

ORDINANCE NO. 822

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF PERRY, IOWA, 2001 BY ADDING A NEW CHAPTER PERTAINING TO STORM WATER DISTRICT UTILITY

BE IT ENACTED BY THE city Council of the City of Perry, Iowa:

SECTION 1. NEW CHAPTER. The code of Ordinances of the City of Perry, Iowa, 2001 is amended by adding a new chapter, numbered 100, entitled STORM WATER UTILITY, which is hereby adopted to read as follows:

**CHAPTER 100
STORM WATER UTILITY**

100.01 Purpose

100.02 Definition

100.03 Storm Water System District Established

100.04 Rates

100.05 Payment of Bills

100.06 Lien for Nonpayment

100.01 PURPOSE. The purpose of this chapter is to establish a Storm Water Utility and provide a means of funding the construction, operation and maintenance of storm water management facilities including, but not limited to, detention and retention basins, storm water sewers, inlets, ditches and drains, and cleaning of streets. The Council finds that the construction, operation and maintenance of the City’s storm and surface water drainage system should be funded through charging users of property that may connect or discharge directly, or indirectly, into the storm and surface water drainage system.

100.02 DEFINITIONS. For use in this chapter, unless the context specifically indicates otherwise, the following terms are defined:

1. “Connection” means the physical act or process of tapping a public storm water sewer or drainage line, or joining onto an existing side sewer, for the purpose of connecting private impervious surface or other storm and surface water sources or systems to the public storm and surface water system. It also includes creation or maintenance of impervious surface that causes or is likely to cause an increase in the quantity or decrease in quality or both from the natural state of storm water runoff, and which drains, directly or indirectly, to the storm and surface water system.
2. “Customer” means, in addition to any person receiving storm water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
3. “Storm and surface water system” means any combination of publicly owned storm and surface water quantity and quality facilities, pumping, or lift facilities, storm and secondary drain pipes and culverts, open channels, creeks and ditches, force mains, laterals, manholes, catch basins and inlets, including grates and covers thereof, detention and retention facilities, laboratory facilities and equipment, and any other publicly owned facilities for the

collection, conveyance, treatment and disposal of the storm and surface water system within the City, to which sanitary sewage flows are not intentionally admitted.

4. "User" shall mean any person who uses property that maintains connection to, discharges to, or otherwise receives services from the City for storm water management. The occupant of occupied property is deemed the user. If the property is not occupied, the person who has the right to occupy it shall be deemed the user.

100.03 STORM WATER SYSTEM DISTRICT ESTABLISHED.

Pursuant to the authority of Section 384.84(5) of the Code of Iowa, the entire City is hereby declared a Storm Water System District for the purpose of establishing, imposing, adjusting and providing for the collection rates for the operation and maintenance of storm water management facilities. The entire City, as increased from time to time by annexation, shall constitute a single Storm Water System District.

(Code of Iowa, Sec. 384.84(5))

100.04 RATES. Each customer shall pay for storm and surface water system service provided by the City. The rates for the operation and maintenance of the storm water management facilities shall be collected by imposing a monthly rate on each residential, commercial, and industrial customer within the City of Perry. The Council may adopt rules, charges, rates and fees for the use of the City's storm and surface water system, and for services provided by the City relating to that system. Such rules may include delinquency and interest charges and penalties. Such charges and fees shall be just and equitable based upon the actual costs of operation, maintenance, acquisition, extension, and replacement of the City's system, the costs of bond repayment, regulation, administration, and services of the City. There shall be levied and collected fees therefore established by and through a proposal and submission to the Council by resolution. Where in the judgment of the City, special conditions exist to the extent that the application of the normal user charges would be inequitable or unfair to either the City or the customer, a special rate shall be proposed and submitted to the Council for approval by resolution.

100.05 PAYMENT OF BILLS. All Storm Water System District charges are due and payable under the same terms and conditions provided for payment of solid waste disposal service, and storm water may be discontinued in accordance with the provisions contained in Section 106.07(3) if the combined service account referred to therein becomes delinquent and the provisions contained in Section 106.09 relating to lien exemptions and lien notice shall also apply in the event of a delinquent account. Late payment fees as set by resolution of the Council may be added to delinquent bills.

(Code of Iowa Sec. 384.84(2b) and (2d))

100.06 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for charges for the operation and maintenance of the storm water management facilities. Any such charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection

in the same manner as property taxes.

(Code of Iowa Sec. 384.84(3a))

SECTION 2. REPEALER. All ordinances or parts or ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after the latter of its final passage, approval and publication as provided by law, or November 1, 2004.

PASSED AND APPROVED this 4th day of October 2004.

ViiVi Shirley, Mayor

ATTEST:

Jeanette Peddicord, City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the _____ day of _____, 2004.

City Clerk