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STORMWATER MANAGEMENT UTILITY ORDINANCE
ORDINANCE NO._____

ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF _GRIMES, BY ADDING CHAPTER 117,
"STORMWATER MANAGEMENT UTILITY"

Section 1. THE CODE OF ORDINANCES, CITY OF GRIMES, is hereby amended to add CHAPTER 117 "STORMWATER MANAGEMENT UTILITY" in the form attached hereto.

Section 2. Repealer Clause. All ordinances or parts of ordinances in conflict herewith are hereby repealed.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. Effective Date. This ordinance shall be effective from and after the final passage, approval and publication as provided by law.

PASSED AND APPROVED this ____day of _____, 2012.

_____
Mayor Tom Armstrong

(SEAL)

ATTEST:

_____
City Clerk Rochelle Williams

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APPROVED AS TO FORM:

_____
City Attorney

I, _____, City Clerk of the City of GRIMES, Iowa, do hereby certify that the foregoing ORDINANCE was passed and approved by the City Council of the City of GRIMES, Iowa, on the _____day of _____, 2012 , and was published in the _____ _____, a newspaper of general circulation in the said City of _____ _____, on the _____day of _____, 2012.

Dated this _____day of _____, 2012.

_____
City Clerk

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CHAPTER 117

STORMWATER MANAGEMENT UTILITY

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117.01 PURPOSE:

The purpose of this ordinance is to establish a stormwater management utility which shall be responsible for stormwater management within the corporate boundaries of the City of Grimes and shall provide for the management, protection, control, regulation, use and enhancement of stormwater management systems and facilities.

(Code of Iowa, Sec. 384.84)

1. Pursuant to §384.84 Code of Iowa (2005) the City may establish a stormwater drainage system utility and impose rates and charges for the operation, maintenance and extension of the Stormwater Drainage System, which in the City of Grimes shall be known as the Grimes Stormwater Management Utility.

2. It is the best interests of the City of Grimes that the Stormwater Management Utility be established so as to provide for the proper operation and maintenance of the utility facilities and to provide for rates for the purposes of assuring sufficient funds for the same.

3. The City of Grimes declares the entire area within the Corporate Limits of the City of Grimes as the Stormwater Drainage System District pursuant to 384.84(5) Code of Iowa (2005) which shall be the area governed by the Grimes Stormwater Management Utility.

117.02 DEFINITIONS.

Unless the context specifically indicates otherwise, the meaning of the terms used in this chapter shall be as follows:

1. "Apartment dwelling" means a self-contained housing unit that occupies only part of a building which consists of many similar housing units for rent or sale, wherein the land or lot beneath the multi-dwelling structure may be owned by the building owner. In the application of stormwater management fees, each apartment dwelling shall be one half (1/2) ERL.

2. "Bonds" means revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the costs of construction.

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3. "Construction cost" means costs reasonably incurred in connection with providing capital improvements to the system or any portion thereof, including but not limited to the costs of the following:

A. Acquisition of all property, real or personal, and all interests in connection therewith including all rights-of-way and easements therefore;
B. Physical construction, installation and testing including the costs of labor, services, materials, supplies and utility services used in connection therewith;
C. Architectural, engineering, legal and other professional services;
D. Insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction and installation;
E. Any taxes or other charges which become due during construction;
F. Expenses incurred by the city or on its behalf with its approval in seeking to enforce any remedy against any contractor or subcontractor in respect of any default under a contract relating to construction;
G. Principal and interest on any bonds; and
H. Miscellaneous expenses incidental thereto.

4. "Customers of stormwater utility" include all persons, properties, and entities served by and/or benefiting from the utility's acquisition, management, maintenance, extension and improvement of the public stormwater management systems and facilities.

5. "Debt service" means the amount of money necessary annually to pay the interest on outstanding debt and pay the principal of maturing bonded debt.

6. "Developed property" means land that has been altered from its natural state by construction or installation of more than 500 square feet of impervious surface area thus increasing the amount of rainwater or surface water runoff.

7. "Duplex dwelling" means a building containing only two (2) dwelling units and designed for and occupied exclusively by not more than two (2) families with separate housekeeping and cooking facilities for each. In the application of stormwater management fees, each duplex dwelling property shall be treated as two (2) single-family dwellings.

8. "Equivalent Residential Lot (ERL)" is based on the total area for an average residential lot in the community. ERL shall be used as the basis for determining stormwater management fees. One ERL is equal to ten thousand (10,000) square feet of gross lot area.

9. "Exempt property" includes public streets, alleys and sidewalks; all undeveloped properties including land used for agriculture; all vacant properties and properties which have been zoned but do not have building permits issued.

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10. “Impervious surface” means those areas which prevent or impede the infiltration of stormwater into the soil as it enters in natural conditions prior to development. Common impervious surface areas include, but are not limited to, rooftops, sidewalks, driveways, patios, parking lots, storage areas, compacted gravel surfaces and other surfaces which prevent or impede the natural infiltration of stormwater runoff which existed prior to development.

11. “Mobile home dwelling” means a detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or a flatbed or other trailer, and arriving at the site where it is occupied as a dwelling complete and ready for occupancy except for minor unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like. In the application of stormwater management fees, each mobile home dwelling property shall be treated as one half (1/2) single-family dwelling.

12. “Nonresidential properties” means all developed properties not encompassed by the definition of residential shall be defined as nonresidential. Nonresidential properties shall include: commercial property; industrial property; institutional property; churches; hospitals; schools; parking lots; and any other property not mentioned in the lists of properties. In the application of stormwater management fees, total property area will be divided by 10,000 square feet to calculate ERLs for each nonresidential property.

13. “Operating budget” means the annual operating budget for the stormwater management utility adopted by the city council for the succeeding fiscal year.

14. “Pollutant” means anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, so that the same may cause or contribute to pollution; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform bacteria and pathogens; dissolved and particulate metals; animal wastes; waste and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

15. “Revenues” means all rates, fees, assessments, rentals or other charges or other income received by the utility, in connection with the management and operation of the system, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the city, all as calculated in accordance with sound accounting practice.

16. “Single-family dwelling" means a residence designed for or occupied by one family only entirely surrounded by yard on the same lot. In the application of stormwater management fees, each single-family dwelling shall be one (1) ERL.

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17. “Stormwater drainage system” means the system of publicly or privately owned or operated man-made facilities, structures, and natural watercourses, including rivers, streams, creeks, canals, ditches, drainage channels, culverts, flumes, pipes, catch basins, streets, gutters, and lakes within the city through which or into which stormwater runoff, surface water, or subsurface water is conveyed or deposited.

18. “Stormwater management” means the tasks required to control stormwater runoff using stormwater management systems, to protect the health, safety, and welfare of the public, and comply with relevant state and federal regulations.

19. “Stormwater management system and facilities” address the issue of drainage management (flooding) and environmental quality (pollution, erosion and sedimentation) of receiving rivers, streams, creeks, lakes and ponds through improvements, maintenance, and regulation of structures and property used in the collection, retention, detention and treatment of stormwater or surface water drainage.

20. “Stormwater management utility” means the enterprise fund utility created by this division to operate, maintain and improve the system and for such other purposes as stated in this division. the utility established under this Section for the purpose of managing stormwater and imposing charges for the recovery of costs connected with such stormwater management.

21. “Townhome dwelling” means a dwelling unit which is detached or attached horizontally, and not vertically, to one or more other dwelling units, wherein the land or lot beneath each dwelling may be individually owned in common by a townhome association. In the application of stormwater management fees, each townhome dwelling shall be treated as one (1) single-family dwelling.

22. “Undeveloped property” means land in its unaltered natural state or which has been modified to such minimal degree as to have a hydrologic response comparable to land in an unaltered state. Undeveloped land shall have less than 500 square feet of pavement, asphalt or compacted gravel surfaces or structures which create an impervious surface area. Agricultural property shall be classified as undeveloped property.

23. “User” means any person owning, operating, or otherwise responsible for property within the city which directly or indirectly discharges stormwater or surface or subsurface waters to any portion of the stormwater management system or which is directly or indirectly protected by the city's flood protection system or stormwater drainage system.

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117.03 DECLARATION OF PURPOSE; ESTABLISH DISTRICT.

1. The city council finds, determines, and declares it to be conducive to the health, welfare, safety and convenience of the city and its residents that a stormwater management utility district be established within the city. Consequently, pursuant to I.C. § 384.84(1), a stormwater management utility district, to be known as the Grimes Stormwater Management Utility, is established, and it is ordained and declared that the property located within the City Limits of the City of Grimes shall be and constitute the stormwater management utility district, and that the utility shall comprise and include elements of the city's stormwater drainage and flood protection systems which provide for the collection, treatment and disposal of stormwater, surface water, and groundwater. It is further found, determined, and declared that the elements of the stormwater management utility are of benefit and provide services to all real properties within the incorporated city limits, including property not directly served by the stormwater drainage system, and that such benefits and services may include but are not limited to the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater; the reduction of hazard to property and life resulting from stormwater runoff and flooding; improvement in general health and welfare through reduction of undesirable stormwater conditions and flooding; and improvement to the water quality in the stormwater and surface water system and its receiving waters.

2. It is further determined and declared to be necessary and conducive to the protection of the public health, welfare, safety and convenience of the city and its residents that charges be levied upon and collected from the owners or occupants of all lots, parcels of real estate, and buildings that discharge stormwater or surface or subsurface waters, directly or indirectly, to the city stormwater drainage system, and that the proceeds of such charges so derived be used for the purposes of operation, maintenance, repair, replacement and debt service for construction of the stormwater drainage and flood protection improvements comprising the stormwater management utility.

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117.04 POWERS, DUTIES, RESPONSIBILITIES.

The stormwater management utility shall have the following powers, duties, and responsibilities:

1. Prepare ordinances as needed to implement this division and forward the ordinances to the City Council for consideration and adoption, and adopt such regulations and procedures as are required to implement this division and carry out its duties and responsibilities.

2. Administer the acquisition, design, construction, maintenance and operation of the stormwater utility system, including capital improvements for stormwater drainage.

3. Administer and enforce this division and all ordinances, regulations and procedures adopted relating to the design, construction, maintenance, operation and alteration of the utility system, including but not limited to the quantity, quality and/or velocity of the stormwater conveyed thereby.

4. Inspect private systems as necessary to determine the compliance of such systems with this division and any ordinances or regulations adopted pursuant to this division.

5. Prepare and revise a comprehensive drainage and flood protection plan for periodic review and adoption by the city council.

6. Review plans, approve or deny, inspect and accept extensions to the stormwater drainage system.

7. Establish and enforce regulations to protect and maintain water quality within the system in compliance with water quality standards established by state, regional and/or federal agencies as adopted or amended.

8. Annually analyze the cost of services and benefits provided, and the system and structure of fees, charges, fines and other revenues of the utility, and make recommendations regarding adjustments to such fees, charges, fines and other revenues.

9. Prepare an annual operating budget for the utility and make recommendations regarding the financing of the cost of extending, improving, and replacing the system.

10. Administer a Homeowner Grant Program providing funding assistance for stormwater management improvements on single-family residential lots.

11. Administer a Credit Program for non-residential properties which provide water quantity or quality control through detention ponds or other stormwater management facilities.

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117.05 ORGANIZATION.

The city council shall be the governing body of the stormwater management utility. The stormwater management utility shall be under the direction, management and control of the City Administrator or designee who shall function as its director. In that capacity, the director shall supervise the day-to-day operation of the stormwater management utility, shall enforce this division and the provisions of all ordinances and regulations adopted pursuant to this division and shall carry out the policy directives of the city council acting in its role as governing body of the stormwater management utility.

117.06 STORMWATER SERVICE CHARGES REQUIRED.
Every customer whose premises is served by a connection with the stormwater management system and facilities of the City of Grimes, either directly or indirectly, shall pay to the city stormwater service charges hereinafter established and specified for the purpose of contributing towards the costs of construction, maintenance and operation of the stormwater management system and facilities and at least sufficient to pay the principal and interest related to Bonds issued for the purpose of financing all or part of those costs, and sufficient to comply with any covenants or conditions associated with any such Bonds so issued.

117.07 EFFECTIVE DATE
Stormwater service charges shall accrue beginning January 1, 2013 and shall be billed monthly thereafter to all customers.

117.08 BASIC RATE

1. Except as hereinafter noted, each customer whose property lies within the corporate limits of the city shall pay to the city, as a part of the customers combined service account with the Grimes Utility Billing Department, at the same time payment for other City utilities are made, the following charges per Equivalent Residential Lot (ERL) associated with the customer's property:

A. Undeveloped properties. A flat storm sewer availability charge at the rate of $0.00 per month.

B. Single-family dwelling, 1 ERL: $5.00 per month.

C. Duplex dwelling, 1 ERL: $5.00 per month.

D. Townhome dwelling, 1 ERL: $5.00 per month.

E. Mobile home dwelling, ½ ERL: $2.50 per month.

F. Apartment dwelling, ½ ERL: $2.50 per month.

G. Nonresidential properties: $5.00 per ERL per month, with a minimum of 1 ERL and up to a maximum of 40 ERLs.

2. The yearly rate shall increase by 5.0% per year through 2018. As a result of the annual review of rates, as detailed in Section 117.12 of this Ordinance, the Council may choose to adjust the monthly ERL rate as necessary. Such rate adjustments shall be approved by Resolution of the City Council.

3. The number of Equivilent Residential Lots (ERL) on non-residential properties shall be calculated by reference to the Polk and Dallas County records. Stormwater fee billing will begin upon water meter installation.

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117.09 RATE APPEALS.

City staff will review all rate and ERL inquiries from customers to ensure the ERL has been correctly applied to a property. Following this review, any customer who believes the provisions of this chapter have been applied in error may appeal in the following manner:

1. An appeal must be filed in writing to the City of Grimes City Administrator and include all necessary information to support the request for an appeal.

2. In the case of service charge appeals, the appeal shall include official property information, including total area for the property in question.

3. Using the information provided by the appellant, the City Administrator shall conduct a technical review of the conditions on the property and respond to the appeal in writing within thirty (30) days.

4. In response to an appeal, the City Administrator may adjust the stormwater service charge applicable to a property in conformance with the general purpose and intent of this chapter.

5. A decision by the City Administrator which is adverse to an appellant may be further appealed to the City Council within thirty (30) days of receipt of notice of the adverse decision. Notice of the appeal shall be served on the City Council by the appellant, stating the grounds for the appeal. The City Council shall schedule a public hearing within thirty (30) days. All decisions of the City Council shall be served on the appellant by registered mail, sent to the billing address of the appellant.

6. All decisions of the City Council shall be final.

117.10 EXEMPTION FROM FEES; SPECIAL CONDITIONS.

The stormwater management fee shall not apply:

1. If a written request is made, in special conditions the City Administrator of the City of Grimes may grant fee payment and collection variances after determining that granting the variance would be in the city's best interest, will improve efficiency, safety and is practical. Upon the granting of any variance, the City Administrator shall file notice with the City Council giving reason(s) for the variance.

2. The fee established in Subsection 117.08 for nonresidential properties recognizes that these types of development are required to provide stormwater detention and water quality treatment onsite. Having such stormwater management, therefore, is not a basis for exemption. However, property owners may qualify for a reduction to their ERL provided they fulfill stormwater management requirements and perform stormwater facility inspections and maintenance as determined by the Stormwater Utility Credit Program.

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3. To properties owned by a governmental entity, such as the United States, State of Iowa, Polk County, or the City of Grimes.

117.11 STORMWATER SERVICE BILLING.

1. All stormwater management fees 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. Water service 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 Section 92.06 relating to lien notices shall also apply in the event of a delinquent account.

2. Stormwater fee billing will begin upon water meter installation.

117.12 ANNUAL REVIEW OF RATES.

The city has the option to review the stormwater service charges at least yearly and revise the stormwater service charges as necessary to ensure that such charges as herein established and specified generate adequate revenues to pay the costs of maintenance and operation (including replacement and debt service) of a stormwater management system and facilities and that the stormwater service charges continue to provide for the proportional distribution of maintenance and operation costs (including replacement costs and debt service) for a stormwater management system and facilities among the users and user classes. The liability of a stormwater service user to pay for charges as provided in this chapter shall not be contingent, however, upon any such review or revision.

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