

ORDINANCE NO. 1411

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KALAMA ESTABLISHING A RATE STRUCTURE POLICY FOR THE STORMWATER UTILITY OF THE CITY OF KALAMA, WASHINGTON, ESTABLISHING SERVICE CHARGES FOR SUCH UTILITY, PROVIDING AUTHORITY FOR THE COLLECTION THEREOF.

WHEREAS, the City of Kalama, Washington (the "City"), created a Stormwater Utility to implement and administer its Stormwater Management Program; and

WHEREAS, the City is authorized pursuant to the general police powers, RCW 35.67.020 and RCW 35.92.020, to fix, alter, regulate and control the rates and charges for use of said Utility and the Stormwater Management Program of the City; and

WHEREAS, the City Council finds that it is now necessary to establish rates and charges for the payment of the cost and expense of operating said Utility; and

WHEREAS, the City Council finds that all developed real property within the boundaries of the Utility benefits from the Stormwater Utility of the City and should participate financially in the payment of all expenses for maintenance, operation and improvement of said storm drainage system and for administration of the Utility;

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. "Best Management Practices" ("BMPs") means the best available and reasonable physical, structural, managerial, or behavioral activities, that when used singly or in combination, eliminate or reduce the contamination of surface and/or ground water.
- B. "Commercial Properties" include commercial, multifamily residential – 3 units or greater, industrial and institutional properties.
- C. "Developed" means that condition of real property altered from its natural state by the addition to or construction on such property of impervious ground surface or other manmade physical improvements such that the drainage characteristics of the property or portion thereof is affected.
- D. "Duplex" means any structure which contains no more than 2 residences or 2 residential units which are within a single structure and are used primarily for residential purposes
- E. "Dwelling Unit – Single-family" means a structure consisting of one detached building in which there are facilities for the living accommodations of one family.
- F. "Equivalent Residential Unit" ("ERU") means and shall be equal to 3,500 square feet of Impervious Surface and is the measure of Impervious Surface to be used by the Utility in assessing Service Charges and System Development Charges against each parcel of property.
- G. "Impervious Surface" means a hard surface area which either prevents or retards the entry

of water into the soil mantle as it entered under natural conditions prior to development, or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roofs, sidewalks, walkways, patios, concrete or asphalt paving, driveways, parking lots, storage areas, areas which are paved, graveled, or made of packed earthen materials and other surfaces which similarly impede the natural infiltration of surface and storm water. Open, uncovered flow control or water quality treatment facilities shall not be considered as impervious surfaces.

- H. "Manual" means the most recently City-adopted technical drainage manual that describes the requirements for drainage review, drainage plan and report submittal, hydrologic analysis and design, flow control design, water quality design, and other technical requirements.
- I. "Natural Surface Water Drainage System" means such landscape features as rivers, streams, lakes and wetlands.
- J. "Parcel" means the smallest separately segregated unit or plot of land having an identified owner, boundaries and surface area which is documented for property tax purposes and given a tax lot number by the Cowlitz County assessor.
- K. "Person" means any individual, firm, company, association, corporation or governmental agency.
- L. "Program" means the Stormwater Management Program.
- M. "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.
- N. "Storm Drainage System" means constructed drainage facilities and any natural surface water drainage features that do any combination of collecting, storing, controlling, treating or conveying surface and stormwater.
- O. "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.
- P. "Stormwater Management Program" means the services provided by the City relating to surface and stormwater drainage, including but not limited to, basin planning, facilities operations and maintenance, regulation, financial administration, public involvement, drainage investigation and enforcement, aquatic resource restoration, surface and stormwater quality and environmental monitoring, natural surface water drainage system planning, intergovernmental relations and facility design and construction.
- Q. "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.
- R. "Undeveloped Parcel" means any parcel, which has not been altered from its natural state by the construction, creation or addition of impervious surface.
- S. "Utility" means the City of Kalama, Washington Stormwater Utility, a utility which operates and maintains the surface and storm water 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.
- T. "Water Quality Treatment Facility" means a drainage facility designed to reduce pollutants once they are already contained in surface and storm water runoff. Water quality treatment

facilities are the structural component of BMPs. When used singly or in combination, water quality treatment facilities reduce the potential for contamination of surface and/or ground water.

Section 2. Rate Structure.

- A. It shall be the policy of the City that the rate structure to be applied in establishing the amount of Service Charges and System Development Charges assessed against each parcel of developed real property within the boundaries of the Utility shall be based upon the amount of Impervious Surface contained within each parcel of property as set forth below.
- B. The City shall determine the service charge for each parcel within the service area by the following methodology:
 - 1. All single family dwelling units and accessory uses thereof are deemed to contain one (1) Equivalent Residential Unit.
 - 2. Each residential unit in an attached townhome structure shall be deemed to contain one-half (1/2) Equivalent Residential Unit.
 - 3. Each dwelling unit of a duplex or triplex structure is deemed to contain one (1) Equivalent Residential Unit for the first residential unit on the parcel and one quarter (1/4) ERU for additional residential unit on the parcel.
 - 4. For all other developed real properties within the Utility boundaries, the Utility shall determine the number of Equivalent Residential Units by dividing the number of square feet of Impervious Surface on each property by 3,500 square feet per ERU; the total thus obtained will be rounded to the nearest quarter (1/4) representing the Equivalent Residential Units contained on such property. Each developed parcel of property shall be deemed to comprise a minimum of one Equivalent Residential Unit.
- C. Property Exempt from Service Charges. The following special categories of property are exempt from Service Charges and System Development Charges:
 - 1. City street rights-of-way;
 - 2. Washington State rights-of-way; and
 - 3. Undeveloped parcels.

Section 3. Service Charge Rates. In accordance with the rate structure set forth in Section 2 of this ordinance, there is hereby levied upon all developed real property within the boundaries of the Utility the following Service Charges which shall be collected from the owners of such properties:

- A. For all single family dwelling units and accessory uses thereof, (One Equivalent Residential Unit), the monthly Service Charge shall be \$5.50 per month.

- B. For all other developed property within the boundaries of the Utility, unless exempt as set forth above, the monthly Service Charge shall be \$5.50 per month per ERU multiplied by the number of Equivalent Residential Units determined by the Utility to be contained in such parcel.

Section 4. Credits for Qualified Existing or New Stormwater Facilities.

- A. The City of Kalama recognizes that some commercial property owners have constructed private on-site stormwater quality and quantity mitigation facilities ("facilities"), which may aid the City in controlling the overall effects of stormwater pollution and those other problems necessitating that the City enact this chapter. Properties or portions of properties with facilities that meet one of the criteria listed below, to the City's satisfaction, shall receive a reduction of 75% from the monthly fee charged under Section 3 as currently enacted or hereafter amended.

1. Any property with a properly maintained water quantity and quality facility that manages all stormwater on-site and meets or exceeds the design requirements of the adopted stormwater Manual.
2. Any property that has an active and valid NPDES permit that includes stormwater requirements and does not discharge to the City's system. A copy of the permit and the Storm Water Pollution Prevention Plan (SWPPP) shall be provided to the City.

The property owner is responsible for providing all documentation necessary to demonstrate that the design and construction of any water quality and/or water quantity facility meets the above requirements. Documentation shall be by a licensed civil engineer with the State of Washington. In the event facilities or control measures address only a portion of the total property, the credit will be applied to only that affected portion. The property owner must maintain any water quantity and/or quality control facility in accordance with Department of Ecology maintenance guidelines and appropriate practice to ensure proper function and effectiveness of the facility. Failure to maintain the facilities within 30 days after written notice may be cause for termination of the credit granted in this section.

Section 5. System Development Charge

- A. Beginning on the effective date of the ordinance codified in this section, and thereafter in addition to other fees required by ordinance or pursuant to agreement, there is imposed upon the owners of property seeking to connect to the City's stormwater system or discharge to City stormwater infrastructure, a system development charge. This system development charge is determined as the product of \$200.00 times the number of equivalent residential units (ERU) (\$200.00 x ERU).
- B. The system development charge shall be paid and collected at the time of permit issuance for development and prior to actual development.
- C. Applicants for development shall be required to pay the stormwater system

development charge in effect at the time the permit is issued.

Section 6. Rate Adjustments and Appeals.

- A. Any person billed for service charges may file a "request for rate adjustment" with the City within two years of the date from which the bill was sent. Rate adjustment request forms shall be available at the City Clerks' office. However, filing of such request does not extend the period for payment of the charge.
- B. Requests for rate adjustment may be granted or approved by the City Administrator only when at least one of the following conditions exist:
 - 1. The service charge bill was otherwise not calculated in accordance with this ordinance.
- C. The property owner shall have the burden of proving that the rate adjustment sought should be granted.
- D. Decisions on requests for rate adjustments shall be made by the City Administrator based on information submitted by the applicant within thirty days of the adjustment request except when additional information is needed. The applicant shall be notified in writing of the City's decision. If an adjustment is granted which reduces the charge for the current year or two prior years, the applicant shall be refunded the amount overpaid in the current and two prior years.
- E. If the City Administrator finds that a service charge bill has been undercharged, then an amended bill shall be issued which reflects the increase in the service charge. The City may include in the bill the amount undercharged for two previous billing years in addition to the current bill.
- F. Decisions of the City Administrator, on requests for rate adjustments shall be final unless within thirty days of the date the decision was mailed, the applicant submits in writing to the City Administrator a notice of appeal setting forth a brief statement of the grounds for appeal and requesting a hearing before the Hearings Examiner.

Section 7. Billing Procedure and Collection.

- A. All property subject to charges of the program shall be billed based on the property characteristics existing one month prior billing. All property is billed monthly beginning January 1st of each year.
- B. All Service Charges, System Development Charges and all other fees or charges hereafter established by the City Council by ordinance shall be deemed to be levied upon real property.
- C. The City shall have a lien for all delinquent and unpaid charges and fees for storm

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drainage purposes, including without limitation Service Charges and System Development Charges, assessed against all parcels to which service was furnished, which lien shall have the superiority established by RCW §35.67.200 and shall be foreclosed in the manner provided in RCW §35.67.220 et seq.

- D. Service charges shall be deemed delinquent if not paid by the 20th of the month of the billing date. A late charge as adopted by resolution of the City Council for utility bills, shall be imposed at the time of such delinquency of any portion of the utility fees including stormwater. If the delinquent service charge or imposed interest is usurious under Washington law, then the maximum charge and/or interest rate allowable by law will be imposed.

Section 8. Annual Review of Charges and Fees. The charges and fees established by this ordinance and any other ordinances of the City Council establishing charges and fees for the Utility may be reviewed annually by the City Council.

Section 9. Effective Date of Service Charge. The Service Charge herein established shall apply to on or after January 1, 2019 and shall be billed beginning in January 2019.

Section 10. 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 11. Effective Date. This Ordinance shall take effect and be in force five (5) days after its passage, approval and publication according to law.

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.

Mike Reuter, Mayor

ATTESTED BY:

Coni McMaster, Clerk

APPROVED AS TO FORM:

City Attorney

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