

POLICY FOR RESOLVING PRIVATE DRAINAGE PROBLEMS ON PRIVATE PROPERTY REVISED 2018

BACKGROUND

In 2008, the high lake levels and a series of significant rain events caused City Engineering to re-evaluate policies regarding the resolution of drainage problems on private property. As a result of that review, a policy was approved by the Board of Public Works. This policy has been used by City Engineering staff since that time.

The wet conditions encountered during Spring/Summer of 2013 resulted in a spike in the number of communications from Madison property owners to the City Engineering Division regarding drainage problems in backyards prompting a revision to the policy.

In 2018, Madison experienced several severe storms prompting the Engineering Division to revisit and clarify this policy.

To help guide City staff and assist property owners in understanding the criteria being used by the Engineering Division in determining whether the Stormwater Utility (SWU) shall be involved in solving a private drainage problem, the following is a written policy statement for resolving drainage problems.

DEFINITIONS:

1. Unimproved Street- a street that does not have curb and gutter. Water is typically conveyed in ditches and culverts with minimal storm sewer piping.
2. Improved Street- a street that has been constructed with curb and gutter. Curb and gutter and storm sewer pipe are used for stormwater conveyance.
3. Drainage problem- the entry of water into a building or structure via surface or groundwater.
4. Icing problem – a condition where melt water leaving private property and entering the sidewalk results in such a significant maintenance problem in the view of the Engineering Division that it cannot be reasonably managed by the property owner.
5. Benefiting Properties- properties that drain to the area with proposed drainage improvements.

DRAINAGE EVALUATION

Staff from the SWU will be available to meet with residents/owners to review drainage problems and determine what category, as detailed below, the problem being experienced would fall into. For the purpose of this policy, instances of soggy ground or poorly drained turf where there is no water entering a building or structure shall not be considered a drainage problem. This policy categorizes drainage problems into three categories described below.

Category 1 -Review and guidance – upon review of the site the SWU staff finds one or more of the following conditions exist:

- a) The problem is primarily a result of only drainage from the property in question.
- b) The problem is the result of structural deficiencies on the property in question. This could include: defects in the foundation, absence of roof gutters or downspouts or that they were not installed properly.
- c) The property was graded toward the foundation or landscaping on the property is causing a drainage problem.
- d) The problem is caused from ground water that can only be resolved with the installation or upgrade of a sump pump system.

City Response for Category 1

- Corrective measures on private property shall be the property owner's responsibility to improve at the property owner's expense. City staff shall provide guidance only, and cannot make any representations about the effectiveness of any remediation proposals.

Funding for Category 1

- No funding by the City shall be provided for this work.

Category 2 - Review and design of a solution – upon review of the site the SWU staff finds that one or more of the following conditions exist:

- a) The problem is primarily a result of only drainage from the property in question, but some other properties do drain to or through the property which further exacerbate the drainage problem.
- b) The problem is partially the result of structural deficiencies on the property in question, but is not limited to this as a causal factor. This could include defects in the foundation, absence of roof gutters or downspouts or that they were not installed properly.
- c) The problem is partially the result of the property being graded toward the foundation or landscaping on the property is causing a drainage problem.
- d) The problem could be improved by the installation or upgrade of a sump pump system but other improvements may be needed.
- e) Significant documentation of an icing problem that, in staff review and assessment, rises to a level that cannot reasonably be managed by the property owner.
- f) Minor public improvements are required for the property owner to connect to the public storm sewer system to reasonably allow for the property owner to correct the drainage problem. For example, this could include making a private connection to available public storm sewer system.

City response for Category 2

- Corrective measures on public lands or public easements or involving public infrastructure shall be the City's responsibility to improve. Corrective measures on private property may also require the property owner to install improvements at the property owner's expense.

Funding for Category 2

- Funding by the City for minor public infrastructure that would allow for the property owner to connect to the public storm sewer system may be provided, in accord with the *Guidance for Funding on Both Unimproved Streets and Improved Streets*. The property owner or resident shall be responsible to finance any modifications to their home or property that are not a public improvement, and for connection to public improvements constructed by the City.

Category 3 - Review, design, construction and funding of a project – upon review of the site the SWU staff finds that all of the following apply:

- a) The problem is primarily a result of drainage from other properties onto and through the property.
- b) The problem is not the result of structural deficiencies on the property in question, and the property owner has taken actions as feasible on their own to try to resolve this issue.
- c) In the opinion of the SWU staff, the problem can only be improved with the installation of public storm sewer that would have multiple benefitting properties.
- d) Public storm sewer is reasonably available.
- e) If an easement is needed to install the storm sewer the property owner is willing to grant the City an easement. Easement dedication shall be at no cost to the City and shall be done by willing property owners to serve the drainage problem.

City response for Category 3

- Corrective measures on public lands or involving public infrastructure may be funded by the City, in accord with the below. A drainage assessment district will be required proceeding as further described below:

Funding for Category 3

- Funding by the City for minor public infrastructure that would allow for the property owner to connect to the public storm sewer system may be provided, in accord with the *Guidance for Funding on Both Unimproved Streets and Improved Streets*. The property owner or resident shall be responsible to finance any modifications to their home or property that are not a public improvement, and for connection to public improvements constructed by the City.

Guidance for Funding on Both Unimproved Streets and Improved Streets

Costs to the SWU and benefitting properties shall be based on the type of street infrastructure that exists for the properties. Guidance for funding on both unimproved streets and improved streets is provided for below.

Problems on Unimproved Streets: To correct for an eligible drainage problem on private property meeting the above criteria, where in the opinion of the City Engineer storm sewer is reasonably available, the City may install storm sewer in the public Right-of-Way (ROW) and in any easements dedicated by the property owner(s) for the purpose of solving this drainage problem. An assessment district shall be created to assess improvements to the benefitting properties.

Assessable costs shall be borne as follows:

- 1) If no curb and gutter is required for stormwater conveyance in the street to solve the drainage problem, the City shall pay for 50% of the work in the ROW or within public easements dedicated to help resolve the drainage problem. City costs shall be paid by the SWU. The other 50% of the costs shall be assessed to owners of benefitting properties.
- 2) If curb and gutter is required for stormwater conveyance in the street to solve the drainage problem, the City shall pay for 100% of the storm sewer within the ROW and the property owner will be responsible for 100% of the cost of curb and gutter.

Note: this policy is to solve private drainage problems on private property and not for the solutions related to draining the public ROW on an unimproved street. Drainage improvements that are mostly located in the ROW of an unimproved street shall be completed with a street improvement project, and are not the subject of this policy. Drainage problems also solved as a result of an assessable street project shall not be subject to this policy.

Problems on Improved Streets: To correct for an eligible drainage problem on private property where storm sewer is reasonably available in the determination of the City Engineer, the City will install storm sewer in the public Right-of-Way (ROW) and in any easements dedicated by the property owner(s) for the purpose of solving this drainage problem. A drainage assessment district shall be created to assess improvements to the benefitting properties.

Costs shall be borne as follows:

- 1) The City shall pay for 100% of the work that is within the pavement structure (between the curb and gutter on either side on either side of the street and within the ROW). City costs shall be paid by the SWU.
- 2) For necessary work outside the pavement structure, the work shall be paid 50% by the City and 50% to the owners of benefitting properties. City costs shall be paid by the SWU. Benefitting properties will be assessed for their proportionate share of improvements.

About the Assessment Process

The assessment district shall divide the costs to benefitted properties by determining the area of each lot that drains to the “problem area being improved”. The area determination shall be made using, LIDAR data, and a field review of the watershed by the engineer in charge of the project. This field review shall document the direction of downspout discharges in determining the area of the assessment district. Determining the area of each lot included in the assessment district shall not require a full survey of the watershed to validate the assessment area included in the district.

Assessments shall typically be applied on an area basis without distinction between the type of area that drains to the problem area (i.e. impervious and pervious areas). In certain circumstances, The Board of Public Works or the City Engineer may recommend or request that the types of areas be “segregated” and that different rates be assigned for each type of area. In that case, the ratio between the rates shall be the same as the ratio used in the SWU Billing for the year in question, and the area measurements shall be the same as used in the SWU Billing.

All benefitting properties will be assessed for their proportionate share of the improvements at the interest rate established by the City at the time the assessments are levied and in accordance with Section 66.0703(7) (b) of the Wisconsin Statutes and Section 4.09 of Madison General Ordinances. Benefitting properties may elect to pay in eight equal successive annual installments.