

ORDINANCE NO. 14-14

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF NORWALK, IOWA, BY ADDING A NEW CHAPTER RELATING TO THE PROCEDURE TO BE UTILIZED IN ESTABLISHING CONNECTION FEES TO RECOVER THE COST OF CONSTRUCTING MAJOR STORMWATER DRAINAGE FACILITIES.

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

SECTION 1. NEW CHAPTER. The Code of Ordinances of the City of Norwalk, Iowa, is hereby amended by adding a new Chapter 107, entitled BENEFITED STORMWATER DRAINAGE DISTRICTS, relating to the procedures to be utilized in establishing individual stormwater connection fee districts and associated connection fees to recover the cost of designing and constructing major stormwater drainage facilities as follows:

CHAPTER 107 BENEFITED STORMWATER DRAINAGE DISTRICTS

107.1 PURPOSE. The City has determined the necessity of establishing a policy and a procedure to be utilized to recover the cost of designing and constructing major stormwater drainage facilities. In those instances in which a significant number of the properties to be benefited by such facilities are not sufficiently developed to permit the recovery of those costs through the special assessment process as provided in Chapter 384, Division IV of the Code of Iowa. The City hereby declares its intent to utilize connection fees, as herein provided, to recover the costs of designing and constructing such major stormwater drainage facilities from property owners who develop property within the drainage basin where said improvements are located.

107.2 INTENT. It is the intent of this chapter to set forth the method of recovery of proportional cost shares from those property owners who develop property within the drainage basin so that in the event that all property, other than street and road right-of-way and parks, which lies within the drainage basin as established by the benefited district that those properties shall bear, in the aggregate, up to 100% of the cost of designing and constructing such facilities, including legal, administrative

and interest expenses associated therewith.

1. **PROCEDURE.** In the event the Council determines the necessity of constructing a major stormwater drainage facility, and determines that the utilization of a connection fee is the most equitable manner in which to recover the City's costs associated therewith, the Council shall cause a "Notice of Public Hearing on the Proposed Adoption of an Ordinance to Establish a Benefited District and a Connection Fee" to be published in a newspaper having general circulation in the City as hereinafter provided. In addition to indicating the date, time, and place of the public hearing, the notice shall:
 - A. Indicate the nature and extent of the major stormwater drainage facility or facilities constructed or under consideration for construction, as well as the estimated cost or costs for the design and construction of same;
 - B. Identify by general description the proposed benefited district to be served by the major stormwater drainage facility or facilities; and
 - C. Set forth the proposed schedule of connection fees to be paid by property owners within the benefited district who connect to said facilities, expressed in dollars per acre of land area served or such other method as the City shall determine to be equitable for the benefited district.

The notice shall state that the proposed connection fee ordinance is on file, along with a plat of the area to be served, and both are available for public inspection in the office of the City Clerk. The notice shall be published not more than 45 days and not less than 20 days prior to the scheduled date of the public hearing, and shall be mailed to each property owner within the benefited district as shown by the records of the County Auditor.

2. At the public hearing, the owners of property within the proposed benefited district shall be heard and may offer comments or objections as to:
 - A. The necessity for the project;
 - B. The calculation of the area benefited by the proposed major stormwater drainage facilities;

- C. The estimated cost of the proposed facilities; and
 - D. The proposed connection fee.
3. Upon concluding the hearing, the Council shall rule upon the objections presented during the hearing and may consider the adoption of the proposed connection fee ordinance. Upon consideration of the proposed connection fee ordinance, the Council may:
- A. Adopt the ordinance as proposed;
 - B. Delete elements or portions of the proposed major stormwater drainage facilities from the proposed project and the properties served thereby from the benefited district proposed, or
 - C. Amend the ordinance to revise the connection fee.
4. The major stormwater drainage connection fee shall be in an amount equal to the maximum area of contiguous property or fraction thereof within the benefited district under common ownership which can be lawfully served through such proposed connection, subject to the provisions of this section for determination of the applicable area for calculation of the connection fee multiplied by the per acre connection fee or such other fee basis as determined for the benefited district established in the connection fee ordinance for that benefited district. The connection fee ordinance may provide for a graduated connection fee, with annual interest adjustments, such that property owners who connect in later years pay interest on the connection fee for their property. The rate of interest applicable to the connection fee established in each benefited district shall not exceed the rate of interest applicable to special assessments pursuant to Chapter 74A and Section 384.60(3) of the Iowa Code in effect on the date that the connection fee was established for that district by enactment of a connection fee ordinance.
5. After adoption, publication and recording of a connection fee ordinance for a benefited district, all owners of those properties within the benefited district whose properties are eligible for connection, and who propose to connect such properties directly or indirectly to the major stormwater drainage facility, shall make application to the City

for such connection. The submittal of construction plans to the City for stormwater drainage improvements on property being subdivided for development shall constitute an application to the City for purposes of this chapter. The stormwater connection fee shall be due and payable at the time application is made to the City for connection to the major stormwater drainage facility. No connection shall be made to a major stormwater drainage facility until such application has been approved and until the required connection fee has been paid. The stormwater connection fee shall be paid before the City will approve the final plat of property subject to the connection fee.

6. Property outside of the benefited district would be eligible for connection to a major stormwater drainage facility only upon the approval of an application for connection by the owner thereof, a determination by the City that sufficient capacity exists in the major stormwater drainage facility to serve such area outside of the boundaries of the benefited district and following payment of a fee calculated on the same basis as if the property were located within the benefited district. Without approval of the City and payment of the applicable fee, no property outside of the benefited district may connect to the major stormwater drainage facility constructed to serve the benefited district. The City may waive the requirement for payment of the applicable fee.
7. The stormwater connection fee required by this chapter shall be due and payable to the City and is in addition to, and not in lieu of, any other fees for connection required under the plumbing code or other provisions of this Code of Ordinances.
8. Major stormwater drainage facilities for purposes of the connection fees established under this chapter may include, but be limited to storm sewers, culverts, intakes, manholes, drainage swales and channels, pump stations, detention facilities, flood protection facilities, and river and stream restoration or stabilization.
9. The following properties shall be exempt from, and not subject to, the connection fee for major stormwater drainage facilities:
 - A. Platted lots with a single family residential dwelling unit constructed

- before, or under construction on, the effective date of the ordinance.
- B. Single family residential dwellings on unplatted property constructed before, or under construction on, the effective date of the ordinance to a maximum area of 1 acre.
 - C. Platted property, developed or undeveloped, subject to an approved development plan with the City on the effective date of the ordinance establishing the benefited district for the area where the property is located.
 - D. Non-residential buildings on platted lots constructed before, or under construction on, the effective date of the ordinance, provided any future division of a parcel shall subject the non-developed portion of the parcel to the applicable connection fee.
 - E. Non-residential development on an unplatted property constructed before, or under construction on, the effective date of the ordinance to the extent of the actual developed area including buildings, drives, parking lots and other similar types of surface improvements.
10. All property shall be subject to the major stormwater drainage connection fee as follows:
- A. Newly platted property - the gross area of the plat less any street right-of-way and area to be dedicated as public park.
 - B. Site plan - the gross area of the site plan less any street right-of-way, area to be dedicated as public park and any area for which the connection fee was previously paid.
 - C. For residential development on a previously platted area of less than 1 acre - the gross area of the lot as proportioned to the per acre connection fee.
 - D. For residential development on a previously platted residential parcel of more than 1 acre, or any non-platted residential parcel - 1 acre. The property owner may designate the 1 acre single residence parcel and a remainder parcel and the 1 acre single residence parcel shall be subject to the connection fee. Any future development of said parcel shall necessitate a revised application for connection and payment of the appropriate connection fee.
11. In each benefited district the City may enter into an agreement with a property owner for the property owner to construct a designated major stormwater drainage facility. Such agreement may

provide the City will waive the applicable connection fee to the extent of documented construction costs incurred by the property owner to construct said major stormwater drainage facility. Said agreement may provide the City can reimburse the property owner for cost of the major stormwater drainage facilities in excess of the waived connection fee in an amount not to exceed the then applicable statutory limit of the amount the City can pay to a private property owner. Such agreement shall provide that the property owner waives and agrees not to recover any additional costs incurred by the property owner above and beyond the waiver of the applicable connection fee and payment as provided herein.

12. It is within the discretion of the City Council when to construct a major stormwater drainage facility as designated in a benefited stormwater drainage district. The City shall not be obligated to construct a major stormwater drainage facility in response to any request for said stormwater drainage facility. If a property owner requests the City to construct a major stormwater drainage facility the property owner, as a condition of that request, must agree to provide all easements and access necessary for construction of the stormwater drainage facility on property owned or controlled by the requesting party at no cost to the City.
13. Any person violating the provisions of this ordinance by connecting to a major stormwater drainage facility without having complied with the provisions of this chapter shall be punished as provided in Chapter 3 of this Code of Ordinances of the City.

SECTION 2. REPEALER. All ordinances or parts of 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 its final passage, approval, and publication as provided by law.

Passed by the Council the 4th day of September, 2014, and approved this 4th day of September, 2014.

Tom Philips, Mayor

ATTEST:

Jeff Rosien, City Clerk

I certify that the foregoing was published as Ordinance No. 14-14 on the ____ day of _____, 2014.

Jeff Rosien, City Clerk