

**Office of City Clerk**  
Hermantown, MN  
DEBORAH LUND, City Clerk

**RESOLUTION NO. 2018-163**

**RESOLUTION AUTHORIZING THE PUBLICATION OF A SUMMARY OF AN  
ORDINANCE AMENDING THE CITY OF HERMANTOWN CODE OF ORDINANCES,  
CHAPTER 9, BY ADDING SECTION 906 – STORMWATER UTILITY**

Motion made by Councilor Geissler, seconded by Councilor Nelson to adopt Resolution 2018-163, Resolution Authorizing The Publication Of A Summary Of An Ordinance Amending The City Of Hermantown Code Of Ordinances, Chapter 9, By Adding Section 906 – Stormwater Utility. Roll Call: Councilors Geissler, Nelson, Peterson, Schmidt, Mayor Boucher, aye. Motion carried.

I, Deborah Lund, City Clerk of the City of Hermantown, Minnesota, do hereby certify that I have compared the annexed copy of Resolution passed by the City Council of the City of Hermantown on the 19<sup>th</sup> day of November 2018; with the original in my custody as City Clerk of said City, and that the same is a true and correct transcript therefrom.

In Witness Whereof, I have hereunto set my hand and affixed the corporate seal of said City of Hermantown, the 3<sup>rd</sup> day of December 2018.

DEBORAH LUND, CITY CLERK

By Deborah Lund

City of Hermantown, MN

**Resolution No. 2018-163**

**RESOLUTION AUTHORIZING THE PUBLICATION OF A SUMMARY  
OF AN ORDINANCE AMENDING THE CITY OF HERMANTOWN CODE OF  
ORDINANCES, CHAPTER 9, BY ADDING SECTION 906 – STORMWATER UTILITY**

WHEREAS, the City Council has adopted Ordinance No. 2018-11, an Ordinance Amending the Hermantown Code of Ordinances, by adding Section 906 – Stormwater Utility; and

WHEREAS, Minnesota Statutes Section 412.191, Subd. 4 (2017) authorizes the City Council to publish a summary of lengthy ordinances upon a four-fifths vote of its members; and

WHEREAS, the Ordinance is quite lengthy and detailed; and

WHEREAS, the City Council desires to publish a summary of the Ordinance; and

WHEREAS, a summary of the Ordinance has been prepared and attached hereto as Exhibit A;  
and

WHEREAS, a copy of the full text of the Ordinance is available for review at the Hermantown City Offices, 5105 Maple Grove Road, Hermantown, MN 55811 during regular business hours.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hermantown, Minnesota, as follows:

1. That a summary attached hereto as Exhibit A of the Ordinance be published in lieu of the publication of the entire Ordinance; and
2. The City Council hereby authorizes and directs the City Administrator to publish the summary attached hereto as Exhibit A once in the Hermantown Star.

Councilor Geissler introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor Nelson, and upon a vote being taken thereon, the following voted in favor thereof:

Councilors Geissler, Nelson, Peterson, Schmidt, Mayor Boucher, aye

and the following voted in opposition thereto:

None

WHEREUPON, such resolution was declared duly passed and adopted.

## **EXHIBIT A**

### **SUMMARY OF ORDINANCE NO. 2018-11, AN ORDINANCE AMENDING CITY OF HERMANTOWN CODE OF ORDINANCES, CHAPTER 9, BY ADDING A NEW SECTION 906, STORMWATER UTILITY**

The following is the official summary of ordinance no. 2018-11, an ordinance amending city of Hermantown code of ordinances, chapter 9, by adding a new section 906, Stormwater utility, Ordinance No. 2018-11 was approved by the City Council of the City of Hermantown on November 19, 2018.

The purpose of this ordinance is to establish a City utility to provide for the operation and maintenance of the City's stormwater management system to fund state-mandated stormwater management and the ongoing inspection and maintenance of existing stormwater conveyance and management systems.

The City is obligated under its MS4 (Municipal Separated Storm Sewer) permit to regulate storm water runoff because of development.

The Stormwater fee is based on an Equivalent Residential Unit (ERU). The ERU is an estimate of the impervious surface for a single family home. This basis is then applied to non-residential properties, so that the fee is based on the amount of impervious surface of each property.

#### **Utility Fees:**

##### **RESIDENTIAL:**

Storm water utility fees are calculated based on the number of Equivalent Residential Units (ERU)s on a property. One ERU equals 9,100 square feet of impervious surface. 9,100 square feet is the average impervious surface area in Hermantown for a single family home. All residential buildings are billed 1 ERU per living unit. Single Family dwellings are billed 1 ERU of \$7.00 per month.

##### **NON -RESIDENTIAL:**

Non-residential properties are billed based on the total square footage of impervious surface on the property (typically buildings and parking lots). The total impervious square footage of a commercial property is then converted to ERUs. For example, a medium-sized business might have a total impervious surface of 1.2 acres or 52,272 square feet/9,100 sq. feet per ERU = 5.74 ERUs. Six (6) ERUs x \$7.00 = \$42 per month

#### **Credits for Non-residential Parcels**

Non-residential properties may be eligible for credits.

- The minimum fee would be \$7.00 per Parcel per Month. To be eligible properties must meet the requirements of City Code of Ordinances Section 1080 for minimum standards, and inspection, maintenance and repairs.

- Up to 25% Credit for providing Water Quality Treatment
- Up to 25% Credit for providing Rate Control
- Credits are accumulative up to 50% Maximum Credit

Land owners in Hermantown will be billed in one of three ways:

1. Current water and sewer accounts (both residential and non residential) – Bill on Feb 1 for January storm water
2. Non water/sewer customers non residential – Bill Feb 1 for January storm water (even if they have one ERU)
3. Non water/sewer customers residential – Bill July 1 for January – June storm water

The foregoing is a summary of a lengthy and detailed Ordinance. The full text of the Ordinance is on file in the office of the City Clerk of the City of Hermantown, 5105 Maple Grove Road, Hermantown, MN 55811, during regular business hours.

If there are any inconsistencies between this summary and the full text of the Ordinance, the terms of the full Ordinance shall govern.

The Ordinance is effective January 1, 2019.

The City Council of the City of Hermantown does ordain:

**AN ORDINANCE AMENDING CITY OF HERMANTOWN  
CODE OF ORDINANCES, CHAPTER 9, BY ADDING A NEW SECTION 906,  
STORMWATER UTILITY, THERETO**

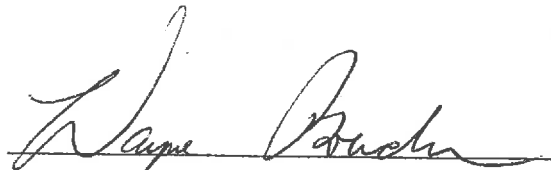
Section 1. Purpose and Intent. The purpose of this ordinance is to establish a City utility to provide for the operation and maintenance of the City's stormwater management system.

Section 2. Amendment to Chapter 9. Chapter 9 of the Hermantown Code of Ordinances is hereby amended by adding a new Section 906 as shown on Exhibit A attached hereto.

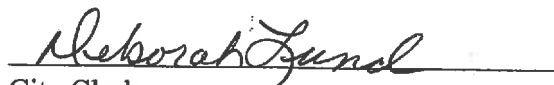
Section 3. Added to Code. The terms and provisions of this ordinance shall be added in the appropriate place in the Hermantown Code of Ordinances after adoption and becoming effective.

Section 4. Effective Date. The provisions of this ordinance shall be effective as of January 1, 2019 after adoption and publication of a summary of this ordinance once in the official newspaper of the City of Hermantown.

Dated: November 19, 2018

  
Mayor

Attest:

  
City Clerk

Adopted: November 19, 2018

Published: December 6, 2018

Effective Date: January 1, 2019

## EXHIBIT A

### **SECTION 906 - STORMWATER UTILITY**

**906.01 Definitions.** The following words and phrases when used in this section shall the meanings ascribed to them in this section unless the context otherwise clearly indicates.

**906.01.1** “Best Management Practices” or “BMP” shall mean the practices to prevent or reduce the pollution of the waters of the state, as defined by the MS4 Permit, including schedules of activities, prohibitions of practices, and other management practices, and also includes treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge, or waste disposal or drainage from raw material storage.

**906.01.2** “City” shall mean the City of Hermantown.

**906.01.3** “City Clerk” shall mean the City Clerk as designated from time to time by the City Council.

**906.01.4** “City Code of Ordinances” shall mean the Hermantown Code of Ordinances, as it may be amended from time to time.

**906.01.5** “City Council” shall mean the City Council of the City. The City Council is the governing body of the City.

**906.01.6** “City’s Fee Schedule” shall mean the fee schedule established from time-to-time by City ordinance or resolution of the City Council.

**906.01.7** “Department” means the department of public works of the City.

**906.01.8** “Department Director” means the director of public works of the City, or his or her designee.

**906.01.9** “Equivalent Residential Unit” or “ERU” shall mean 9,100 square feet which has been determined to be the average impervious area of residential property within the City.

**906.01.10** “ERU Rate” shall mean the standard monthly fee charged per each ERU established from time-to-time by resolution or ordinance and set forth in the City’s Fee Schedule.

**906.01.11** “Exempt Property” shall mean property that is classified by St. Louis County Auditor, Minnesota with the following land use:

- 906.01.11.1** Ag Non-Productive Contiguous
- 906.01.11.2** Agricultural
- 906.01.11.3** Assessed Elsewhere
- 906.01.11.4** Cemeteries – Private
- 906.01.11.5** Cemeteries – Public
- 906.01.11.6** County Public Property
- 906.01.11.7** County Public Service Enterprises
- 906.01.11.8** Federal Public Property
- 906.01.11.9** K-12 Schools – Public
- 906.01.11.10** Managed Forest Lands

- 906.01.11.11** Municipal – All Other
- 906.01.11.12** Municipal Public Service Enterprises
- 906.01.11.13** Non-Homestead Agricultural Land
- 906.01.11.14** Vacant Land
- 906.01.11.15** Rural Vacant Land
- 906.01.11.16** State Administered Lands
- 906.01.11.17** State Public Property
- 906.01.11.14** Streets and Roadways
- 906.01.11.15** Tax-Forfeited-Real Estate

**906.01.12** “Impervious Area or Surface” shall mean a surface which is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other graveled, graded, compacted, or any other surface which impedes the natural infiltration of surface water.

**906.01.13** “Municipal Separate Storm Sewer System” or “MS4” shall mean a conveyance or system of conveyances (roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, etc.) that are designed or used for collecting or conveying stormwater and owned and operated by the City. The Municipal Separate Storm Sewer System includes the City’s Stormwater Management Facilities for purposes of this Section 906.

**906.01.14** “National Pollutant Discharge Elimination System Municipal Separate Storm Sewer Systems Permit” or “MS4 Permit” shall mean the general permit authorization to discharge stormwater associated with Municipal Separate Storm Sewer Systems.

**906.01.15** “Nonresidential Property” shall mean developed property that is not classified as Residential Property or Exempt Property. Property that has a mixture of residential and nonresidential uses shall be considered nonresidential.

**906.01.16** “Residential Property” shall mean developed property that is classified by St. Louis County, Minnesota Auditor with the following land use:

- 906.01.16.1** Commons Area Assessed Parcel
- 906.01.16.2** Non-Comm Seasonal Residential Recreational
- 906.01.16.3** Residential 1 Unit
- 906.01.16.4** Residential 2-3 Units
- 906.01.16.5** Residential Non-Homestead (Single Unit)

**906.01.17** “Stormwater Management Facilities” are structural or nonstructural features that are designed to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

**906.01.18** “Stormwater Pollution Prevention Program” or “City SWPPP” shall mean a comprehensive program developed by the City to manage and reduce the discharge of pollutants in stormwater and from the City’s storm sewer system.

**906.01.19** “Stormwater Utility” shall mean the utility created by this Section 906 to operate, maintain and improve the City’s Municipal Separate Storm Sewer System.

**906.01.20** “Stormwater Utility Fee” shall mean the charges established from time-to-time by ordinance or resolution and set forth in the City’s Fee Schedule.

**906.01.21** "U.S. Environmental Protection Agency" or "EPA" shall mean the agency of the United States federal government whose mission is to protect human and environmental health.

**906.02 Authority and Application.** The Municipal Separate Storm Sewer System owned and operated by the City is hereby declared to be and to constitute a public utility of the City. The Stormwater Utility shall be operated as a public utility pursuant to the City Code of Ordinances and applicable provisions of Minnesota Statutes.

**906.02.1.** The revenues of the Stormwater Utility shall be subject to provisions of this Section 906 and Minnesota Statutes Section 444.075. The properties of the Stormwater Utility and all future improvements, extensions and enlargements thereof, together with all cash and assets held in the Stormwater Utility shall be appropriated and dedicated to the purpose of insuring the public health, safety and welfare by maintaining and improving the Stormwater Utility as provided for in this Section 906. The Stormwater Utility, and all assets of the Stormwater Utility shall at all times be under the management and control of the City Council.

**906.02.2.** The Stormwater Utility shall be part of the Public Works Department and shall be administered by the Department Director.

**906.03 Purpose.** The purpose of the Stormwater Utility is to provide a funding mechanism for the following services:

**906.03.1.** The administration, planning, analysis, installation, construction, operation, maintenance, and replacement of the Municipal Separate Storm Sewer System.

**906.03.2.** The administration, planning, implementation, construction, and maintenance of storm water Best Management Practices to reduce the introduction of sediment and other pollutants into local water resources.

**906.03.3.** Other education, engineering, inspection, monitoring, testing, and enforcement activities as necessary to maintain compliance with local, state, and federal storm water requirements.

**906.03.4.** Activities necessary to maintain compliance with MS4 Permit requirements established by the EPA, including preparation, implementation, and management of a City SWPPP to address the following control measures:

**906.03.4.1** Public education and outreach on storm water impacts.

**906.03.4.2** Public involvement/participation.

**906.03.4.3** Illicit discharge detection and elimination.

**906.03.4.4** Construction site storm water runoff control.

**906.03.4.5** Post-construction runoff control in new development and redevelopment.

**906.03.4.6** Pollution prevention for municipal operations.

**906.04 Rates and Charges.** The City shall charge Stormwater Utility Fees to pay the operation costs described in Section 906.03. The Stormwater Utility Fees shall be established by the City Council in accordance with this Section 906.04. In establishing Stormwater Utility Fees, each parcel of property within the City shall be categorized as Residential, Nonresidential, or Exempt property. Stormwater Utility Fees for Nonresidential Property may be reduced through the application of stormwater credits as provided for by Section 906.06. Stormwater Utility Fees for Residential Property shall be fixed. The Stormwater Utility



Fees established herein shall be the joint and several responsibility of the owner, lessee and the occupant of each parcel of property subject to the Stormwater Utility Fee and shall be subject to recovery in accordance with Section 906.11.

**906.04.1 Established ERU.** The average impervious area of residential property shall be equal to 9,100 square feet, making 1 ERU equal to 9,100 square feet.

**906.04.2 Minimum Stormwater Utility Charges.**

**906.04.2.1** The minimum monthly Stormwater Utility Fee applied to any Residential Property or Nonresidential Property shall be equal to the ERU Rate.

**906.04.2.2** No fee shall be charged to a Nonresidential Property that has no impervious surface.

**906.04.3 Residential Property.** The monthly Stormwater Utility Fee for Residential Property shall be equal to the ERU Rate.

**906.04.4 Nonresidential Property.** Subject to Section 906.04.2, Nonresidential Properties shall pay a Stormwater Utility Fee in an amount proportional to the amount of impervious area within the property. The monthly Stormwater Utility Fee for Nonresidential Property shall be the ERU Rate multiplied by the ERU (numerical factor obtained by dividing the property's Impervious Area by 9,100 rounded to the nearest ERU).

**906.04.5 Exempt Property.** Exempt Properties are not subject to Stormwater Utility Fees.

**906.04.6 Estimated Charges.** If, for any reason, precise information related to the use, development or area of a property is not available; then Storm Water Utility Fees for such property shall be estimated and billed, based upon information then available to the City.

**906.05 Adjustments to Charges.** Stormwater Utility Fees may be adjusted under any of the following conditions:

**906.05.1** The estimated expenditures for management of the City's MS4 shall be reviewed by the City Council from time to time. The ERU Rate shall be adjusted accordingly to meet the estimated expenditures. The rate will not increase until after December 31, 2021.

**906.05.1.1** Prior to any increase in the ERU Rate or any change in the ERU, the City Council will hold a public hearing at a regular City Council meeting.

**906.05.2** As property is developed or redeveloped, Stormwater Utility Fees shall be recalculated based on the revised amount of Impervious Area on the property after such property is developed or redeveloped and the other provisions of this Ordinance.

**906.06 Credits for Nonresidential Property.**

**906.06.1** The Department Director may provide for the adjustment of Stormwater Utility Fees for property if BMPs or other stormwater management practices are employed on-site that reduce the quantity or improve the quality of stormwater runoff from the parcel pursuant to City Code of Ordinances Section 1080.

**906.06.2** The Department Director shall establish a credit application form for credits. It shall be the responsibility of the property owner to provide justification and any required documentation for the credit adjustment.

**906.06.3** Credit applications are subject to approval by the Department Director. The City may from time-to-time by resolution or ordinance establish a fee for the review and processing of credit applications as set forth on the City's Fee Schedule.

**906.06.4** Property subject to a minimum Stormwater Utility Fee shall not be eligible for credits.

**906.06.5** Nonresidential Property BMPs or stormwater management practices are subject to the inspection, maintenance, and repair requirements set forth in the MS4 Permit and/or the City Code of Ordinances, as it may be amended from time to time. A Nonresidential Property that is deemed non-compliant or in violation of the maintenance and repair requirements established in the MS4 Permit and/or the City Code of Ordinances shall not be initially eligible for credits. Approved credits may be rescinded by the Department Director if the Department Director determines that the Nonresidential Property BMPs or stormwater parties are non-compliant or in violation of the maintenance and repair requirements established under the MS4 Permit and/or the City Code of Ordinances. The Department Director shall notify the owner, lessee and occupants of the Nonresidential Property in writing of his/her determination of noncompliance and provide the owner, lessee and/or occupant a reasonable time within which to remedy the noncompliance. If the owner and/or occupant does not remedy the noncompliance within the time period by the Department Director, then the Department Director may rescind the credits for such property effective as of the second month following the rescission of the credits. A Nonresidential Property for which credits have been rescinded shall not be eligible to apply for credits for five (5) years after the effective date of the rescission of the credits.

**906.06.6** A credit of 25% of the Stormwater Utility Fee for a Nonresidential Property determined by operation of Section 906.04 may be given for Nonresidential Property which employs BMPs to manage stormwater runoff for water quality (total suspended solids and/or phosphorous).

**906.06.7** A credit of 25% of the Stormwater Utility Fee for a Nonresidential Property determined by operation of Section 906.04 may be given for Nonresidential Property which employs BMPs to manage stormwater runoff for rate control and detention.

**906.06.8** Credits are cumulative and shall not exceed 50% of the Stormwater Utility Fee determined by operation of Section 906.04.

**906.07 Adjustment to Impervious Area Determinations.** If the amount of Impervious Area on a nonresidential property differs from the amount determined by the City, the owner or manager of the nonresidential property may request a recalculation. It is the responsibility of the owner or manager or any nonresidential property to provide the City with necessary surveys and other information as the City may reasonably request to determine if a property qualifies for an adjustment to the Impervious Area determination. Requests for adjustments shall only be reviewed upon receipt of all requested information by the City. Any approved adjustment shall be effective the next billing cycle following approval.

**906.08 Adjustment Determinations.** Impervious Area adjustments made by Section 906.07 and Credit adjustments made by Section 906.06 and denials of adjustments shall be made in writing by the Department Director. No credits may be applied retroactive for any approved requests for credits made after January 1, 2020.

**906.09 Appeal:** Any property owner who has been denied an adjustment, may request review and re-computation of said fee. Such appeals shall be made by filing a written notice of appeal with the City Clerk. The City's Utilities Commission shall hear the appeal and affirm, modify or reverse the adjustment determination applying the standards established in this Section 906.

**906.10 Billing Method.** The City will compute Stormwater Utility Fees. Stormwater Utility Fees shall be collected by the City together with other City fees through the City billing system, or by any other method approved by the City. The City may provide for penalties and interest for late payments. Any such penalties and interest shall be as set forth on the City's Fee Schedule as adopted from time-to-time by resolution or ordinance of the City.

**906.11 Delinquent Accounts.** Delinquent and unpaid Stormwater Utility Fees may be certified to the St. Louis County Auditor for collection with real estate taxes during the following year or any year thereafter in the manner prescribed in City of Hermantown's Policy adopted October 6, 2014, titled: Delinquent Utility Bills – Certification on Property Taxes, as it may be amended from time to time, pursuant to Minnesota Statute 444.075.