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CITY OF LYNNWOOD  
ORDINANCE NO. 1853

AN ORDINANCE OF THE CITY OF LYNNWOOD RELATING TO SURFACE WATER MANAGEMENT; AMENDING THE LYNNWOOD MUNICIPAL CODE BY ADDING NEW SECTIONS TO CHAPTER 13.35 ESTABLISHING A SYSTEM AND STRUCTURE OF RATES FOR THE SURFACE WATER MANAGEMENT UTILITY

WHEREAS, the City has caused to be prepared and adopted a Comprehensive Flood and Drainage Management Plan for Lynnwood which identifies water quality and quantity problems, provides recommended solutions and defines improvement costs.

WHEREAS, the City has adopted Ordinance No. 1813 which establishes a surface water utility and the need for comprehensive management of surface water throughout Lynnwood.

WHEREAS, current and pending state and federal regulations mandate the control of pollution contained within surface water runoff and that these regulations require comprehensive surface water plans including provisions for the long term funding of nonpoint source pollution mitigation measures;

WHEREAS, the City council finds that all properties within the City containing impervious surface area cause, by virtue of their impervious area, a change in the quantity, quality and timing of the surface water leaving such property and reaching the storm and surface water system owned, operated, and maintained by the City;

WHEREAS, professional management and engineering consultants have prepared a recommended structure of rates and charges which, in their professional judgment, will generate revenues sufficient for maintaining, operating, and improving the City utility at a level commensurate with the City's surface water management needs;

WHEREAS, the structure of rates and charges adopted herein considers the amount of impervious surface on developed real estate and is uniform for the same class of customers and services;

WHEREAS, future rates and charges may be fixed with consideration for the difference in cost of service to the various customers based on such factors as: the location of the various customers within the City; the intensity of development of property; the types of surfaces on property; the difference in cost of maintenance, operation, repair, and improvement of the various parts of the utility; the different character of the service furnished various customers; the quantity and quality of the runoff generated; provision of on-site stormwater improvements and other matters which present a reasonable basis for distinction;

WHEREAS, one ERU is equal to 2,900 square feet of impervious surface area, this figure being derived through statistically valid sampling and measurement of impervious areas on single family residential sites in the City.

WHEREAS, due public notice was given and on November 12, 1991 the City Council held a public hearing on the proposed surface water rates.

NOW, THEREFORE. THE CITY COUNCIL OF THE CITY OF LYNNWOOD DO ENACT AND ORDAIN AS FOLLOWS:

Section 1. The following section is hereby added to Chapter 13.35 LMC,

13.35.015 DEFINITIONS

Terms used in this title shall have the meaning given to them in this chapter except where otherwise defined, and unless where used the context thereof shall clearly indicate to the contrary. Words and phrases used herein in the past, present or future tense shall include the past, present and future tenses; words and phrases used herein in the masculine, feminine or neuter gender shall include the masculine, feminine and neuter genders; and words and phrases used herein in the singular or plural shall include the singular and plural; unless the context shall indicate to the contrary.

City means the City of Lynnwood, a municipality, and its authorized employees.

Council means the City Council of Lynnwood.

Customer means a person in whose name service is rendered as evidenced by the signature on the application or contract for that service or, in the absence of a signed instrument, by the receipt and payment of bills regularly issued in his/her/its name regardless of the identity of the actual user of the service.

Developed Site means any site which has been altered by grading or filling of the ground surface, or by construction of any improvement or other impervious surface area.

Equivalent Residential Unit (ERU) means a configuration of development, or impervious surfaces on a site, estimated to contribute an amount of runoff to the City's storm and surface water drainage system which is approximately equal to that created by the average single family residential site.

Impervious Surface means that hard surface area which either prevents or retards the entry of water into the soil mantle and/or causes water to runoff the surface in greater quantities or at an increased rate of flow from that present under natural conditions. Impervious surfaces may include, but are not limited to, rooftops, concrete or asphalt paving, walkways, patios, driveways, parking lots or storage areas, and oiled, macadam or other surfaces which similarly impede the natural infiltration or runoff of surface water.

Single Family Residential Site means any site which is improved with a dwelling unit for occupancy by one or two families or similar groups of people. A single family residential site also may be an individual dwelling, mobile home, flat or unit in a multi-family building or portion thereof for occupancy as the home, residence or sleeping place for one or more person, provided each such dwelling, mobile home, flat or unit is owned separately.

Site means a geographic area (which may or may not have impervious surfaces) that serves a single, common use, including, but not limited to, single family residences, multi-family residences, commercial establishments, shopping malls, condominiums, and office or industrial parks and other types of facilities. A site may include impervious area on one or more parcels and/or multiple water meters or sewer services.

Surface Water Utility or Utility means that part of any system which collects, conveys or stores storm water runoff, surface waters or ground water or any combination thereof in which the City has an ownership interest. Surface water utility shall include, but not be limited to, streams, pipelines, channels, ditches, swamps, lakes, wetlands, infiltration systems, retention/detention facilities, and other drainage structures, both natural and man-made. The term specifically does not mean that part of any surface water system that is located on private property or easements in which the City has no ownership interest.

Undeveloped Site means any site which has not been altered by grading or filling of the ground surface, or by construction of any improvements or other impervious surface area.

Section 2. The following section is hereby added to Chapter 13.35 LMC:

#### 13.35.060 SYSTEM OF RATES AND CHARGES

There is hereby imposed a system of rates and charges on each site of real property within the City served by or to which is available for service the Utility established by this chapter. The rates and charges are found to be reasonable and necessary to fund the current administration, planning, design, construction, water quality programming, operation, maintenance and repair of storm and surface water utility facilities; provided, however, that the City reserves the right to fix, alter, regulate and control these rates and charges.

Section 3. The following section is hereby added to Chapter 13.35 LMC:

#### 13.35.070 UTILITY CHARGES

The following surface water Utility rates and charges are hereby established for all sites in the City and set forth in table 1 below. These rates and charges shall be in effect and assessed beginning January 1, 1992.

(1) **Single Family Residential Sites:** The single family residential charge shall be 1 ERU per month for each single family residential unit on a site. This uniform rate is based on each single family residential site being equal to one equivalent residential unit (ERU). Each duplex on a site shall be charged 1 ERU.

(2) **Undeveloped Sites:** Undeveloped sites shall not be charged under this system and structure of rates.

(3) **Other Sites:** The charge for all other developed sites shall be based upon the total amount of measured impervious surface divided by one ERU, and rounded down to the nearest whole number. The actual total monthly service charge shall be computed by multiplying the measured ERU's for a site by the monthly rate per ERU. All sites will be charged for at least 1 ERU. Sites will be billed as a single storm drainage account when a site contains multiple water meters and/or businesses on a site. Owners/managers will be responsible for any allocation of the surface water charge among tenants.

(4) **Special Surface Water Rate:** Persons of the age of sixty-one years or older meeting the qualifications specified in this Section and RCW 84.36.381 shall be charged at the senior single family residential rate .5 ERUs.

Table 1

Customer Class	Rate Calculation	Monthly Rate
Single family residential/ duplexes	1 ERU	\$2.50
Multifamily/Commercial/ Industrial sites	<u>Measured Sq. Footage of Impervious Areas</u> = ERU's 1 ERU	\$2.50/ERU
Senior single family residential sites	1 ERU X .5	\$1.25

**Section 4.** The following section is hereby added to Chapter 13.35 LMC:

**13.35.080 BILLING AND COLLECTION**

Utility rates and charges for each site of developed real property within the City shall be computed at least every two months. The amount to be billed shall be included on the existing utilities bill as a separate line item. A "surface water only" bill will be sent to those property owners who are not current City utilities customers. The City shall bill the owner of the served property for the payment of Utility rates and charges specified in this chapter; however, the City, in its sole discretion, may bill the tenant or his agent, if requested, and if consistent with current utilities billing practices. This shall not relieve the owner from final liability for utility rates and charges.

Section 5. The following section is hereby added to Chapter 13.35 LMC:

13.35.090 PENALTIES FOR NONPAYMENT OF BILLS

The City shall have the right and privilege of discontinuing water service to any premises for nonpayment of the surface water utility rates and charges for use of the City's surface water utility in the same manner and subject to the same terms as now or hereafter prescribed by law for discontinuance of water service for nonpayment of sewer bills.

Section 6. The following section is hereby added to Chapter 13.35 LMC:

13.35.100 SURFACE WATER UTILITY ACCOUNT

All money collected through Utility rates and charges shall be deposited in the Surface Water Utility Account or separate fund within the Public Works Department as established and maintained by the City.

Section 7. The following section is hereby added to Chapter 13.35 LMC:

13.35.110 APPEAL OF CHARGES

(1) Any customer making a timely payment of the City's total utilities bill who considers the City's surface water utility charge applied to their site to be inaccurate or who otherwise disagrees with the Utility rate determination, may apply to the Public Works Director for adjustment of said charges, stating in writing the grounds for such an appeal. The Director will review the matter and determine whether an adjustment to the charge is necessary to provide for reasonable and equitable application of the Utility rates and charges.

(2) Appeals of decisions made by the Public Works Director may be brought before the City Council who may direct the reevaluation of the appeal.

(3) Any appeal under this chapter shall be filed with the City Clerk's office no later than twenty (20) days after billing. Any subsequent appeal shall be brought within twenty (20) days of the date of the appealed decision.

(4) Nothing in this chapter shall be construed to grant a right to judicial review which does not otherwise exist in law. In all cases, the decision of the City Council shall be final and conclusive.


Section 8. The following section is hereby added to Chapter 13.35 LMC:

13.35.900 SEVERABILITY


If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Effective Date. This ordinance shall take effect and be in force five days after is passage, approval, and publication.

Passed this 12<sup>th</sup> day of Nov., 1991, and signed in authentication of its passage this 13<sup>th</sup> day of Nov., 1991.

  
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M. J. Hrdlicka, Mayor

ATTEST:

  
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R. W. Noack, City Clerk

APPROVED AS TO FORM:

  
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Office of City Attorney