

ORDINANCE NO. 778

AN ORDINANCE RELATING TO UTILITIES, AMENDING CERTAIN SECTIONS OF CHAPTER 13.32 MMC & ADDING A NEW SECTION THERETO; PROVIDING SEVERABILITY & AN EFFECTIVE DATE

R E C I T A L S:

1. In 2002, the City established a storm water utility.

2. Since that time, the appropriateness of certain modifications and clarifications has been brought to the Council's attention by City staff.

3. It is found appropriate to clarify the basis and rationale of the system development charge required to be paid by applicants required to connect to the existing stormwater collection system. The Council does so by reaffirming and adopting as if set out in full herein the findings made in the course of the adoption of Ordinance 722 as also being applicable to the stormwater collection system.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS BY THE CITY COUNCIL OF THE CITY OF McCLEARY:

SECTION I: Section 13.32.010 and Section 1, Ordinance 695, are each amended to read as follows:

As used in this chapter, the following words or terms shall have the following described meanings:

"City" means the city of McCleary, Washington, a municipality organized under Title 35A of the Revised Code of Washington, and its officers, officials and employees.

"Closed system" means a portion or type of the stormwater system that contains or includes piping, manholes, catch basins and/or other enclosed facilities as part of the collection or transmission facilities.

"Council" means the City Council of the City of McCleary, Washington.

"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.

"Director" means the city administrator of the city or, in the absence of a person appointed to that position, the Director of Public Works or his or her designee.

"Equivalent service unit (ESU)" means a configuration of development or impervious surfaces on a parcel, 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 parcel. One ESU is equal to three thousand square feet of impervious surface area or any portion thereof.

"Impervious surface" means that hard surface area which either prevents or retards the entry of water in the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions. Impervious surfaces shall include, but are not limited, to the following:

1. Rooftops;
2. Any of the following when made from concrete or asphalt paving: walkways, patios, driveways, parking lots or storage areas; and
3. Oiled, macadam or other surfaces which similarly impede the natural infiltration or runoff of surface water.
4. Gravel roads, driveway, parking lot, or storage areas.

At such time as the City completes the measurement, through aerial photography (~~and~~) or other accepted land surface evaluation processes (~~7~~) the number of square feet of impervious surface on (~~all~~) a non-single family residential parcel (~~parcels~~), such calculations shall control for purposes of establishment of fees.

"Open system" means a portion or type of the stormwater system that does not contain or include piping, manholes, catch basin, and/or other enclosed facilities, are part of the collection or transmission facilities; and consists entirely of roadside or regional ditches, drainage canals or open channels,

other than sections of culverts under driveways, roadways or other facilities that cross the storm drainage systems.

"Parcel" means the smallest separated segregated unit or plot of land having an identified owner, boundaries and surface area which is documented for tax purposes and given a tax account (lot) number by the Grays Harbor county assessor.

"Parcel--Developed" means any parcel which has been altered by grading or filling of the ground surface or by construction of any improvement or other impervious surface area, which affects the hydraulic properties of the parcel.

"Parcel--Single family residential" means: Any parcel of land which is improved with a dwelling unit for occupancy by a single family or a similar group of people. A single family residential parcel also may be an individual dwelling, manufactured home, flat or unit in a multifamily building or portion thereof for occupancy as the home, residence or sleeping place for one or more persons, provided each such dwelling, manufactured home, flat, or unit is owned separately.

*2. "Parcel- Multi-family residential: If more than two of any type of units, manufactured homes, flats or units occupy the same parcel of land, regardless of the form of ownership, that parcel shall be considered a multi-family parcel (~~and be subject to charges as set forth in Section 13.32.030 of this chapter~~)).*

"Parcel--Undeveloped" means any parcel which has not been altered by grading or filling of the ground surface, or by construction of any improvements or impervious surface area, which affect the hydraulic properties of the parcel.

"Runoff" means the portion of precipitation, either from rain or melted snow, that ultimately reaches natural water courses by flowing over the surface of land.

"System Development Charge" means such amount as may be established by written resolution representing the charge to be paid by an applicant required to connect to or utilize the storm water collection system as the estimated pro rata reimbursement for the capital investment previously made in the creation of the system.

"Utility" means the storm and surface water utility.

**SECTION II:** Section 13.32.040 MMC and Section 4, Ordinance 695, are each amended to read as follows:

Utility rates and charges for each parcel of developed real property within the city shall be computed on such (~~a bi-monthly~~) basis and schedule as may be established by resolution. The amount to be billed shall be included on the existing ((~~water/sewer/refuse~~)) utility bill as a separate line item. A 'Stormwater Only' statement will be sent to those property owners who are not city water, refuse, or sanitary sewer customers. The city shall bill the owner of the served property for the payment of utility rates and charges specified in this chapter; however,

in the event that such alternate billing protocol is allowed as to billings for the water, sewer, and electrical utilities, the owner may have the bills mailed to a tenant, or agent, but this shall not relieve the owner from liability for the utility rates and charges.

**SECTION III:** Section 13.32.050 MMC and Section 5, Ordinance 695, are each amended to read as follows:

A. Collection of and penalties for nonpayment of bills ~~((shall be as provided in))~~ tendered under the authority of this chapter are hereby authorized and shall be in such amount and collected in such manner as may be provided by written resolution ~~((or any other provision of the municipal code to which reference is made))~~.

B. The city shall have the right to discontinue ~~((water))~~ utility service to any premises for nonpayment of the service charge for use of the storm and surface water utility of the city 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 water bills. Further, the city shall have the right to pursue the filing and foreclosing of a lien(s) in accordance with the provision of this chapter, the McCleary Municipal Code, and the laws of the state of Washington, for any unpaid and delinquent utility bill.

**SECTION III:** Section 13.32.060 MMC and Section 6, Ordinance 695, are each amended to read as follows:

A. The billing date is defined as the day of the month in which the bill is sent or mailed to the property owner or his or her designee or, if a different day is established by the billing provisions relating to water and sewer utilities, that different day.

B. The billing due date, the date that any bill becomes delinquent, the date upon which a delinquency penalty is assessed, and the date upon which water service may be terminated for non-payment of this utility shall be the same dates as are established as the due date, date of delinquency, and date for termination of service for sewer and water billings.

C. Any utility bill not paid by the delinquency date shall be assessed a penalty in such amount as may be established by written resolution adopted by the City Council (~~of ten dollars~~)).

D. As to any unpaid utility bill, a lien may be placed upon the property being served by filing and service of such notice as may be required by law. Foreclosure may be carried forth thereafter in the manner allowed by applicable law.

**SECTION IV:** There shall be added to Chapter 13.32 MMC a new section to read as follows:

A. Any person or entity billed for service charges may file a "Request for Rate Adjustment" with the Public Works Department within six (6) months of the date from which the bill

was sent. However, filing of such a request does not extend the period for payment of the charge.

B. Requests for rate adjustment may be granted or approved by the Director only when one of the following conditions exists:

1. The acreage or calculations related to the establishment of the charges assessed against the parcel charged is in error.

2. The utility charge bill was otherwise not calculated in accordance with the terms of this chapter.

3. Parcels that meet the following criteria are exempt from the storm water service charge:

a. Residential parcels that are permanently undevelopable due to Federal Emergency Management Agency regulatory floodway designation and associated development restrictions.

b. Residential parcels that are undevelopable due to critical area designations, such as streams and wetlands and their buffers.

c. Small undeveloped parcels with total assessed value less than or equal to \$20,000.00 and impervious surface area less than 0.5 ESU.

d. All City and State highway rights-of-way.



C. Developed parcels that infiltrate runoff in a private site stormwater infiltration facility may receive the following service charge discount:

Design Storm	Discount
100-year	<u>100</u> %
50-year	<u>75</u> %
10-year	<u>25</u> %

1. A Technical Information Report prepared by a licensed professional engineer shall be provided to document the engineering design of the facility based on Stormwater Management Manual For Western Washington or such other document as may be applicable under the Design Standards in effect at the time. Surface water discharges to streams for base flow augmentation benefit shall be considered part of the infiltration quantity.

2. The City may require field tests or monitoring data to verify that the as-built facility achieves the design storm performance. Infiltration facilities that serve portions of a site, such as rooftops only, may receive a pro rata discount based on the drainage area being infiltrated. Parcels that apply for this exemption must pass inspection pursuant to provisions to be established by resolution.

3. This exemption shall be revoked and fee reinstated for up to 3 years of past utility billings if property owner fails to conduct required maintenance or it is determined that

the facility does not fully perform to the original infiltration standard.

**SECTION V: Penalty.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who unlawfully resists the enforcement of any of the provisions of this ordinance shall be subject to the following penalties or punishments:

A. Upon a finding of a first violation of any provision of this ordinance in any one twelve-month period, an infraction penalty of up to two hundred fifty dollars, but in no event less than one hundred dollars;

B. Upon a finding of a second violation in any one twelve-month period of any provision of this ordinance, an infraction penalty of up to five hundred dollars, but in no event less than two hundred fifty dollars;

C. In the event that a person is charged with a third violation of this ordinance within any twelve-month period and either a prior alleged violation is still pending or the person has been found to have committed that prior infraction, then this second charge shall be deemed a misdemeanor and shall be subject to punishment as provided in Section 1.20.010 of the City Code; provided that in the event of a conviction, the fine imposed shall be no less than one hundred fifty dollars. None of such one hundred fifty dollars is subject to suspension or deferral;

D. In addition to such fines or penalties as may be imposed pursuant to this section, upon the finding of a violation of this chapter or a conviction of a violation of this chapter, the court may impose such restitution for losses that have arisen out of the violation and further order such corrective action as it finds appropriate and necessary to remedy the violation. Each day that a violation is permitted to exist shall constitute a separate offense

**SECTION VI: Severability.**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional, and if for any reason this Ordinance should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

**SECTION VII: Effective Date.**

This Ordinance shall take effect upon the fifth day following date of publication.

PASSED THIS 14<sup>th</sup> DAY OF March,  
2012, by the City Council of the City of McCleary, and signed in



**SYNOPSIS OF ORDINANCE NO. 778**

**AN ORDINANCE RELATING TO UTILITIES,  
AMENDING CERTAIN SECTIONS OF CHAPTER 13.32  
MMC & ADDING A NEW SECTION THERETO;  
PROVIDING SEVERABILITY & AN EFFECTIVE DATE**

On March 4, 2012, the City Council of the City of McCleary adopted Ordinance Number 778. The intent and purpose of the Ordinance was update existing provisions of the Municipal Code relating to the storm water utility. Certain definitions were clarified, enforcement provisions set out, and a methodology allowing reduced rates in the event of presence of certain onsite treatment systems established.

A complete copy of this Ordinance is available during regular business hours at the Office of the Clerk-Treasurer, City Hall, McCleary, Washington. The Ordinance will be made available for review without cost; a copy will be provided upon request without cost if such request is timely made. This Synopsis is published pursuant to the laws of the State of Washington.

DATED this 14th day of March, 2012.



WENDY COLLINS, Clerk-Treasurer