

## ORDINANCE 637

### AN ORDINANCE ESTABLISHING A STORM DRAIN UTILITY FEE AND SETTING A STORM DRAIN UTILITY FEE AMOUNTS AND PROVIDING FOR THE COLLECTION THEREOF

The City of Winston ordains as follows:

#### Section 1. Purpose

There is hereby created a storm drain utility fee for the purpose of providing funds for the maintenance and expansion of the storm drain system, including but not limited to local streets and related facilities under the jurisdiction of the City of Winston. The Council hereby finds, determines and declares the necessity of providing operation, maintenance and improvement of the City's storm drains and related assets and facilities operating within the City as a comprehensive storm drain utility. Operation, maintenance and expansion includes such activities as are necessary in order that storm drains and related facilities may be properly operated and maintained to safeguard the health, safety, and welfare of the City and its inhabitants and visitors.

The Council further finds that natural streams and wetlands are an integral part of the storm drain system.

#### Section 2. Definitions

Except where the context otherwise requires, the definitions contained in this section shall govern the construction of this chapter.

- A. Commercial or Industrial Unit: means any building or facility used other than as a dwelling unit.
- B. Development: shall mean any constructed change to improved or unimproved property including, but not limited to, buildings or other structures, private storm drain facilities, mining, dredging, filling, grading, paving, excavation or drilling operations.
- C. Equivalent Residential Unit (ERU): shall mean an area which is estimated to place approximately equal demand on the public storm drain facilities as a "Single-Family Dwelling Unit". One (1) ERU shall be equal to 3,000 square feet of impervious surface.
- D. Impervious Surfaces: are those surface areas which either prevent or retard saturation of water into the land surface and cause water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions pre-existent to development. Examples of impervious surfaces include, but are not limited to, rooftops, concrete or asphalt sidewalks, walkways, patio areas, driveways, parking lots or storage areas and gravel, oil, macadam or other surfaces which similarly impact the natural saturation or

runoff patterns which existed prior to development.

- E. Improved Property: shall mean any area which has been altered such that the runoff from the site is greater than that which could historically have been expected. Such a condition shall be determined by the City Superintendent of Public Works.
- F. Mobile Home Park: means a defined area under unified ownership or control in which mobile homes are situated and used for human habitation; or in which spaces are improved, designed or offered for such purposes.
- G. Multiple Family Unit (MFU): means a building or facility under unified ownership and control and consisting of more than one dwelling unit with each such unit consisting of one or more rooms with bathroom and kitchen facilities designed for occupancy by one family.
- H. Open Drainageway: shall mean a natural or constructed path, ditch or channel which has the specific function of transmitting natural stream water or storm water from a point of higher elevation to a point of lower elevation.
- I. Responsible Party: shall mean the owner, agent, occupant, lessee, tenant, contract purchaser or other person having possession or control of property or the supervision of an improvement on the property.
- J. Retention System: shall mean a system which is intended to discharge surface water either partially or completely to groundwater.
- K. Runoff Control: shall mean any measure approved by the City Superintendent of Public Works that reduces storm water runoff from land surfaces on which development exists.
- L. Single Family Unit (SFU): means that part of a building or structure which contains one or more rooms with a bathroom and kitchen facilities designed for occupancy by one family and where the units are sold and deeded as individual units. A SFU is presumed to have 3,000 square feet of impervious surface area for purposes of this ordinance. The term "SFU" shall be inclusive of those units identified as detached single-family residences, unit ownership (such as townhouses, pad lots, etc.), and condominiums, etc.
- M. Storm Drain Facilities: shall mean any structure(s) or configuration of the ground that is used or by its location becomes a place where storm water flows or is accumulated including, but not limited to, pipes, sewers, gutters, manholes, catch basins, ponds, open drainage-ways and their appurtenances.
- N. Stormwater: shall mean water from precipitation, surface or subterranean water from any source, drainage and non-septic waste water.

### Section 3. Storm Drain Utility Policy

- A. Pursuant to the general laws of the State of Oregon and the powers granted in the charter of the City of Winston, the Council of the said City does hereby declare its intention to acquire, own, construct, equip, operate and maintain within and without the City limits of the City of Winston, Oregon, open drainage ways, underground storm drains, equipment and appurtenances necessary, useful, or convenient for a storm drainage system; and also including maintenance, extension and reconstruction of the present storm drain system of said City.
- B. The improvement of both public and private storm drain facilities through or adjacent to a new development shall be the responsibility of the developer. Said improvements shall comply with all applicable City ordinances, policies and standards.
- C. No portion of this ordinance or statement herein or subsequent Council interpretation or policies shall relieve the property owner of assessments levied against their property for public facility improvement projects.
- D. It is the policy of the City to participate in improvements to storm drain facilities when authorized by the City Council. To be considered for approval by Council, a facility must:
  1. be public; and
  2. be a major benefit to the community; and
  3. be located or on a City property, City right-of-way or City easement; and
  4. if a piped system, be a design equivalent to a 24 inch diameter circular concrete pipe; and
  5. be identified as a project in the Master Plan; or
  6. be a rehabilitation and/or replacement of exiting public storm drain facilities.
- E. The City shall manage public storm drain facilities located on City-owned property, City right-of-way, and City easements. Public facilities to be managed by the City include but are not limited to:
  1. open drainage serving a drainage basin of at least 100 acres;
  2. a piped drainage system and its related appurtenances which has been designed and constructed expressly for use by the general public and accepted by the City;

3. roadside drainage ditches along unimproved City streets;
4. flood control facilities (levees, dikes, overflow channels, detention basins, retention basins, dams, pump stations, groundwater recharging basins, etc.) that have been designed and constructed expressly for use by the general public and accepted by the City.

F. Storm drain facilities not maintained by the City include, but are not limited to;

1. facilities not located on City-owned property, City right-of-way, or a City easement;
2. private parking lot storm drains;
3. roof, footing, and area drains;
4. drains not designed and constructed for use by the general public;
5. drainage swales which collect storm water from a basin less than 100 acres;
6. driveway and access drive culverts.

#### **Section 4. Establishment of a Storm Drain Utility Fee**

A. The responsible party for any improved premises within the City of Winston or within any area under contract to be annexed to the City of Winston shall be charged monthly for storm drain service, maintenance, operation and extension at the rate established herein. Unless another responsible party has agreed in writing to pay and a copy of that writing is filed with the City, the person(s) paying the City's sewer utility charges shall pay the storm drain utility fees. If there is no sewer service to the property the storm drain utility fees shall be paid by the person(s) having the right to occupy the property. The City Council has determined that property not used for single family dwelling purposes is furnished service in proportion to the amount of the property's impervious surface, and that for each 3,000 square feet of impervious surface, the said property is furnished service equivalent to that furnished a single family unit and that the minimum service charge shall be that established for a single family unit. The following rates are hereby established for all properties located within the City of Winston:

| Type                   | Charge Per Month per ERU to Nearest Whole No. of ERUs | No. of ERUs to be Charged for Type and Location of Development |
|------------------------|---|--|
| (1) Single Family Unit | \$1.50  | 1  |

|                                    |        |                                |
|------------------------------------|--------|--------------------------------|
| (2) Multiple Family Unit           | \$1.50 | Determine By Measurement*      |
| (3) Commercial and Industrial Unit | \$1.50 | Determine By Measurement*      |
| (4) Improved premises or Lots      | \$1.50 | Determine By Measurement*      |
| (5) Mobile Home Parks              | \$1.50 | 6 ERUs per acre for total area |

(\*)When determined by measurement, the total square footage of impervious area will be divided by 3,000 sf to determine the number of ERUs.

- B. City Council may from time to time, by Resolution, change the fees based upon revised estimates of the cost of properly maintaining local storm drain infrastructure.
- C. Collection of the fee for previously unimproved premises shall commence at the time of connection to the City sewer system.
- D. The storm drain utility fee imposed by the City of Winston is classified as not subject to the limits of Section 11b of Article XI of the Oregon Constitution. The storm drain utility fee does not in any way create an *in rem* obligation in respect of property. The obligation to pay the fee is a personal obligation of the responsible party.
- E. Fee implementation shall be adopted by City Council through the 2009-2010 budget process.

**Section 5. Credit for Runoff Measures**

A. Upon application, a responsible party may seek a reduction or elimination of the monthly charge for storm drainage service and/or the systems development charge for storm drainage. Upon submission of appropriate evidence, the City Superintendent of Public Works of Public Works shall consider the application. The applicant must show to the City Superintendent of Public Works satisfaction:

1. The amount of permanent reduction to the runoff for the property due to the approved retention system; and/or
2. The amount of storm water being discharged directly from the property into Lookingglass Creek or the South Umpqua River.

B. Any reduction or elimination given shall continue until the property is further developed or until the City Superintendent of Public Works determines the

property no longer qualifies for the reduction or elimination granted. Upon further development of the property another application may be made by a responsible party. Any applicant aggrieved by the City Superintendent of Public Works decision may appeal to the City Council by filing with the City Administrator written request for review as provided in Section 9.

### **Section 6. New Development and Annexations**

Monthly storm drain utility fees for new development will commence upon connection to the sewer system, completion, occupancy or use of the improvements, whichever comes first. Areas that are annexed to the City or under contract to annex shall become subject to the storm drain utility fee on the date of annexation or the date of the annexation contract, whichever comes first.

### **Section 7. Storm Drain Utility Fee – Dedicated**

All fees collected for the purposes specified in this chapter shall be paid into the Storm Drain Utility Account and accounted for by dedicated line items including, but not limited to, Storm Drain Maintenance and Storm Drain Construction. Such revenues shall be used for the purposes of the management, maintenance, extension and construction of public storm drain facilities.

### **Section 8. Enforcement**

Any charge due hereunder which is not paid when due may be recovered from the responsible party in an action at law by the City. In addition to any other remedies or penalties provided by this or any other ordinance in the City, a delinquent notice with said charges specific to the responsible party's property shall be sent to the Douglas County Assessor's Office. The City Administrator is hereby empowered and directed to enforce this provision against such delinquent users. The employees of the City shall, at all reasonable times, have access to any premises served by the City for inspection, repair, and enforcement of the provisions of this ordinance.

### **Section 9. Administrative Review – Appeals**

- A. Any user or occupant who disputes the amount of the fee, or disputes any determination made by or on behalf of the City pursuant to and by the authority of this chapter may petition the City Council for a hearing on a revision or modification of such fee or determination. Such petitions may be filed only once in connection with any fee or determination, except upon a showing of changed circumstances sufficient to justify the filing of such additional petition.
- B. Such petitions shall be in writing, filed with the City Administrator, and the facts and figures shall be submitted in writing or orally at a hearing scheduled by the City Council. The petitioner shall have the burden of proof.

C. Within 60 days of filing of the petition, City Council shall make findings of fact based on all relevant information, shall make a determination based upon such findings and, if appropriate, modify such fee or determination accordingly. Such determination by the City Council shall be considered a final order.

**Section 10. Notice of Decision**

Every decision or determination of the City Council shall be in writing, and notice thereof shall be mailed to or served upon the petitioner within a reasonable time from the date of such action. Service by certified mail, return receipt requested, shall be conclusive evidence of service for the purpose of this chapter.

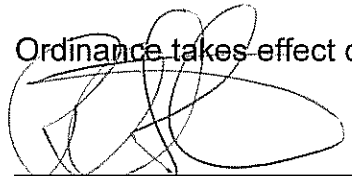
**Section 11. Adoption**

First reading by title only by Winston City Council - December 1, 2008

Second reading by title only and adopted by the Winston City Council December 15, 2008.

Ayes 3 Nays 0

Ordinance takes effect on January 14, 2009.



Rex A. Stevens, Mayor

Attest:



David M. Van Dermark  
City Recorder

## RESOLUTION 688

### A RESOLUTION IMPLEMENTING A FEE FOR THE STORM DRAIN UTILITY FEE USING METHODOLOGY ADOPTED IN ORDINANCE 637

**WHEREAS**, the City Council in the City of Winston recognized that funding improve the storm drain system throughout the City was necessary in order to serve the needs of the City into the future; and

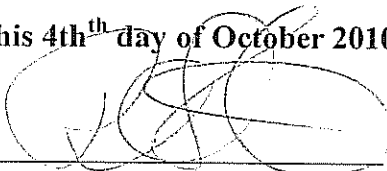
**WHEREAS**, Ordinance 637 described methodology to collect funds to help make these improvement possible into the future; and

**WHEREAS**, the estimated needs to fully fund necessary improvements levels would require a fee of at least \$3 per unit; and

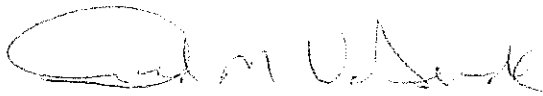
**WHEREAS**, the Winston City Council realizes that a fee at that level would be very difficult for many of our citizens;

**NOW THEREFORE BE IT RESOLVED**, that the City Council of the City of Winston hereby implements the Storm Drain Utility Fee at \$1 per unit, as described in the methodology described in Ordinance 637, effective November 1, 2010.

Passes and Adopted by the Winston City Council this 4<sup>th</sup> day of October 2010

  
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Rex A. Stevens, Mayor

Attest:



David M. Van Dermark, City Administrator