ORDINANCE NO. 18-0528

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGECOM, WASHINGTON, ADJUSTING THE STORM DRAINAGE AND SURFACE WATER UTILITY ANNUAL SERVICE CHARGE FOR ALL CLASSIFICATIONS OF SERVICE CONSISTENT WITH THE SURFACE WATER MANAGEMENT PLAN, IN ORDER TO IMPLEMENT THE CAPITAL IMPROVEMENT PLAN BUDGET FOR THE UTILITY, TO BE EFFECTIVE AS OF JANUARY 1, 2019, ADDING NEW DEFINITIONS, ADDING ADDITIONAL QUALIFICATIONS ON CREDITS FOR PROPERTIES UTILIZING RAINWATER COLLECTION SYSTEMS, AND MAKING OTHER HOUSEKEEPING CHANGES, AMENDING EDGECOM MUNICIPAL CODE SECTIONS 13.10.010, 13.10.020, 13.10.030, 13.10.050, 13.10.060, 13.10.070. 13.10.080, REPEALING SECTION 13.10.040, ADDING SECTIONS 13.10.090, 13.10.100, 13.10.110, 13.10.120, 13.10.130, 13.10.140, AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Edgewood has “full jurisdiction and authority to manage, regulate and control” its storm water utility (RCW 35.67.020(1)); and

WHEREAS, the City has the authority to fix, alter, regulate and control the rates and charges associated with the storm water utility, which charges must be uniform for the same class of customers of service and facilities furnished, taking into account the factors identified in state law (RCW 35.67.020(2)); and

WHEREAS, the City has established a storm drainage and surface water management utility, and has codified regulations pertaining thereto at Chapter 13.10 EMC; and

WHEREAS, Pierce County collects storm water charges for the City, as directed and authorized by the mayor through an established interlocal agreement, and designates each property by one of the eight (8) categories defined in EMC 13.10.070; and

WHEREAS, the City is updating its capital improvement and comprehensive plans for the maintenance, repair, replacement, and new construction of storm water projects which are paid for by the revenue from storm water charges; and

WHEREAS, in review of said plan updates, the City has determined additional funding is necessary to support the proposed capital improvement budget for its surface water management utility; and

WHEREAS, the City desires to adjust the annual storm drainage and surface water service charge to fund said capital improvement budget; and

WHEREAS, the City’s SEPA Responsible Official has determined that this procedural action is categorically exempt from SEPA threshold determination and EIS requirements pursuant to WAC 197-11-800(19); and
WHEREAS, on August 21, September 4, and September 18, 2018, the City Council considered this ordinance during study sessions; and

WHEREAS, on August 28, 2018, the City Council held a first reading of this ordinance during its regular City Council meeting; and

WHEREAS, on August 28, 2018, the City Council held a public hearing on this ordinance, after proper notice was sent out to the public; and

WHEREAS, on September 25, 2018, the City Council considered the adoption of this ordinance during a second reading, which was held during a regular City Council meeting;

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

Section 1. Findings. The recitals above are hereby adopted as legislative findings in support of this ordinance. The City Council further adopts by reference the staff report dated September 18, 2018, and agenda bill dated September 25, 2018 as additional findings.

Section 2. Chapter 13.10 amended. Chapter 13.10 of the Edgewood Municipal Code is hereby amended to read as presented in Exhibit ‘A’, which is incorporated by reference herein and attached hereto.

Section 3. Rates Effective. The rates described herein shall take effect and be in full force for fees collected beginning January 1, 2019.

Section 4. Severability. Should any section, paragraph, sentence, clause or phrase of this Code, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason or should any portion of this Code be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Code or its application to other persons or circumstances.

Section 5. Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.


Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk
APPROVED AS TO FORM:

Carol Morris, City Attorney

Date Published: September 27, 2018
Ordinance Effective Date: October 2, 2018 (Rate effective date: 01/01/2019)
Chapter 13.10
STORM DRAINAGE AND SURFACE WATER MANAGEMENT UTILITY

Sections:
13.10.010 Purpose.
13.10.020 Creation and Authority.
13.10.030 Definitions.
13.10.050 Interlocal agreement.
13.10.060 Applicability and Exemptions.
13.10.070 Storm Water Drainage Charges.
13.10.080 Council approval.
13.10.090 Deposit of funds.
13.10.100 Lien for delinquent charges.
13.10.110 Overpayment refund requests.
13.10.120 Administrative refunds or adjustments.
13.10.130 Amount of refund limited.
13.10.140 Appeals.

13.10.010 Purpose.
This Chapter creates 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 Edgewood, as specified in and pursuant to Chapters 35.67 and 39.34 of the Revised Code of Washington (RCW). 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, roads 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.

13.10.020 Creation and Authority.
There was created a Storm Drainage and Surface Water Management Utility and corresponding Surface Water Management Fund for the City of Edgewood in 1996, as adopted under Ordinance 96-15. Said Storm Drainage and Surface Water Management Utility shall be administered by the mayor or designee.

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

13.10.030 Definitions.
A. “City” shall mean the City of Edgewood, Washington, or as indicated by the context, may mean the appropriate department, official, employee, or agent representing the City in the discharge of his or her duties.
B. “Detention Facility” : An above or below ground facility, such as a pond or tank, that temporarily stores stormwater runoff and subsequently releases it at a slower rate than it is collected by the drainage facility system. There is little or no infiltration of stored stormwater.
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. For Storm Water Drainage Charge purposes, each Duplex unit shall be equivalent to 3406 square feet of impervious area.
D. “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. “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.

F. “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.

G. “Impervious Area” shall mean the horizontally projected surface area of all non-vertical “Impervious Surface”.

H. “Impervious Surface”: A non-vegetated surface area that either: (a) prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, or (b) causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces that similarly impede the natural infiltration of stormwater. Open, uncovered retention and/or detention facilities shall not be considered as impervious surfaces for the purposes of this chapter.

I. “Infiltration”: The downward movement of water from the surface to the subsoil.

J. “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.

K. “Master Plan” shall mean the Surface Water Management Plan adopted by City Ordinance for managing storm drainage and surface water runoff facilities and features within the City.

L. “Mobile Home Site” shall mean a space within an existing mobile home park for installation of a mobile home, regardless of it being occupied or vacant. For Storm Water Drainage Charge purposes, each Mobile Home Site unit shall be equivalent to 55 percent of a Residential unit, or 1452 square feet of impervious area.

M. “Multifamily” shall mean a dwelling, either wholly or partially located on an individual parcel, consisting of a building containing more than two 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 such family.

N. “Owner” or “Owner of Record” shall mean the holder of title by recorded deed or the purchaser under a recorded real estate contract.

O. “Parcel” shall mean any portion, piece, or division of land; fractional part or subdivision of block, according to plat or survey; portion of platted territory measured and set apart for individual and private use and occupancy.

P. “Residential” shall mean a parcel or contiguous parcels with one single family home or single-family residential condominium or modular home designed and/or used to house a single family, either wholly or partially located on it or them. For Storm Water Drainage Charge purposes, each Residential unit shall be equivalent to 2640 square feet of impervious area.

Q. “Retention Facility”: An above or below ground facility, such as a pond or tank, that temporarily stores stormwater runoff and subsequently releases it at a slower rate than it is collected by the drainage facility system. With no surface outflow, discharge is through infiltration and evaporation.

R. “Service Charge” means the charge levied on parcels within the City as authorized by EMC 13.10.070.

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. “Vacant/Undeveloped” shall mean a parcel of land that has no impervious area.

13.10.050 Interlocal agreement.
The mayor is hereby directed and authorized to administer an interlocal agreement with Pierce County to take such action as is necessary and/or appropriate to carry out the provisions of this Chapter.
13.10.060 Applicability and Exemptions.
The City shall apply a rate structure as a utility Service Charge to all parcels within the City, as authorized by EMC 13.10.070. All parcels are subject to a service charge except the following exempt parcels:

A. All vacant/undeveloped parcels less than two-tenths (2/10ths) of an acre (8,712 square feet) in total area.
B. Tax title parcels which the County has offered for public sale but no willing buyer came forward to bid on the property.

13.10.070 Storm Water Drainage Charges.
An annual service charge schedule is hereby established for all areas of the city.

A. Annual service charges for all parcels within the city are as follows:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>$190.80</td>
</tr>
<tr>
<td>Duplex</td>
<td>$246.12</td>
</tr>
<tr>
<td>Multifamily (per sq. ft. impervious area)</td>
<td>$0.07227</td>
</tr>
<tr>
<td>Mobile Home Site</td>
<td>$104.94</td>
</tr>
<tr>
<td>Vacant / Undeveloped</td>
<td>$48.00</td>
</tr>
<tr>
<td>State, County &amp; Federal Public Highways</td>
<td>$0.02168</td>
</tr>
<tr>
<td>Highways (per sq. ft. impervious area)</td>
<td></td>
</tr>
<tr>
<td>All Others (per sq. ft. impervious area)</td>
<td>$0.07227</td>
</tr>
</tbody>
</table>

B. Credit Program. Sites that utilize rainwater harvesting systems, which retain stormwater on site for later nonpotable use, are eligible for a 10 percent credit. To qualify for a service charge credit, the following must be completed before June 1st of the year preceding the year for which the owner is requesting credit:

1. Credit may be applied to all Rate Classifications listed in subsection (A) of this section, except for the following: Vacant / Undeveloped, and State, County & Federal Public Highways. Newly developed properties must fully complete the development process in accordance with Chapter 13.05 EMC before applying for a credit.

2. To qualify for a credit, the owner of record shall provide the city the following documentation, each stamped and signed by the owner’s engineer, that all storm drainage systems serving the entire site are fully compliant with the current requirements for storm water control, both water quantity and water quality, in Chapter 13.05 EMC:

   a. Engineering calculations, demonstrating they are properly sized for their intended use and have a capacity of at least 1,500 gallons per structure; and

   b. "As constructed plans"; and

   c. Maintenance and operations manual for all drainage facilities, including applicable source control BMPs.

3. Only systems determined by the City to meet or exceed current requirements for operations, maintenance and source control for the site will continue to receive a credit. The Owner will be notified of any maintenance deficiencies no later than July 1 to allow for corrective action before October 1. Systems that are not adequately maintained by October 1 will be dropped from the credit program and will need to submit a new application for readmission into the program.
4. Each Owner of Record shall provide 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 recorded with the County Auditor by the Owner of Record. The Owner of Record shall provide the City a copy of the recorded agreement, with the County Auditor’s recording number stamped on it, before the application will be deemed completed.

5. Each Owner of Record must provide documentation that the City has legal access to the property for the purpose of inspecting the storm control system. New developments are required to record a maintenance covenant for this purpose, and a copy of this recorded document will suffice. If no such documentation is available, the Owner shall 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 County Auditor by the Owner of Record. The Owner of Record shall provide the City a copy of the recorded agreement, with the County Auditor’s recording number stamped on it, before the credit application will be deemed completed.

6. Once accepted into the credit program, a system will remain eligible for a credit for a period of five years, even if the requirements in this title change, assuming the system is not modified, continues to function as designed, and is adequately maintained. Credit may be reapplied for following this five-year period if the system is still in proper working order.

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

D. The annual service charge shall be calculated and collected as described in PCC 11.02.050(E), as adopted by Pierce County Ordinance 2016-72s.

E. Parcel characteristics affecting the service charge which are altered after January 1 of any year shall not be the basis for recalculation of the service charge until the next year.

13.10.080 Council approval.
The mayor is hereby directed to present to the city council for their final approval the agreements for the continued operation of the storm drainage and surface water management utility within the city of Edgewood and for the collection of the fees thereof.

13.10.090 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 #410, as a special revenue fund. All revenue in the Surface Water Management Fund shall be deposited in interest-bearing or income earning accounts.

13.10.100 Lien for delinquent charges.
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 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.
13.10.110 Overpayment refund requests.
Any person may request the refund of service charge overpayment(s) by doing so in writing to the Mayor or designee. The basis of the request explaining the nature of the overpayment should be clearly stated. The Mayor or designee shall investigate the overpayment to have occurred. The Mayor or designee will use best efforts within sixty (60) days of receipt of the request. The Mayor 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 one (1) year prior to the date the written request is received.

13.10.120 Administrative refunds or adjustments.
The Mayor 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 Mayor or designee within one (1) year of the occurrence of the error, miscalculation or mistake.

13.10.130 Amount of refund limited.
In any instance where a refund or credit is authorized by the Mayor or designee, the amount shall not include any interest.

13.10.140 Appeals.
Any decision of the Mayor or designee made pursuant to this Chapter may be appealed to the City of Edgewood Hearing Examiner upon payment of the fees under protest and pursuant to Chapter 2.40 EMC.