

**CITY OF ILWACO
ORDINANCE NO. 790**

AN ORDINANCE OF THE CITY OF ILWACO, WASHINGTON, AMENDING ILWACO MUNICIPAL CODE TITLE 13, PUBLIC SERVICES, TO CREATE A FUND FOR ADMINISTRATION, MAINTENANCE AND OPERATION OF A STORMWATER UTILITY.

WHEREAS, the city recognizes the need to manage and control the flow and quality of stormwater to protect public health, safety and welfare, and to protect property from flooding; and

WHEREAS, the city desires to establish a separate fund, identified as the "Stormwater Utility Fund," to manage revenues and expenditures for stormwater administration, maintenance, operation and capital improvements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ILWACO, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 13.08, Stormwater Utility Fund, is added to read as follows:

Chapter 13.08

STORMWATER UTILITY FUND

Sections:

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13.08.010 Purpose and scope

A. The purpose of this chapter shall be to protect the environment, public health, safety and welfare by establishing a stormwater utility fund for the administration, maintenance, operation and capital improvements to the City of Ilwaco stormwater drainage infrastructure.

B. The city shall exercise, through the utility where possible, all the lawful powers necessary and appropriate to construct, condemnation and purchase, acquisition, maintenance, operation, management, regulation and control of the storm and surface water within the city boundaries, including, without limitation, all the lawful powers to fix, alter, regulate and control

rates, charges and conditions for the use therefore; to purchase and condemn property on behalf of the utility; and to regulate actions taken with the respect to public and private property that affect the flow of storm and surface water within the city boundaries.

13.08.020 Definitions

As used in this chapter, the following definitions apply to all properties within the city limits of Ilwaco (Tax District 29) as per the records of the Pacific County Assessor:

A. "Residential properties" shall mean any parcel that receives a residential combined water and sewer billing, or is designated as residential (RES) as per the records of the Pacific County Assessor if said property does not receive city water and sewer service.

B. "Commercial properties" shall mean any parcel that receives a commercial combined water and sewer billing, or is designated as commercial (COMM) as per the records of the Pacific County Assessor if said property does not receive city water and sewer service.

C. "Government properties," including parcels owned by school districts, hospitals, municipalities, state and federal lands, and the Port of Ilwaco, and designated as exempt (EXEMPT) per the records of the Pacific County Assessor, shall be assessed as commercial properties if improved, or undeveloped properties if not improved.

D. "Improved" shall mean any lot, parcel or land that has been improved by the addition of a driveway, structures, garages, pole buildings, outbuildings or other alterations to the land, that will affect, divert, impound and impact surrounding properties, increase or compromise the natural water drainage and otherwise impact the city's storm and surface water system, or any lot, parcel or land altered by clearing, logging, road development, filling, compaction, grading or any land disturbing activities that change the natural existing soil topography.

E. "Undeveloped properties" shall mean any lot, parcel or land that is undisturbed or altered by filling, compaction, grading, clearing, logging, roads or any man-made changes to the natural existing soil topography.

13.08.030 Stormwater Utility Fund created

A. There is hereby created a fund, which shall be known as the "stormwater utility fund" pursuant to RCW Chapters 35A.80, 35.67, 90.03 and 36.89.

B. All revenues assessments, and other charges collected by the utility, or otherwise received for drainage purposes or attributable to the operation and maintenance of the utility, and all loans to or grants or funds received for its planning construction, improvement and operation, shall be deposited in the stormwater utility fund.

C. A reserve shall be established for emergencies and future construction, as determined by resolution of the city council.

13.08.040 Administration

Under the direction of the mayor, city staff shall be responsible for administering the Stormwater Utility Fund.

13.08.50 Property classifications, rates and charges

A. For the purposes of assessing stormwater utility fees, all properties shall be classified

by parcel size, developed (improved) or undeveloped, and residential or commercial as defined in 13.08.020, "Definitions," and as per city water and sewer service records and the records of the Pacific County Assessor.

B. The rates and charges for each class of property shall be billed according to a schedule set forth by resolution of the city council.

13.08.60 Billing and collection

Stormwater utility fees shall be billed for each parcel within the city on a monthly, bi-monthly, semi-annual or annual basis, or by the best billing practices as determined by city staff.

13.08.070 Nonpayment of bills

A. Collection of and penalties for nonpayment of bills shall be according to the same penalties and collection procedures as provided in IMC Chapter 13.06.

B. The city shall discontinue water service to any premises for nonpayment of the stormwater utility fee 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. Additionally, the city shall pursue the filing and foreclosure of a lien or liens in accordance with the provisions of this chapter, the Ilwaco Municipal Code and the laws of the state of Washington, for any unpaid and delinquent bills.

13.08.080 Limitations of liability

This ordinance, any drainage code to be adopted by the city council to implement this ordinance, and any guidelines, rules, standards, specifications, requirements, regulations and procedures established pursuant to any section of such code are intended to provide the authority and processes to achieve cost-effective surface and storm water management in accordance with reasonable standards for such management in the city as necessary to protect health, safety and welfare of the citizens of the city. No city liability shall be inferred, implied or interpreted by the adoption and application of this ordinance for damages to individual persons or properties that result from existing conditions or which occur subsequent to the date of this ordinance. There shall be no liability associated with the utility's acceptance of any privately constructed portion of the storm drainage system and/or privately maintained portion of the storm drainage system unless the city accepts the same as part of its publicly owned and/or maintained system.

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 takes effect and is in full force five (5) days after its passage, approval and publication of an approved summary of the title as provided by law, or January 1, 2012, whichever is later.

PASSED BY THE CITY COUNCIL OF THE CITY OF ILWACO, AND SIGNED IN

AUTHENTICATION OF ITS PASSAGE THIS 29TH DAY OF NOVEMBER, 2011.

Mike Cassinelli, Mayor

ATTEST:

PJ Kezele, Deputy City Clerk

| VOTE | Jensen | | Marshall | Smith | Forner | Cassinelli |
|-------------|--------|--|----------|-------|--------|------------|
| Ayes | x | | x | x | | |
| Nays | | | | | | |
| Abstentions | | | | | | |
| Absent | | | | | | |

PUBLISHED:

EFFECTIVE: January 1, 2012