

ORDINANCE NO. 687

AN ORDINANCE of the City Council of the City of Lakewood, Washington, amending chapter 3.38 of the Lakewood Municipal Code, relative to the Surface Water Management.

WHEREAS, in 1996 the City of Lakewood created a Storm Drainage and Surface Water Management Program; and,

WHEREAS, storm drainage and surface water management are essential government functions designed to minimize property damage, to protect water quality, to ensure the safety of City streets and rights of way, and intended to promote the public safety and health; and,

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

Section 1. That Chapter 3.38 of the Lakewood Municipal Code be amended to read as follows:

03.38.010 - Purpose

The purpose of this Chapter 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. (Ord. 47 § 1, 1996.)

03.38.020 - Creation and Authority

- A. There was created in 1996 a Storm Drainage and Surface Water Management program for the City of Lakewood. Said program became a utility on January 1, 2002. Said Storm Drainage and Surface Water Management Utility is administered by the City Manager or designee.

- B. 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. (Ord. 289 § 2, 2002; Ord. 47 § 2, 1996.)

03.38.030 - Definitions

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

- A. "City" 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 utility by execution of an interlocal agreement for drainage services within the City.
- B. "Detention" shall mean the short-term storage of storm drainage runoff that has been artificially collected and then released at a predetermined rate.
- C. "Duplex" 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. "Duplex Condo" shall mean one complete condominium living unit with its own tax parcel number connected to another complete condominium living unit.
- E. "Duplex Condo Equivalent" shall mean 1,703 square feet of impervious area.
- ~~C.F.~~ "Duplex Equivalent" shall mean 3,406 square feet of impervious area.
- ~~D.G.~~ "Engineer" shall mean a professional civil engineer, currently licensed by the State of Washington, retained by and acting on behalf of the parcel owner.
- ~~E.~~ "Forest and Timber Land" shall mean lands classified as such according to the provisions of RCW Chapters 84.33 and 84.34 respectively.
- ~~F.H.~~ "Gravel" 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.~~ "Highway" 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.I.~~ "Impervious 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.~~ "Interlocal 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. "Master 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. "Mobile Home Equivalent" shall mean 1457 square feet of impervious area.
- L. "Multifamily" 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. "Owner or Owner of Record" shall mean the holder of title by recorded deed or the purchaser under a recorded real estate contract.
- N. "Parcel" shall mean a state, county, or city public highway, or the smallest unit or plot of land separately segregated for tax purposes.
- O. "Residential Equivalent" shall mean 2640 feet of impervious area.
- P. "Residential" 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. "Retention" shall mean the long-term storage of ground water by means of percolation.
- R. "Service 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. "System" 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. "Urban Service Area" shall mean the drainage basins located in the City served by the Storm Drainage and Surface Water Management Utility as identified in the City's adopted Storm Drainage and Surface Water Management Plan.
- U. "Vacant/Undeveloped" shall mean a parcel of land that has no impervious area. (Ord. 289 § 3, 2002; Ord. 47 § 3, 1996.)

03.38.040 - Policy for Service Charges

The City shall apply a rate structure as a utility service charge to all parcels within the City ~~and those incorporated areas defined by an interlocal drainage agreement as authorized by Section 3.38.050 of this Chapter.~~

- A. All parcels are subject to a service charge except the following exempt parcels:
 - 1. All parcels consisting of mineral rights only.
 - 2. All parcels consisting entirely of tidelands, rivers, lakes, creeks and/or streams.
 - 3. All vacant/undeveloped parcels ~~less than two-tenths (2/10ths) of an acre (8,712 square feet) in total area.~~
 - 4. ~~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.~~
 - 5. All parcels that are (1) used for church, community center, community hall, grange or community service-oriented purposes, and (2) owned by an organization with

nonprofit public benefit status as defined by RCW 24.03.490. A service charge for these parcels will be phased in over a 5-year period beginning in 2019, with the exempt status phased out in 2023.

B. Low income senior citizens and disabled persons receiving relief under Section 84.36.381 RCW shall receive the following partial exemption from surface water service charges and surcharge, as applicable:

1. All parcels for which a person qualifies for an exemption under subsection 84.36.381(5) (a) shall be exempt from 40 percent of surface water utility fees and surcharge, ~~as applicable, less an additional \$2.00.~~
2. All parcels for which a person qualifies for an exemption under subsection 84.36.381(5) (b) (i) RCW shall be exempt from 60 percent of surface water utility fees and surcharge, ~~as applicable, less an additional \$3.00.~~
3. All parcels for which a person qualifies for an exemption under subsection 84.36.381(5) (b) (ii) RCW shall be exempt from 80 percent of surface water utility fees and surcharge, ~~as applicable, less an additional \$4.00.~~ (Ord. 411 § 1, 2006; Ord. 333 § 3 (Sunset clause to revert back to Ord. 321), 2004; Ord. 333 § 1, 2003; Ord. 321 § 1, 2003; Ord. 289 § 4, 2002; Ord. 186 § 1, 1998; Ord. 47 § 4, 1996.)

03.38.050 - Method of Calculating Service Charges

Commencing on January 1, ~~2006~~2019, the annual service charge schedule for storm drainage and surface water management is hereby set and established for the areas of the City as set forth herein.

A. Annual Service Charges are as follows:

- | | |
|---|--|
| 1. Residential | \$ 77.40 <u>116.10</u> |
| 2. Duplex | \$ 101.15 <u>151.73</u> |
| 3. Duplex Condo | \$ <u>72.50</u> |
| 3. Multifamily | \$ 0.03102 per square foot of impervious area, less an additional \$5.00. |
| 4. All Mobile Homes other than 1., above | \$ 40.70 <u>61.05</u> per vacant or occupied mobile home site (mobile home equivalent) plus \$ 0.03102 <u>0.04653</u> per square foot of impervious areas in addition to mobile home site. |
| 5. Vacant/Undeveloped | \$ 0.410 per acre, less an additional \$5.00, but in no case shall the minimum service charge be less than \$ 15.98. |
| 6. Forest and Timber Land | \$ 15.98 per parcel, plus \$0.410/acre on lands classified as forest lands under RCW 84.33 or RCW 84.34. |
| 7. City Streets, Roads and Public Highways | \$ 0.00930 per square foot of impervious area, less an additional \$5.00. |

85. All other parcels other than 1. through 7., above \$ ~~0.031020.04653~~ per square foot of impervious area, less an additional \$5.00, but 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.

Beginning in 2020 annual service charges shall increase 2.5% each year to account for inflation. Rates listed for each subsequent year shall be in effect on January 1st of the year listed unless and until amended by City Council action.

Stormwater Rates 2019-2024						
<u>Year</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>
<u>Increase</u>	<u>50%</u>	<u>2.5%</u>	<u>2.5%</u>	<u>2.5%</u>	<u>2.5%</u>	<u>2.5%</u>
<u>Residential</u>	<u>\$116.10</u>	<u>\$119.00</u>	<u>\$121.98</u>	<u>\$125.03</u>	<u>\$128.15</u>	<u>\$131.36</u>
<u>Duplex</u>	<u>\$151.73</u>	<u>\$155.52</u>	<u>\$159.41</u>	<u>\$163.40</u>	<u>\$167.48</u>	<u>\$171.67</u>
<u>Duplex Condo</u>	<u>\$72.50</u>	<u>\$74.31</u>	<u>\$76.17</u>	<u>\$78.07</u>	<u>\$80.03</u>	<u>\$82.03</u>
<u>Mobile Homes Per Unit</u>	<u>\$61.05</u>	<u>\$62.58</u>	<u>\$64.14</u>	<u>\$65.74</u>	<u>\$67.39</u>	<u>\$69.07</u>
<u>Mobile Homes Per Sq Ft of Impervious Area</u>	<u>\$0.04653</u>	<u>\$0.04769</u>	<u>\$0.04889</u>	<u>\$0.05011</u>	<u>\$0.05136</u>	<u>\$0.05264</u>
<u>All Other Parcels Per Sq Ft of Impervious Area</u>	<u>\$0.04653</u>	<u>\$0.04769</u>	<u>\$0.04889</u>	<u>\$0.05011</u>	<u>\$0.05136</u>	<u>\$0.05264</u>

B. 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 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.

C. Annual Service Charge Credit

1. Credit will apply to all categories listed in Section 3.38.050(A) of this Chapter with the exception of Vacant/Undeveloped, Forest and Timber Land, and City Streets, Roads, and Public Highways.
2. Credit Application Submittal Requirements

To qualify for a credit, the Owner of Record shall provide the City:

- a. A "hold 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 held in record along with the application, certification, and recertification submissions. The owner of Record shall provide the City a notarized copy of the agreement.

- b. 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 statement shall be signed by the Owner and will be held in record along with the application, certification, and recertification submissions. The owner of Record shall provide the City a notarized copy of the agreement.
- c. "As constructed" Plans stamped by the Owner's Engineer should be accompanied by engineering calculations in accordance with design criteria acceptable to the City. Both quantity and quality BMP's shall be shown. Examples of Aeeceptable-acceptable quality BMP's include bio-swales, constructed wetlands, and approved filter vaults.
- d. An operation and maintenance manual prepared and stamped by the Owner's Engineer for the Owner to follow in maintaining the storm drainage system.
- e. A certified statement that all maintenance as outlined in the operation and maintenance manual has been completed.
- f. A copy of any maintenance contracts and contractors' certified statement that all maintenance as outlined in the operation and maintenance manual has been completed.

3. Resubmittal Requirements

Biennially, 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.

- ~~b. Every sixth (6th) year, the certified statement shall be stamped and signed by the Owner's Engineer.~~

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

- a. Single-lot Residential, Duplex, Duplex Condo, and Single-lot Mobile Homes

Facility Type

Percent Credit

Retention

100 Year Storage 8543%
25 Year Storage 3518%

Detention 0%

b. Residential Subdivisions, Mobile Home Parks, Multifamily, and all other parcels NOT 1 through 74 of 03.38.050(A)

Facility Type Percentage Credit

Retention

100 Year Storage 8543%
25 Year Storage 3518%

Detention

	Percentage Credit	Municipal System
100 Year Storage; Release rate of 50% of the predevelopment discharge rate for a 2--year storm	60 <u>30</u> %	50 <u>25</u> %
25 Year Storage; 2-yr. release	30 <u>15</u> %	25 <u>13</u> %

The maximum credit amount for properties receiving an 85% credit prior to the effective date of this ordinance will be sequentially reduced to 43% over a 5-year period beginning in 2019, thus reaching the new maximum allowable credit in 2023. The credit amount for properties currently receiving credits between 11% and 84% will be similarly reduced by 50% over the same time period. The credit amount for properties currently receiving a 10% credit will be similarly reduced to zero over the same time period.

- D. No credit shall be given for a retention/detention facility with less than a 25-year storage. The annual service charge credits will be calculated using the schedule in Section 3.38.050.C.4 at the time the credit application was approved. Credits will be recalculated when the certified statement defined in Section 3.38.050.C.3 is due.
- E. It is the intention of the City Council to provide rates that accurately reflect the needs of the Surface Water and Storm Drainage Management Utility, and that rates be set in responsible and appropriate amounts not more than necessary to meet the Utility's needs. Therefore, the City Council directs staff to return to the City Council proposals, reports

and recommendations regarding the appropriate rate levels, including information to determine system needs and to consider whether the rate should be continued, reduced or otherwise amended, which proposals, reports and recommendations shall be provided to the City Council not later than the 31st day of October of each even numbered calendar year. (Ord. 393 § 1, 2005; Ord. 333 § 3 (Sunset clause to revert back to Ord. 321), 2004; Ord. 333 § 2, 2003; Ord. 321 § 2, 2003; Ord. 289 § 5, 2002; Ord. 244 § 1, 2000; Ord. 186 § 2, 1998; Ord. 47 § 5, 1996.)

03.38.055 - Capital Facility Surcharge (Repealed by Ord. 289 § 6, 2002; Ord. 186 § 3, 1998)

03.38.060 - Deposit of Funds

All Storm Drainage and Surface Water Management Utility 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 #401, as a special revenue fund. All revenue in the Surface Water Management Fund shall be deposited in interest-bearing or income earning accounts. (Ord. 289 § 7, 2002; Ord. 47 § 6, 1996.)

03.38.070 - 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 Chapter. (Ord. 47 § 7, 1996.)

03.38.080 - 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. (Ord. 47 § 8, 1996.)

03.38.090 - 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. (Ord. 47 § 9, 1996.)

03.38.100 - 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. (Ord. 47 § 10, 1996.)

03.38.110 - 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. (Ord. 47 § 11, 1996.)

03.38.120 - Appeals

Any decision of the City Manager or designee made pursuant to this Chapter may be appealed to the City of Lakewood Hearing Examiner upon payment of the fees and pursuant to chapter 1.36 LMC. (Ord. 585 § 11, 2014; Ord. 47 § 12, 1996.)

~~03.38.130 - Interlocal Agreement~~

~~The City Manager is hereby directed and authorized to develop an interlocal agreement with Pierce County for the transfer of all assets pertaining to storm water utility 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. (Ord. 289 § 8, 2002; Ord. 47 § 13, 1996.)~~

Section 2. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section 3. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after publication as required by law.

ADOPTED by the City Council this 21st day of May, 2018.

CITY OF LAKEWOOD



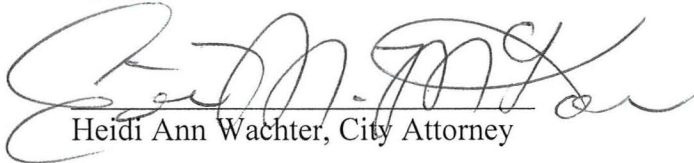
Don Anderson, Mayor

Attest:



Alice M. Bush, MMC, City Clerk

Approved as to form:



Heidi Ann Wachter, City Attorney