

**ORDINANCE NO. 1410**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KALAMA RELATING TO SURFACE AND STORMWATER DRAINAGE, ESTABLISHING A STORMWATER UTILITY AND TRANSFERRING ALL RIGHTS AND INTERESTS NOW OWNED BY THE CITY AND PERTAINING TO SURFACE AND STORMWATER DRAINAGE TO THE UTILITY.**

**WHEREAS**, the City is authorized pursuant to the general police powers, RCW 35.67.020 and RCW 35.92.020, to construct, condemn and purchase, acquire, add to, maintain, conduct and operate a storm drainage system; and

**WHEREAS**, pursuant to the Constitution of the State of Washington, Article 11, Section 11, cities have the power to enact regulations in the interest of the health, safety and welfare of its residents; and

**WHEREAS**, the City Council of the City of Kalama has expressed concern regarding the control and prevention of flooding, erosion, sedimentation and surface and stormwater quality degradation pursuant to an overall management plan; and

**WHEREAS**, after review of the various presentations made to the City Council, the City Council finds specifically that land use and development affecting surface and stormwater should be managed, regulated and controlled under the unified management of a Stormwater Utility to reduce or control flooding, erosion, sedimentation, and particulate and other pollution of surface and stormwater, danger and damage to life and property, and to protect and encourage the use of natural and efficient man-made means to these ends and that a comprehensive stormwater plan should be adopted for such purposes; and

**WHEREAS**, to research and correct these problems in a cost-effective manner, acceptable to the City, requires a source of revenue to pay for the associated costs; and

**WHEREAS**, it is the desire of the City to incorporate into the proposed utility all surface water courses the title to which is now held or in the future will be held by the City,

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KALAMA, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1. Definitions.** The following words when used herein shall have the following meanings, unless the context clearly indicates otherwise:

- A. “Comprehensive Stormwater Plan” means a plan, developed for the purposes of mapping and analyzing the City’s surface and stormwater drainage system, identifying problem areas, and providing recommendations for capital improvements, best management practices, policy changes, and funding.

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- B. "Service Charge" means the monthly fee levied by the Utility upon all developed real property within the boundaries of the Utility as authorized by Sections 2 and 3 of this ordinance.
- C. "Storm Drainage System" means constructed drainage facilities and any natural surface water drainage features that provide any combination of collecting, storing, controlling, treating or conveying surface and stormwater.
- D. "Stormwater" means water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes, and wetlands, as well as shallow groundwater.
- E. "System Development Charge" means that fee authorized by the Council and charged by the Utility to property which is developed after the effective date of this ordinance, which charge reflects a proportionate share of the Utility's capital costs attributable to the newly developed property.
- F. "Utility" means the City of Kalama, Washington Stormwater Utility, a utility which operates and maintains the surface and stormwater drains, channels and facilities, outfalls for storm drainage and the rights and interests in property relating to the system. The boundaries of the utility are the corporate limits of the City.

## **Section 2. Creation of Stormwater Utility.**

- A. There is hereby created and established a surface and stormwater utility which shall be known as the "City of Kalama, Washington, Stormwater Utility" (the "Utility"), for the purposes set forth in Section 2. B.
- B. The City shall exercise, through the Utility where possible, all the lawful powers necessary and appropriate to the construction, condemnation and purchase, acquisition, addition to, maintenance, conduct and operation, management, regulation and control of the surface and stormwater within the boundaries of the City, as necessary to protect the health, safety, and welfare of the citizens of the City; including, without limitation, all the lawful powers to fix, alter, regulate and control the rates, charges and conditions for the use thereof, to purchase and condemn property on behalf of the Utility, to regulate actions taken with respect to public and private property which affect the flow of surface and stormwater and the use of drainage facilities, and to adopt, alter, and amend a plan adopted as necessary to implement the policies of the City pertaining to surface and stormwater drainage.
- C. It is not the purpose of this ordinance to create a duty of the City or its Utility to insure or protect individual persons or property against water drainage.

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**Section 3. Administrator of Utility.** The City Administrator or the official designated by the City Administrator shall be administrator of the Utility and shall report directly to the City Administrator.

**Section 4. Stormwater Utility Fund.**

- A. There is hereby created a fund which shall be known as the "Stormwater Utility Fund". All revenues, assessments, and other charges collected by the Utility, or otherwise received for drainage purposes or attributable to the operation and maintenance of the Utility, and all loans to or grants or funds received for its construction, improvement and operation, shall be deposited in the Stormwater Utility Fund. All disbursements for costs of data collection, planning, designing, constructing, acquiring, maintaining, operating, and improving the drainage utility facilities, whether such facilities are natural, constructed or both, and administering the Utility shall be made from the Stormwater Utility Fund.
- B. The City may create, at such time or times as it deems appropriate, any other funds necessary to the administration of the Stormwater Utility and may designate the revenues to be placed therein and the purpose or purposes of such funds which may be the same as one, some or all of the purposes designated in this section as the purposes of the Stormwater Utility Fund created herein, and such purposes shall then be transferred to such newly created fund.

**Section 5. Authority to Establish Rates and Charges.** The City shall establish by ordinance rate classifications, service charges, general facilities charges, inspection, permitting, application, and such other fees and charges necessary and sufficient in the opinion of the City Council to pay for the following:

- A. The costs associated with the development and adoption of a comprehensive stormwater plan;
- B. The costs, including debt service and related financing expenses, for the construction, and reconstruction of storm drainage facilities necessary or useful for the handling of surface and stormwater within the City, but not presently in existence;
- C. The operation, repair, maintenance, improvement, replacement and reconstruction of storm drainage facilities within the City which presently exist;
- D. The acquisition of real property interests, which may be useful or necessary for the storm drainage system in the City including but not limited to land necessary for the installation and construction of storm drainage facilities, and all other facilities, including retention and detention facilities, which are reasonably required for proper and adequate handling of stormwater within the City;

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- E. The costs of monitoring, inspection, enforcement and administration of the Utility including but not limited to water quality surveillance, private drainage facility maintenance inspection, construction inspection and other activities which are reasonably required for the proper and adequate implementation of the City's surface and stormwater policies;
- F. The construction and subsequent maintenance of those future facilities as required by the Utility; and
- G. Creation and implementation of ordinances, policies, standards, and procedures for the purposes of gaining compliance with state or federal rules and regulations.

The fees and charges to be paid and collected pursuant hereto shall not be used for general or other governmental or proprietary purposes of the City, except to pay for the equitable share of the costs of accounting, management, legally levied taxes, and government thereof incurred on behalf of the Utility.

**Section 6. Limitation of Liability.** This ordinance, any drainage code to be adopted by the City Council to implement this ordinance, and any guidelines, rules, standards, specifications, requirements, regulations and procedures established pursuant to any section of such code are intended to provide the authority and processes to achieve cost-effective surface and stormwater management in accordance with reasonable standards for such management in the City as necessary to protect the health, safety, and welfare of the citizens and of the City. No City liability shall be inferred, implied, or interpreted by the adoption and application of this ordinance for damages to individual persons or properties which result from existing conditions or which occur subsequent to the date of this Ordinance. There shall be no liability associated with the Utility's approval of any privately constructed portion of the storm drainage system and/or privately maintained portion of the storm drainage system unless the City accepts the same as part of its publicly owned and/or maintained system.

**Section 7. Severability.** If any portion of this ordinance as now or hereafter amended, or its application to any person or circumstances, is held 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 to be invalid or unconstitutional, and its application to other persons or circumstances shall not be affected.

**Section 8. Effective Date.** This Ordinance shall take effect and be in force five (5) days after its passage, approval and publication according to law.

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**PASSED BY THE CITY COUNCIL OF THE CITY OF KALAMA THIS 15TH DAY OF NOVEMBER 2018; AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 15TH DAY OF NOVEMBER 2018.**

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Mike Reuter, Mayor

**ATTESTED BY:**

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Coni McMaster, Clerk

**APPROVED AS TO FORM:**

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, City Attorney

**AYES:**  
**NAYS:**  
**ABSENT:**  
**EXCUSED:**

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