necessary property or easement acquisition and the planning, design, construction, maintenance, and operation of stormwater management facilities in accordance with the procedures set forth in this Chapter and at sufficient levels to fund the capital, operating and

other expenses set forth in the adopted budget which are not funded by other sources of revenue. The basis for computation of the charge for stormwater services to lots and parcels of land within the Village is established under this Section. The amount of charge to be imposed, the establishment of formulas for the calculation of charges, the creation of customer classifications for the imposition of charges, and changes in such charges, formulas and customer classifications may be made by Village Board Resolution. All charges established pursuant to this Chapter shall be fair and reasonable. A schedule of current charges shall be maintained and on file in the office of the Village Administrator. The Village may advance funds or services to the Stormwater Utility from time to time, and the Stormwater Utility shall reimburse the actual amount or value of such advances as determined by the Village Board.

(B) Charges shall be imposed to recover all or a portion of the costs of the Stormwater Utility. Such charges may include the following components:

(1) Base charge. A base charge may be imposed on all property in the Village. The base charge is established in recognition of the fact that all properties in the Village receive services from the stormwater management activities of the Village and that all property contributes to some degree to the stormwater discharge that must be managed by the Village. The base charge shall be assessed to collect the administrative costs of the Stormwater Utility and may include capital, operating, and maintenance costs of the Stormwater Utility, which are not recovered by other means. The base charge may be based on the size of a lot or parcel of land.

(2) Equivalent runoff unit charge (ERU). An equivalent runoff unit charge may be imposed on all property that has an impervious area. The ERU charge shall be assessed based upon the impervious area as reasonably determined by the Village. The ERU is established to be 2,400 square feet.

(C) Budgeting Process. The Director of Public Works and the Utilities Committee shall prepare an annual budget for the Stormwater Utility, which shall include all operation, maintenance and capital costs, debt service, and other costs related to the operation of the Stormwater Utility. The costs shall be allocated among the various rate classifications as determined by the Village Board. The budget shall be approved by the Village Board in accordance with the procedures and requirements of Wis. Stats. Sec. 65.90.

(D) Excess Revenues. All stormwater fees collected, and any other revenues appropriated to, or attributable to the operation of, the Stormwater Utility shall be maintained in a segregated Stormwater Utility Enterprise Fund. Any excess of revenues over expenditures from Stormwater Utility operations in a given year shall be maintained in the Enterprise Fund and shall be used in future years exclusively for purposes consistent with this Chapter.

15.05 Customer Classifications.

(A) For the purpose of imposing the charges imposed under this Chapter, all lots and parcels of land in the Village shall be classified into the following customer classifications:

1. Residential -- single-family unit.
2. Residential -- duplex.
3. Residential -- multifamily.
4. Nonresidential.
5. Undeveloped.

(B) The ERU charges for the foregoing classifications shall be established as follows:

1. Residential -- single-family unit: one ERU.
2. Residential -- duplex: 0.5 ERU times each dwelling unit.
3. Residential -- multifamily: 0.4 ERU times the number of dwelling units within the multifamily dwelling.
4. Nonresidential -- one ERU times a factor obtained by dividing the total impervious area of the nonresidential property by the square footage equivalent for one ERU (2,400). Such impervious area shall be determined based on the best information reasonably available. The result shall be rounded down to the nearest five-tenths (0.5). The minimum charge for a nonresidential property shall be equal to the rate for five-tenths (0.5) of one ERU.

5. Undeveloped property shall be charged based on a factor established by the Village Board Resolution.

(C) All unoccupied lots and parcels of land shall be subject to Stormwater Utility charges.

(D) The Board may establish classifications other than the customer classifications under Section 15.05(A), above, as will be likely to provide a reasonable and fair distribution of the costs of the Stormwater Utility.

15.06 New Construction. Except for single-family units, a property owner shall be responsible for submitting a Stormwater Utility Service application at the time a building permit is issued or a site plan review is conducted. The application shall be made on a form prescribed by the Village and provided with each application for a building permit or application for site plan review. Failure to submit such Stormwater Utility service application or providing false information on such form shall be a violation of this Chapter.

15.07 Billing.

(A) Bills for Stormwater Utility charges shall be rendered quarterly with the billing dates corresponding to the billing dates for Water and Sanitary Sewer Service Utility billings and shall become due and payable upon issuance. Bills are mailed to the recipient designated by the owner of the property to which the bill relates, provided that such mailing shall not relieve the owner of rental property from liability for the charges in the event payment is not made. The owner of any property occupied by tenants shall have the right to examine the appropriate records of the Village to determine whether such rates and charges have been paid by such tenants, provided that such examination shall be made at the office at which the records are kept during normal business hours.

(B) A late payment charge of three (3%) percent, but not less than fifty (50¢) cents will be added to bills not paid within twenty (20) days of issuance. This one-time three (3%) percent late payment charge will be applied only to any unpaid balance for the current billing period. This late payment charge is applicable to all customers. The customer may be given a written notice that the bill is overdue no sooner than twenty (20) days after the bill is issued. Stormwater Utility charges shall not be payable in installments.

15.08 Payment, Lien, Penalty.

(A) Stormwater Utility charges shall be payable upon receipt, subject to the provisions of this Section. If a charge remains unpaid for a period of twenty (20) days after the date of the Stormwater Utility charge, such charge shall become a lien on the property to which it relates as provided in Secs. 66.076(7) and 66.069(1) 66.0809, Wis. Stats. All sums that have accrued during the preceding year and are not paid by the first week of December in any year shall be certified to the Village Administrator by the Utility, to be placed on the tax roll of collection as provided by Wisconsin Statutes. Delinquent charges shall be automatically extended upon the next available tax roll as a delinquent tax against the property, and all proceedings relating to the collection, return and sale of property for delinquent real estate taxes shall apply to such charges.

(B) All delinquent utility charges shall be subject to a penalty of ten (10%) percent, in addition to all other charges, penalties or interest, when the delinquent charge is extended upon the tax roll.

15.09 Appeal.

(A) A Stormwater Utility Charge may be appealed to the Utilities Committee. An appeal can be undertaken by filing a written appeal with the Village Administrator prior to the due date of the charge or within thirty (30) days of payment. The written appeal shall specify all grounds for challenge to the amount of the charge and shall state the amount of charge that the appellant considers to be appropriate. Failure to appeal within thirty (30) days of payment shall deprive the Utilities Committee of jurisdiction to hear the appeal.

(B) In considering an appeal, the Utilities Committee shall determine whether the Stormwater Utility Charge is fair and reasonable and, in the event the appeal is granted, whether or not a refund is due the appellant and the amount of the refund. The Utilities Committee shall conduct a formal or informal hearing and obtain sufficient facts upon which to make a determination. The decision of the Utilities Committee shall be based upon the evidence presented to it. The Utilities Committee shall notify the appellant in writing of its determination.

15.10 Alternative Method To Collect Stormwater Charges. The Village Board hereby finds and determines that the Stormwater Utility charges established under this Chapter reasonably reflect the services rendered to property and may be, and are hereby authorized to be levied and imposed on property as a special charge pursuant to s. 66.60(16), Wis. Stats., in addition to other

provisions of law. The mailing of the bill for Stormwater Utility charges to a property owner shall serve as notice to the property owner that failure to pay the charges when due may result in the charges being imposed pursuant to the authority of Sec. 66.60(16), Wis. Stats. The Village may provide notice each October of any unpaid charges to the Stormwater Utility and such charges, if not paid by November 30, may be placed on the tax roll in accordance with s. 66.60(15), Wis. Stats. The collection method provided in this Section is in addition to the collection method provided for in Section 15.08, above.

15.11 Penalty. A person violating any Section of this Chapter shall, upon conviction, pay a forfeiture not to exceed \$500 for each offense, in addition to the costs of prosecution, which are allowed by law. Each day during which a violation exists shall constitute a separate offense. Forfeiture amounts are subject to Village Board annual review and approval and may be changed from time to time by Village Board Resolution.

15.12 Severability. If any provision of this Ordinance is found to be unlawful or unenforceable by a Court of competent jurisdiction, this determination shall not affect, impair, or invalidate the remaining provisions of this Ordinance, but shall be confined to its operation to the section, paragraph, subparagraph, clause, or phrase of this Ordinance in which such determination has been made.

Section 2: This Ordinance shall become effective and in full force and effect from and after its passage and publication as required by law.

DATED this _____ day of _____, 2007.

Dennis Manthei, Village President

(SEAL)

Teresa L. Schnitzler, Village Administrator

ADOPTED: _____

PUBLISHED: _____