

**GENERAL ORDINANCE NO. 07-1284****AN ORDINANCE ESTABLISHING STORM DRAINAGE  
REGULATIONS FOR THE CITY OF THE DALLES****THE CITY COUNCIL OF THE CITY OF THE DALLES ORDAINS AS  
FOLLOWS:**Section 1. Findings.

- A. The City provides a valuable public service by providing storm drainage facilities for the collection and disposal of storm water discharged from properties and public right-of-ways within the City. The storm water drainage system exists for the benefit of any person within the City who wants to have the public storm drainage facilities available for the diversion, collection and/or disposal of storm drainage and other runoff water from the person's property and represents a municipal service in a developed urban environment which is essential to the public health, safety and welfare.
- B. Persons who use the public storm drainage facilities should be charged fees that reflect the cost of the extension and construction of the public storm drainage facility as a public utility in the City. Persons who undertake the installation of runoff control facilities on their property that reduce or eliminate the discharge of storm water into public storm drainage system should be given credit, in proportion to the degree of reduction, against storm drainage service fees that would otherwise be due.
- C. Accordingly, the structure of the storm drainage service charge is intended to be a fee for service and not a charge against property. Although this structure is intended to constitute a service fee, even if it is viewed as a fee against property or against the person responsible, as a direct consequence of ownership of that property, the fee structure should allow the person responsible to have the ability to control the amount of the fee. The monthly fee to be charged pursuant to this ordinance will be dedicated to capital projects for the City's storm drainage system, and the fee has been calculated to be less than the costs incurred by the City for operation and maintenance of the storm drainage system.

Section 2. Definitions. Except where the context otherwise requires, the definitions contained in this section shall govern the construction of this ordinance.

- A. “Commercial or industrial unit” means any building or facility used other than as a single-family dwelling unit or as a duplex.
- B. “Development” means any man-made change to improved or unimproved real property, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
- C. “Director” shall mean the Director of the Public Works Department or the person designated by the Director.
- D. “Duplex” shall mean two dwelling units located on a single lot or development site placed so that some structural parts are in common.
- E. “Equivalent residential unit” or “ERU” shall mean an area which is estimated to place approximately equal demand on the City’s storm drainage system as a single-family unit. One ERU shall be equal to three thousand (3000) square feet of impervious surface.
- F. “Impervious surface” means any surface which either prevents or retards saturation of water into the land surface, or a surface which causes 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. Common impervious surfaces include, but are not limited to, rooftops, concrete or asphalt sidewalks, walkways, patio areas, driveways, parking lots or storage areas, graveled, oiled or macadam surfaces or other surfaces which similarly impede the natural saturation or runoff patterns which existed prior to development.
- G. “Improved premises” means any area which the Director determines has been altered such that the runoff from the site is greater than that which could historically have been expected. “Improved premises” does not include any public ways under the jurisdiction of the City, county, state or federal government.
- H. “Master Plan” shall mean the “City of The Dalles Storm Drainage Master Plan” prepared by Kennedy Jenks Consultant, adopted by the City Council on May 14, 2007, including such amendments to such plan.
- I. “Mobile Home Park” shall be as defined in Section 2.030 of the City’s Land Use and Development Ordinance as “Manufactured Dwelling Park”.

- J. “Multiple family unit” or “MFU” means a building or facility under unified ownership and control and consisting of more than two dwelling units with each such unit consisting of one or more rooms with bathroom and kitchen facilities designed for occupancy by one family and having a common water meter.
- K. “Open drainageway” means a natural or man-made path, ditch or channel which has the specific function of transmitting natural stream water or storm runoff water from a point of higher elevation to a point of lower elevation.
- L. “Person responsible” means the owner, agent, occupant, lessee, tenant, contract purchaser or other person having possession or control of property or the supervision of a construction project on the property.
- M. “Retention system” means a storm drainage facility which the Director has determined does not discharge, or substantially reduces the discharge, into a public storm drainage facility.
- N. “Runoff control” means any measure approved by the Director by which storm water runoff from land surfaces on which development exists is reduced.
- O. “Single family unit” or “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 and have individual water meters. The term “SFU” shall be inclusive of those units identified as detached single family residences, unit ownerships, and condominiums, etc.
- P. “Storm drainage facilities” means any structure 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, curbs, gutters, manholes, catch basins, ponds, open drainageways and their appurtenances. “Storm drainage facilities” does not include Mill Creek or other creeks expressly excluded by action of the City.
- Q. “Storm drainage service” means the collecting of storm water discharged from property on which development exists and its deposit directly or indirectly into public storm drainage facilities.
- R. “Storm water” means water from precipitation, surface or subterranean water from any source, drainage and nonseptic waste water.

Section 3. Policy.

- A. Pursuant to the general laws of the State of Oregon and the powers granted in the City Charter, the City Council declares its intention to acquire, own, construct, reconstruct, equip, operate and maintain within the City limits of the City, and outside the City limits when consistent with the Council's adopted policies or intergovernmental agreements, storm drainage facilities, and also to require persons responsible to construct, reconstruct, maintain and extend storm drainage facilities.
- B. The improvement of both public and private storm drainage 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 or subsequent Council interpretation or policies shall relieve the person responsible of assessments levied against their property for public facility improvement projects, or for abating conditions on the property that violate any provision of this ordinance.
- D. It is the policy of the City to participate within budgetary limits in improvements to storm drainage facilities when authorized by the City Council. To be considered for City financial participation, a storm drainage facility must:
- (1) Be public and be of major benefit to the community; and
  - (2) Be located in or on a City property, City right-of-way, or City easement; and
  - (3) If a piped system, be a design equivalent to or greater than that identified in the Stormwater Master Plan; and
  - (4) Be identified as a project in the Master Plan; and
  - (5) If a retention system, the capacity of such system must be capable of handling an amount equal to or greater than that generated by a 25-year, 24-hour storm event; and
  - (6) Be a rehabilitation and/or replacement of an existing public storm drainage facility, or installation of a new public storm drainage facility.

Section 4. City Responsibilities. The City shall manage public storm drainage facilities located on City-owned property, City rights-of-way, and City easements. Public storm drainage facilities that may be managed by the City include, but are not limited to:

- A. An open drainageway serving a drainage basin of at least one hundred (100) acres;
- B. A piped drainage system and its related appurtenances which have been designed and constructed expressly for use by the general public and accepted by the City;
- C. Roadside drainage ditches along unimproved City streets but not access drive culverts;
- D. 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; and
- E. Retention systems constructed with City financial participation.

Section 5. Private responsibilities. A storm drainage facility to be managed by the person responsible includes, but is not limited to:

- A. A storm drainage facility not located on City-owned property, City right-of-way, or City easement;
- B. A private parking lot storm drain;
- C. Any roof, footing, or area drain;
- D. A storm drainage facility not designed and constructed for use by the general public;
- E. A drainage swale which collects storm water from a basin less than one hundred (100) acres;
- F. Access drive culverts in the public right-of-way or on private property.

Any person responsible shall keep open drainageways on his or her property cleared of debris and vegetation as required by the City's ordinances concerning nuisance abatement and hazardous vegetation. Any person responsible shall maintain non-public storm drainage facilities on his or her property so as to prevent flooding or damage to other property not owned or controlled by the person responsible and to prevent injury to any person on property not owned or controlled by the person responsible. The failure of any person responsible to comply with the obligations in this section is a violation. The conditions on private property which may result in situations described by this section are declared to be a danger to public health and safety and therefore are a nuisance to be abated as provided in the City's nuisance abatement ordinance.

Section 6. Charges for Storm Drainage Service.

- A. Except as the fees may be reduced or eliminated under this section, the obligation to pay storm drainage fees arises when a person responsible uses storm drainage services. It is presumed that storm drainage services are used whenever there is an improved premises.
- B. Unless another person responsible has agreed in writing to pay and a copy of that writing is filed with the City, the person(s) paying the City's water utility charges or person(s) paying a utility charge for sewer service only, shall pay the storm drainage fees set by Council resolution. If there is no water service to the property or if water service is discontinued, the storm drainage fees shall be paid by the person(s) having the right to occupy the property. If the person responsible is receiving only sewer utility service from the City, and water service from the Chenoweth People's Utility District, that person shall pay the storm drainage fee set by Council resolution. Any person responsible whose residence or property is within the City limits shall pay the storm drainage fee, unless the residence or property is provided stormwater drainage by a private system which is not connected to any public storm drainage facility owned or operated by the City.
- C. When establishing the fees for storm drainage service, the Council shall:
- (1) For ease of administration, establish a monthly rate for a single family unit, which rate shall also be applied to residentially used property based upon the number of dwelling units, and which rate shall be the rate for an equivalent residential unit (ERU); and
  - (2) Establish a monthly rate for all property not included in subsection C(1) of this section, based upon the amount of the property's impervious surface. For each three thousand (3,000) square feet of impervious surface, the said property shall be charged the rate for a single family unit. The minimum service charge shall be that established for a single family unit.
- D. The storm drainage fees for a mobile home park shall be established at the rate of one single family unit per space.
- E. The maximum charge for a multiple family building or facility shall be limited to the number of multiple family units on the property multiplied by the charge for a single family unit.

- F. When required, area measurements may be determined from the records of the Wasco County Assessor when available, including aerial maps or data from a Geographic Information System (GIS), or as determined by the Director.
- G. Credit will be allowed for runoff control measures. When approved by the Director, storm drainage utility fees may be reduced for a property where approved runoff control measures have been taken. A fee reduction shall be on a straight line basis with conditions existing on the date of passage of this ordinance being considered as the starting or initial conditions. If the person responsible establishes, to the satisfaction of the Director, that all runoff from a property is disposed of without utilizing public storm drainage facilities either directly or indirectly, there will be no fees charged under the provision of this ordinance.
- (1) Any reduction or elimination given shall continue until the property is further developed or until the Director determines the property no longer qualifies for the reduction or elimination granted. Upon further development of the property another application may be made by the person responsible. Any person aggrieved by a decision of the Director may appeal to the City Manager by filing with the Manager a written request for review no later than ten (10) days after receiving the Director's decision. The City Manager's decision shall be final.

Section 7. Enforcement. Any fee due which is not paid when due may be recovered in an action at law by the City. In addition to any other remedies or penalties provided by this or any other City ordinance, failure of any person responsible to pay fees promptly when due shall subject the person responsible to discontinuance of water service to any premises where the storm drain utility charges are delinquent or unpaid. Employees of the City shall, at all reasonable times, have access to any improved property served by the City for inspection, repair, or the enforcement of the provisions of this ordinance.

Section 8. Initiation of Billing. Request for water service, or a request for sewer service only when the responsible person is receiving water service from the Chenoweth People's Utility District, will automatically initiate appropriate billing for storm drainage services as established in this ordinance. If development of a parcel does not require initiating water service, the creation of an impervious surface from which storm water may be discharged into public drainage facilities shall initiate the obligation to pay the fees and charges established in this ordinance.

Section 9. Administrative Review - Appeals.

- A. Any person responsible 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 ordinance may petition the City Manager 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 for determination, except upon the showing of changed circumstances sufficient to justify the filing of an additional petition.
- B. Such petitions, including all facts and figures, shall be submitted in writing and filed with the City Manager. The City Manager shall notify the petitioner when the petition has been scheduled for a hearing. The petitioner shall bear the burden of proof at the hearing.
- C. Within 30 days of the date the petition is filed, the City Manager shall make a decision setting forth the appropriate findings of fact and relevant information, and if appropriate, modify the fee or determination accordingly. The decision of the City Manager shall be considered a final order, and a copy of the decision shall be mailed to the petitioner.

Section 10. Exemptions; Discounts for Low Income Persons

- A. The City Council may, by resolution, exempt any class of user when the Council determines that the public interest deems it necessary, or that the contribution to storm drainage utility use by the class is determined to be insignificant.
- B. Discounts applying to low income persons for water and sewer utility service shall also apply to storm drainage utility fees.

Section 11. Classification of fees. The City Council finds that the fees imposed by this ordinance are not taxes subject to the property tax limitations of Article XI, section 11(b) of the Oregon Constitution.

Section 12. Severability. If any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain in effect.

ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR  
OCTOBER 8, 2007.