

**City of Northampton
MASSACHUSETTS**

In the Year Two Thousand Fourteen

Upon the Recommendation of Mayor David J. Narkewicz

ORDINANCE

An Ordinance of the City of Northampton, Massachusetts, providing that the Code of Ordinances, City of Northampton, Massachusetts, be amended by revising section 280 of said code; providing that *Stormwater and Flood Control Utility*

Be it ordained by the City Council of the City of Northampton, in City Council assembled, as follows: That section 280 of the Code of Ordinances of the City of Northampton, Massachusetts, be amended so that such section shall read as follows:

SECTION 280 – Stormwater and Flood Control Utility – Amend as follows:

§ 280-1. Established; supervision

There is hereby established within the Department of Public Works a utility known as the "Stormwater and Flood Control Utility" under the day-to-day supervision of the Director of Public Works ~~and the general supervision of the Board of Public Works.~~

§ 280-3. Authority.

This chapter is adopted in accordance with the authority granted, inter alia, by Amendment Article 89 to Amendment Article 2 of the Massachusetts Constitution, ~~Chapter 328 of the Acts of 2002~~, MGL c. 83, §§ 1 through 24, and such other powers as granted to cities in the General Laws.

§ 280-6. Rates.

A.

The ~~Board~~ Director of Public Works shall recommend an annual budget for stormwater management and flood control services to the Mayor. The Mayor shall include a proposed annual budget for the stormwater management and flood control services in the proposed operating budget submitted to the City Council in accordance with Section 7-3 of the Charter of the City of Northampton. The budget submitted by the Mayor and approved by the City Council shall set the annual budget at an amount that will be sufficient to provide for a balanced operating and capital improvement budget for the stormwater management and flood control services.

B.

For the first five fiscal years of the utility operation, the ~~Board~~ Director of Public Works shall recommend a budget for each year with revenue raised by the utility that shall not exceed \$2,000,000 per year unless the ~~Board~~ Director shall state with specificity the reasons for its recommendation of a budget with revenue in excess of \$2,000,000.

C.

Beginning in the sixth year, the ~~Board~~ Director of Public Works shall recommend a budget for each year with revenue raised by the utility that shall not exceed \$2,000,000 per year plus the cost of inflation as determined by the Federal Bureau of Labor Statistics Consumer Price Index unless the ~~Director~~ Board shall state with specificity the reasons for its recommendation of a budget with revenue in excess of the limitation set forth in this subsection.

E.

A billing rate per square foot of hydraulic acreage will be calculated by the Department of Public Works ~~and approved by the Board of Public Works~~ each year by dividing the approved annual budget as described above by the total hydraulic acreage to be billed in the City of Northampton. The rate shall be on file in the office of the Department of Public Works of the City of Northampton.

F.

Small residential properties shall be divided in approximately equal numbers into four groups based on ascending amounts of impervious area. The ~~Board~~ Department of Public Works shall determine the range of impervious area used for defining each group. All properties within each group shall receive the same bill. The bill for each group shall be calculated based on the average impervious and pervious areas of properties that fall within each group.

H.

After calculating the billing rate per square foot of hydraulic acreage in Subsection D, the ~~Department~~ Board of Public Works will establish a standardized fee for each of the four classes of small residential properties in accord with Subsection C.

§ 280-10. Fee credits.

A. The ~~Board~~ Department of Public Works shall annually develop a proposed Stormwater Management and Flood Control Utility Credit Policy ("Credit Policy"). The ~~Board~~ Director shall submit the proposed Credit Policy to the Mayor, who may approve, modify and approve, or disapprove the Credit Policy. The Credit Policy as approved by the Mayor shall be submitted by the Mayor to the City Council for approval. The City Council may approve or disapprove the Credit Policy as submitted. The Stormwater Management and Flood Control Utility Credit Policy will define potential credits or adjustments such as: for stormwater improvements, undeveloped land with protected status, multiple undeveloped parcels under single ownership, seniors, low income, educational programs, and others. The Stormwater Management and Flood Control Utility Credit Policy shall be available for inspection by the public at the Department of Public Works and on the City website.

§ 280-11. Fee billing, delinquencies, collections, abatements.

D.

At any time after interest begins to accrue on an unpaid account, the Northampton ~~Tax~~ City Collector may serve on the party assessed a statement of the amount due, including interest, with a demand for payment. A charge as set forth in Chapter 174, Fees, shall be made for such demand. If the amount due remains unpaid 14 days after mailing of said demand, the Northampton ~~Tax~~ City Collector shall commit the amount to the Board of Assessors for inclusion on the next annual property tax bill. Upon inclusion of the unpaid amount on an annual property tax bill, the amount due shall be a lien on the property, which shall have priority over all other liens except municipal liens and mortgages of record prior to the recording of a notice of lien.

§ 280-12. Appeals; hearings.

A. In the event that a property owner is aggrieved by a written decision from the Department of Public Works denying an application for abatement in whole or in part, or denying an application for a credit, in whole or in part, the property owner shall have 30 days from the date of the written decision to file an appeal to the ~~Mayor Board of Public Works~~. The appeal shall be in writing and shall specify the grounds thereof. Upon the filing of the notice of appeal with the Department of Public Works, the Department shall forthwith transmit to the ~~Mayor Board of Public Works~~ all documents constituting the record upon which the particular decision was made. The ~~Board of Public Works~~ Mayor shall set a date for hearing which shall be within 90 days of the date of the filing of the appeal, and notice thereof setting forth the place, date and time of hearing shall be sent to the property owner no less than 10 days prior to the hearing date. The ~~Board of Public Works~~ Mayor shall render a written decision within 10 days of the conclusion of the hearing affirming the action of the Department or reversing the action. If reversing the denial of an abatement, the decision shall specify the sum to be abated, which shall not exceed the amounts paid. If reversing the denial of a credit, the decision shall specify the credit to be applied prospectively against future charges unless the property owner has paid the full amount of the Stormwater and Flood Control Utility fee as charged and has also requested an abatement.

B. In the event that a property owner fails to pay the Stormwater and Flood Control Utility fee as charged and the City utilizes the process set forth in MGL c. 83, §§ 16A through 16F, to collect the unpaid charges, the property owner shall have the right to seek an abatement by filing an application for abatement with the ~~Board~~ Department of Public Works in accordance with the remedy specified in MGL c. 83, § 16E, with a copy delivered to the Board of Assessors. The application for abatement shall conform to the requirements for a notice of appeal as set forth in Subsection A, above, and the process for a hearing before the ~~Mayor Board of Public Works~~, including the applicable time limits, shall be as set forth therein. In the event that the ~~Mayor Board of Public Works~~ denies the abatement, in whole or in part, it shall, in its written decision, include a statement notifying the property owner of the right to seek a review of the decision by the filing of an appeal with the Appellate Tax Board of the Commonwealth of Massachusetts within three months of the date of the decision of the ~~Mayor Board of Public Works~~. As the right to Appellate Tax Board review under this Subsection B is derived from applicable sections of the General Laws as contained in Chapters 59 and 83 thereof; to the extent that the terms of this chapter conflict with the terms specified therein, the terms specified in the General Laws control.

§ 280-13. Annual reports.

The ~~Board~~ Department of Public Works will make an annual presentation to the City Council providing information relating to the work and projects financed by the Stormwater and Flood Control Utility in

the previous year, including, to the extent practicable, an account of expenditures from the stormwater management and flood control account and projected future expenditures. The ~~Board~~ Department will also present this information in a written report accessible on the City website.