

# Ordinance No. 00047

[Council Minutes 96/01/31](#)

## ORDINANCE NO. 47

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AN ORDINANCE of the City of Lakewood, Washington, establishing a storm drainage and surface water management program, including providing for service charges and credits, for deposit of revenue into a designated special revenue fund #110, for administrative procedures authority, for liens and enforcement of delinquent accounts, for adjustments and refunds of overpayments, for appeal rights, and for authority for an interlocal agreement for transfer of funds and assets

WHEREAS, the City of Lakewood will become incorporated on February 28, 1996; and,

WHEREAS, pursuant to RCW 85.06.230 a City is authorized to exercise the functions of a drainage district; and,

WHEREAS, the City Council of the City of Lakewood desires to provide for the future control and operation of storm drainage and surface water management within the City boundaries of the City of Lakewood; and,

WHEREAS, these measures are necessary in order to provide for the protection, safety, and welfare of its citizens.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN as follows:

#### Section 1. Purpose.

The purpose of this Ordinance is to create a funding methodology which provides resources to plan, manage, design, construct, maintain, revise, and upgrade the storm drainage and surface water runoff systems within the corporate limits of the City of Lakewood. This authority is invoked to minimize property damage, promote and protect the public health, safety and welfare, minimize water quality degradation by preventing siltation, contamination and erosion of the City=s waterways, protect aquifers, insure the safety of City streets, and rights-of-way, assure compliance with federal and state storm drainage, surface water management, and water quality regulations and legislation, increase educational and recreational opportunities, encourage the preservation of natural drainage systems, and foster other beneficial public uses.

#### Section 2. Program Creation and Authority.

There is hereby created a Storm Drainage and Surface Water Management program for the City of Lakewood. Said Storm Drainage and Surface Water Management program shall be administered by the City Manager or designee.

The City elects to exercise all lawful powers necessary and appropriate for the construction, acquisition, and condemnation of property rights, maintenance, management, operations and regulation of storm drainage and surface water runoff systems including, without limitations, all lawful powers to fix, alter, regulate, and control the charges and conditions for the use thereof.

#### Section 3. Definitions.

For the purposes of this Ordinance, the words or phrases below shall have the following meanings:

A. ACity@ shall mean the City of Lakewood, Washington, or as indicated by the context, may mean the appropriate department, official or employee, or agent representing the City in the discharge of his or her duties. For purposes of this Ordinance, City shall be construed to also include those areas joining the City's program by execution of an interlocal agreement for drainage services within the City.

B. ADetention@ shall mean the short-term storage of storm drainage runoff that has been artificially collected and then released at a predetermined rate.

C. ADuplex@ shall mean one two-family dwelling, either wholly or partially located on a parcel or contiguous parcels, consisting of a building containing not more than two (2) complete living units, designated and/or used to house not more than two families living independently of each other and including all necessary household functions of each such family.

D. AEngineer@ shall mean a professional civil engineer, currently licensed by the State of Washington, retained by and acting on behalf of the parcel owner.

E. AForest and Timber Land@ shall mean lands classified as such according to the provisions of RCW Chapters 84.33 and 84.34 respectively.

F. AGravel@ shall mean all graveled surfaces available for use as roads, driveways, or other access ways for vehicular traffic, parking, production, storage, staging, and holding areas. (Gravel surface area shall be considered 75% impervious.)

G. AHighway@ shall mean all impervious ways, lanes, roads, streets, boulevards, and/or places in the City open as a matter of right to public vehicular travel both inside and outside the limits of incorporated cities and towns.

H. AImpervious Area@ shall mean the horizontally projected surface area of all non-vertical surfaces of all buildings, mobile homes, or other structures, and the surface areas of all asphalt, concrete, gravel, oil mat, bituminous or other finished surfaces not covered by structures.

I. AInterlocal Agreement@ shall mean that contract between the City and Pierce County or other entities pursuant to RCW Chapter 39.34, which delineates the terms, conditions and relationships of the parties regarding the plan, design, construction, operation, maintenance and funding of storm drainage systems within the incorporated area.

J. AMaster Plan@ shall mean the Storm Drainage and Surface Water Management Plan adopted by City Ordinance for managing storm drainage and surface water runoff facilities and features within the City.

K. AMobile Home Equivalent@ shall mean 1457 square feet of impervious area.

L. AMultifamily@ shall mean a dwelling, either wholly or a building containing more than two (2) complete living units, designated and/or used to house more than two families living independently of each other and including all necessary household functions of each family.

M. AOwner or Owner of Record@ shall mean the holder of title by recorded deed or the purchaser under a recorded real estate contract.

N. AParcel@ shall mean a state, county, or city public highway, or the smallest unit or plot of land separately segregated for tax purposes.

O. AResidential Equivalent@ shall mean 2640 feet of impervious area.

P. AResidential@ shall mean a parcel or contiguous parcels one single family home or mobile home, designed and/or used to house a single family, either wholly or partially located on it or them.

Q. ARetention@ shall mean the long-term storage of water ground by means of percolation.

R. AService Charge@ means the charge levied on parcels in unincorporated areas of the City and those incorporated areas defined by an interlocal drainage agreement as authorized by Section 5 of this Ordinance.

S. ASystem@ shall mean the entire system of storm drainage and surface water runoff facilities owned by the City or over

which the City has right of use and responsibility for the movement and control of storm drainage and surface water runoff, including both naturally occurring and man-made facilities.

T. AUrban Service Area@ shall mean the drainage basins located in the City served by the Storm Drainage and Surface Water Management Program as identified in the City=s adopted Storm Drainage and Surface Water Management Plan.

U. AVacant/Undeveloped@ shall mean a parcel of land that has no impervious area.

#### Section 4. Policy for Service Charges.

The City shall apply a rate structure as a program service charge to all parcels within the City and those incorporated areas defined by an interlocal drainage agreement as authorized by Section 5 of this Ordinance.

All parcels are subject to a service to a service charge except the following exempt parcels:

A. All parcels consisting of mineral rights only.

B. All parcels consisting entirely of tidelands, rivers, lakes, creeks and/or streams.

C. All vacant/undeveloped parcels less than two-tenths (2/10ths) of an acre (8,712 square feet) in total area.

D. All parcels within national parks due to the minuscule amount of impervious area compared to the pristine nature of total acreage protected for future generations.

#### Section 5. Method of Calculating Service Charges.

An annual service charge schedule is hereby established for the areas of the City.

A. Annual Service Charges are as follows:

1. Residential \$40.00

2. Duplex \$51.60

3. Multifamily \$0.01515 per square foot of impervious area

4. All Mobile Homes other \$22.075/vacant or occupied mobile home site than 1. above. (mobile home equivalent) plus \$0.01515 per square foot of impervious areas in addition to mobile home site

5. Vacant/Undeveloped \$0.20/acre, but in no case shall the minimum service charge be less than \$10.00/parcel

6. Forest and Timber Land \$10.00/parcel, plus \$0.002/acre on lands classified as forest lands under RCW 84.33 or RCW 84.34

7. City Streets, Roads and \$0.00454 per square foot of impervious area. Public Highways

8. All parcels other than 1. \$0.01515 per square foot of impervious area but

through 7. above in no case shall the minimum service charge be less than the higher of the residential equivalent rate for each year or the charge for a vacant/undeveloped parcel of equal acreage.

B. Credits. To qualify for a service charge credit, the following must be completed before October 1 of the year preceding the year for which the owner is requesting credit. Service charge credits as provided for in this Section will become effective January 1, 1997.

1. Credit will apply to all categories listed in Section 5 of this Ordinance.

2. To qualify for a credit, the Owner of Record shall provide the City with engineering calculations in accordance with design criteria acceptable to the City and AAs Constructed Plans@ stamped and signed by the Owner=s Engineer to verify that the drainage system has adequate capacity to meet the design criteria for which the Owner is requesting a credit. The Owner=s engineer shall prepare the stamp an operation and maintenance manual for the Owner to follow in maintaining any drainage pond. The City shall be provided a copy of the maintenance manual. New calculations, AAs Constructed Plans@, and a maintenance and operation manual shall be prepared and stamped by the Owner=s engineer if the drainage pond is increased or decreased in size from the original credit request.

3. Annually, each Owner of Record shall provide a certified statement by October 1 of the year preceding the year for which the Owner of Record is requesting credit on a form provided by the City verifying that all specified maintenance has been performed in accordance with the operation and maintenance manual prepared by the Owner=s engineer on the facility for the calendar year the credit is being requested. Once every five (5) years, the certified statement shall be stamped and signed by the Owner=s Engineer.

4. Each Owner of Record shall provide a Ahold harmless@ statement on a form provided by the City that indemnifies the City from any loss incurred arising from the construction and maintenance and operation of the Owner=s drainage facilities for both water quantity and quality runoff from the Owner=s property. This statement shall be signed by the Owner and will be recorded with the Pierce County Auditor by the Owner of Record. The owner of Record shall provide the City a copy of the agreement with the Pierce County Auditor recording number stamped on it before the application will be deemed completed.

5. Each Owner of Record must enter into an agreement with the City that allows the City to enter onto the Owner=s parcel to inspect the drainage facility and verify all information submitted by the owner and his/her Engineer. The agreement form will be provided by the City. This agreement will be recorded with the Pierce County Auditor by the Owner of Record. The Owner of Record shall provide the City a copy of the agreement with the Pierce County Auditor recording number stamped on it before the credit application will be deemed completed.

6. Credit percentages shall be provided in accordance with the following schedule:

#### CREDIT PERCENTAGES

Retention Percent Detention Percentage

Facility Credit Facility Credit

100 Year Storage 85% 100 Year Storage; 85%

Release rate of 50%

of the predevelopment

discharge rate for a

2 year storm

50 Year Storage 40% 50 Year Storage 40%

2 Year Release

25 Year Storage 20% 25 Year Storage 20%

2 Year Release

10 Year Storage 10% 10 Year Storage 10%

2 Year Release

C. The annual service charge credit will be calculated by multiplying the annual service charge by the applicable credit percentages when all of the conditions established for a service charge credit have been met.

In order to determine the credit percentage for a retention/detention facility, the following shall apply:

1. For a retention/detention facility whose year storage is not listed in Section 5 B.6 of the Ordinance, the next lower year storage category will be used.
2. The release rate shall be equal to or less than a two-year release rate for a detention facility with a 10, 25, or 50 year storage. The release rate for a detention facility with a 100-year storage shall be equal to or less than 50% of the predevelopment discharge rate for a 2-year storm.
3. No credit shall be given for a retention/detention facility with less than a 10-year storage.

D. The annual service charge shall be calculated based on impervious area and parcel status as of January 1 each year. The annual service charge shall be due and the City on or before April 30 of each year and shall be paid together with payment of real property tax upon the parcel, if any, and shall be delinquent thereafter. Provided, that if real property tax upon the parcel payable in that year exceeds thirty dollars, and one-half of the tax, together with one-half of the annual service charge provided by this section are paid on or before April 30 of such year, the remaining one-half of the annual service charge shall be due and payable on October 30, next following, or at the time of payment of the remaining tax on the parcel, whichever is earlier, and shall be delinquent after that date. The service charge shall be incorporated on the Pierce County Real Property Tax Statement.

#### Section 6. Deposit of Funds.

All Storm Drainage and Surface Water Management Program funds from service charges, grant funds, or any other revenue received shall be deposited in the Surface Water Management Fund of the City, identified as fund #110, as a special revenue fund. All revenue in the Surface Water Management Fund shall be deposited in interest-bearing or income earning accounts.

#### Section 7. Authorization for Administrative Procedures.

The City Manager or designee is hereby authorized and directed to establish all administrative procedures necessary to implement the provisions of this Ordinance.

#### Section 8. Lien for Delinquent Charges and Foreclosures.

A. The City shall place a lien on any parcel with a delinquent service charge, including interest thereon. Such liens shall be effective and shall be enforced and foreclosed in the same manner as provided for sewerage liens of cities and towns by RCW 35.67.200 through 35.67.290, except that, alternatively, the service charge lien shall be effective for a total not to exceed one year=s delinquent service charges without the necessity of any writing or recording of the lien with the Pierce County Auditor.

B. Delinquent service charges shall bear interest provided in RCW 35.67.200 at the rate of eight percent (8%) per annum, or such rate as may hereafter be authorized by law, computed on a monthly basis from the date of delinquency until paid. Interest shall be calculated at the rate in effect at the time of payment of the charges regardless of when the charges were first delinquent.

#### Section 9. Overpayment Refund Requests.

Any person may request the refund of service charge overpayment(s) by doing so in writing to the City Manager or designee. The basis of the request explaining the nature of the overpayment should be clearly stated. The City Manager or designee shall investigate the overpayment to have occurred. The City Manager or designee will use best efforts within sixty (60) days of receipt of the request. The City Manager or designee shall specify in the written decision the basis for authorizing or denying the refund request. No refund may be authorized for overpayment paid or levied more than two (2) years prior to the date the written request is received.

#### Section 10. Administrative Refunds or Adjustments.

The City Manager or designee may authorize in writing, a refund, credit, or adjustment of any amounts when he/she determines that an error, miscalculation, or mistake has occurred which affects any ratepayer(s). The nature of the error, miscalculation, or mistake should be documented together with the steps taken to prevent future occurrences. No refunds, credits or service charge adjustments may be authorized pursuant to this Section unless brought to the attention of the City Manager or designee within two (2) years of the occurrence of the error, miscalculation or mistake.

#### Section 11. Amount of Refund Limited.

In any instance where a refund or credit is authorized by the City Manager or designee the City Manager or designee, the amount shall not include any interest.

#### Section 12. Appeals.

Any decision of the City Manager or designee made pursuant to this Ordinance may be appealed to the City of Lakewood Hearing Examiner upon payment of the fees and pursuant to the procedures set forth in City Ordinance.

#### Section 13. Interlocal Agreement.

The City Manager is hereby directed and authorized to develop and interlocal agreement with Pierce County for the transfer of all assets pertaining to storm water program facilities now lying within the City of Lakewood or those which are a necessary part of the system, and to take such other action as is necessary and/or appropriate to carry out the provisions of this Ordinance.

#### Section 14. Severability.

If any section, clause or provision of this Ordinance be declared invalid by the courts, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part declared invalid.

Section 15. Effective Date.

This Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary as required by law and on February 28, 1996.

ADOPTED by the City Council this 31st day of January, 1996.

CITY OF LAKEWOOD

/S/

Attest: Bill Harrison, Mayor

/S/

Alice M. Bush, City Clerk

Approved as to Form:

/S/

Daniel B. Heid, City Attorney

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