

## ORDINANCE NO. 866

### AN ORDINANCE ADDING CHAPTER 101 OF THE ELDORA MUNICIPAL CODE

BE IT ENACTED by the City Council of the City of Eldora, Iowa:

Section 1. **Purpose.** The purpose of this ordinance is to add Chapter 101 Storm Water Drainage Utility Code to the Eldora Municipal Code.

Section 2. The following Chapter 101 is hereby added to the Eldora Municipal Code as following:

#### CHAPTER 101

### STORM WATER DRAINAGE UTILITY

101.01 Purpose	101.04 Rates
101.02 Definitions	101.05 Payment of Bills
101.03 Storm Water Drainage System Utility Established	101.06 Lien for Nonpayment

**101.01 PURPOSE.** The purpose of this chapter is to establish a Storm Water Drainage 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 which may connect or discharge directly, or indirectly, into the storm and surface water drainage system.

**101.02 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 the creation or maintenance of impervious surface(s) that causes or may 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 drainage system.

2. **"Storm and Surface Water Drainage 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 the grates and covers associated therewith, detention and retention facilities, laboratory facilities and equipment, and any other publicly owned facilities for the collection, conveyance, treatment and disposal of storm and surface water within the City, to which sanitary sewage flows are not intentionally admitted.

3. **“User”** means 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. But where a complex is billed under one combined service account, the recipient of that bill shall be deemed the user and receive the total combined storm water drainage system district charge for that complex. If the property is not occupied, the person who has the right to occupy it shall be deemed the user. If it is not possible, after reasonable inquiry, to determine the rightful occupant of the occupied property, the owner(s), individually or severally, shall be deemed to be the user(s).

**101.03 STORM WATER DRAINAGE UTILITY ESTABLISHED.** Pursuant to the authority of Section 384.84(5) of the Code of Iowa, as most recently amended, the entire territorial limits of the City is hereby declared to fall within the jurisdiction of the Storm Water Drainage Utility for the purpose of establishing, imposing, adjusting and providing for the collection of rates for the operation and maintenance of storm water management facilities. The entire City, as increased from time to time by annexation, shall constitute the area covered by this Storm Water Drainage Utility.

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

1. **101.04 RATES.** Each user shall pay for storm and surface water drainage 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 meter. The rates/charges shall be billed as part of the User’s combined service account. (*Combined Service Account* meaning a customer service account for the provision of two or more utility services.) The City 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 related thereto. Such rules may include delinquency fees, interest charges and/or 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 Storm Water Management Facilities/Storm and Surface Water Drainage System(s), the costs of bond repayment, regulation, administration, and the services of the City. The rates for the foregoing functions shall be collected by imposing a monthly rate of one dollar (\$1.00) on every residential meter, and three dollars (\$3.00) per meter on every other, non residential meter.

**101.05 PAYMENT OF BILLS.** All Storm Water Drainage Utility charges shall be due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. All City services may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Sections 92.06 and 92.07 relating to lien exemptions and lien notices shall also apply in the event of a delinquent account.

*(Code of Iowa, Sec. 384.84[2b] and [2d])*

**101.06 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])*

**101.07 USE OF GENERATED REVENUES.** The City shall hold all funds generated from the enactment of this Ordinance in one fund to be used for the construction and/or maintenance of Municipal Storm Water management systems.

Section 3. **Effect.** All other Sections of said Chapters shall remain unchanged and in full force and effect.

Section 4. **Severability.** If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of the Code is, for any reason, held to be invalid or enforceable as to any person or circumstances, the application of such section, subsection, paragraph, subparagraph, sentence, clause or phrase to persons or circumstances other than those as to which it shall be held invalid or unenforceable, shall not be affected thereby, and all other provisions of the Code, in all other respects, shall be and remain valid and enforceable.

Section 5. **Effective Date.** This ordinance and the Eldora City Code shall be in full force and shall take effect, from and after the adoption and publication of this ordinance.

Passed and approved by the City Council of the City of Eldora, Iowa this 14<sup>th</sup> day of April, 2020.

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David W. Dunn, Mayor

ATTEST:

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Chandra Kyte, City Clerk

Introduced: 03-30-2020

Passed 1<sup>st</sup> Consideration: 03-30-2020

Passed 2<sup>nd</sup> Consideration: 04-14-2020

Passed 3<sup>rd</sup> Consideration: 04-14-2020

Passed & Adopted: 04-14-2020

CERTIFICATE

STATE OF IOWA )  
(ss:  
HARDIN COUNTY )

I, Chandra Kyte, City Clerk of the City of Eldora, Iowa, do hereby certify that attached is a true and complete copy of the portion of the corporate records of said municipality showing proceedings of the Council and the same is a true and complete copy of the action taken by said Council with respect to said matter at the meeting held on the date indicated in the attachment, which proceedings remain in full force and effect, and have not been amended or rescinded in any way; that meeting and all action there at was duly and publicly held in accordance with the notice of meeting and tentative agenda, a copy of which was timely served on each member of the Council and posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the Council pursuant to the rules of the Council and the provisions of Chapter 21, Code of Iowa, upon reasonable advance notice to the public and media at least twenty-four hours to the commencement of the meeting as required by said law and with members of the public present in attendance; I further certify that the individuals named therein were on the date thereof duly and lawfully possessed of their respective city offices as indicated therein, that no council vacancy existed except as may be stated in said proceedings, and that no controversy or litigation is pending, prayed or threatened involving the incorporation, organization, existence or boundaries of the City or the right of the individuals named therein as officers to their respective positions.

WITNESS my hand and seal of the municipality hereto affixed this 15<sup>th</sup> day of April, 2020.

SEAL:

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Chandra Kyte, City Clerk

STATE OF IOWA )  
(ss:  
HARDIN COUNTY )

On this 15<sup>th</sup> day of April, 2020, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Chandra Kyte, to me personally known, who, being by me duly sworn, did say that she is the City Clerk of the City of Eldora, Iowa, that the seal affixed to the foregoing instrument is the corporate seal of the corporation; and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council and that Chandra Kyte acknowledged the execution of the instrument to be her voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

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Notary Public and for the State of Iowa