

# CITY OF YAMHILL

## ORDINANCE NO. 533

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**AN ORDINANCE ADOPTING CITY OF YAMHILL MUNICIPAL CODE  
CHAPTER 3.70, STORMWATER DRAINAGE UTILITY; AND  
AMENDING YAMHILL MUNICIPAL CODE CHAPTER 3.72, UTILITY BILLING**

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**WHEREAS**, Chapter II “Powers,” Section 4, of the City of Yamhill (City) Charter provides: “Powers of the City. The City shall have all powers that the constitutions, statutes and common law of the United States and State of Oregon expressly or impliedly grant or allow the City, as fully as though this Charter specifically enumerated each of those powers.”

**WHEREAS**, City wishes to establish a dedicated and sustainable funding source that provides for the operation, improvement, and maintenance of the City’s drainage infrastructure via a Stormwater Utility Fee; and

**WHEREAS**, the proposed Stormwater Utility Fee will be charged to all property based upon its impervious surface as a reliable and equitable source of funding for the City Stormwater Program; and

**WHEREAS**, proposed Chapter 3.70 is consistent with other Chapters within Yamhill Municipal Code (YMC) Title 3, Utilities; and

**WHEREAS**, the Yamhill City Council considered the proposed adoption of YMC 3.70 at two public meetings, held on May 12, 2021 and June 9, 2021, and one public hearing on June 9, 2021, prior to considering it for adoption in the form attached hereunder; and

**WHEREAS**, to facilitate collection of the fee posed by proposed YMC 3.70, the City must amend its utility service billing provisions in YMC 3.72.

**NOW, THEREFORE, THE CITY OF YAMHILL ORDAINS AS FOLLOWS:**

Section 1. Adoption of New Chapter. A new Chapter 3.70 series, “Stormwater Drainage Utility,” establishing the formation of a Stormwater utility and allocating stormwater drainage costs amongst residents and commercial users is hereby adopted and added to Title 3 of the City of Yamhill Code to read as follows:

**3.70.010 Purpose.**

The city finds that, absent effective maintenance, operation, regulation, and control, existing Stormwater drainage conditions in all drainage basins and sub-basins within the city constitute a potential hazard to the health, safety and general welfare of the city. The city council further finds that natural and man-made Stormwater facilities and conveyances together constitute a Stormwater System and that the effective

regulation and control of Stormwater can best be accomplished through city formation of a Stormwater utility.

**3.70.20 Definitions.**

- (A) “Equivalent Dwelling Unit” (“EDU”) means a configuration of development or Impervious Surface estimated to contribute an amount of runoff to the city’s Stormwater System that is approximately equal to that created by the average developed single-family residence. One EDU is equal to 2,500 square feet of Impervious Surface area. All single-family residences will be deemed to be one EDU, regardless of Impervious Surface area.
- (B) “Impervious Surface” means an artificially created hard-surfaced area that either prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions. Impervious Surfaces may include, but are not limited to, rooftops, concrete or asphalt paving, walkways, patios, driveways, parking lots or storage areas, trafficked gravel, and oiled, macadam or other surfaces which similarly impede the natural infiltration or runoff of Stormwater. However, not all driveways or concrete are impervious, and the Public Works Director will determine whether a particular surface is impervious.
- (C) “Improved Premises” means any area that the Public Works Director determines has been altered such that the runoff from the site is greater than that which could historically have been expected. “Improved Premises” do not include public roads under the jurisdiction of the city, county, state or federal government.
- (D) “Person Responsible” means the occupant, lessee, tenant, contract purchaser, owner, agent or other person having possession of property, or if no person is in possession, then the person in control of the use of the property, or in control of the supervision of development on the property.
- (E) “Stormwater” means water from precipitation, surface, or subterranean water from any source, drainage and non-septic wastewater.
- (F) “Stormwater System” means any structure or configuration of ground that is used or by its location becomes a place where Stormwater flows or is accumulated, including but not limited to pipes, sewers, curbs, gutters, manholes, catch basins, ponds, creeks, open drainageways, ditches and their appurtenances.
- (G) “City Stormwater System” means the portions of the Stormwater System in public rights of way, within easements in favor of the city, or on city property.
- (H) “Private Stormwater Facility” means any portion of the Stormwater System on private property and not within a city easement.
- (I) “Stormwater Service” means the operations of the City’s Stormwater System in providing programs and facilities for maintaining, improving, regulating, collecting, and managing Stormwater quantity and quality within the city’s service area.

**3.70.030 Provision of service.**

Except as otherwise provided in this chapter, the city provides Stormwater Services to all properties within the city that have Impervious Surfaces that result in discharge or runoff into the City Stormwater System.

**3.70.40 Charges for stormwater service.**

- (A) The city council may, by resolution, establish fees and charges necessary to provide and operate City's Stormwater System and Service.
- (B) Unless another Person Responsible has agreed in writing to pay for Stormwater Service and a copy of that writing is filed with the city, the person receiving the city's water bill shall pay the Stormwater charges as set by city council resolution. The fee shall be based on EDUs. If there is no water service to the property or if water service is discontinued and the property is an Improved Premises, the Stormwater charges shall be paid by the Person Responsible for the property. The person required to pay the charge is hereafter referred to as the "Customer."

**3.70.50 Stormwater charges — billing.**

- (A) Charges for Stormwater Service supplied by the city to any Customer shall be charged for and billed to each such Customer in accordance with rates established by council resolution.
- (B) The Customer shall be responsible for all Stormwater Service fees and charges, except as allowed by Section 3.70.040.
- (C) Billings may be prorated. The proration shall be a daily rate determined by dividing the annual minimum billing by three hundred sixty-five days times the number of days of occupancy from last meter reading and/or billing date.
- (D) All money collected through Stormwater fees and charges shall be used for the improvement, maintenance, and repair of the City Stormwater System

**3.70.60 Stormwater charges — when delinquent.**

- (A) The city shall bill Stormwater fees and charges in the same manner and at the same times as it bills for water service and shall combine the Stormwater bill with the water and/or sewer bill.
- (B) A delinquent fee, in an amount established by resolution of the city council, shall be added to all delinquent accounts.
- (C) The City Recorder (or designee) is authorized to determine what constitutes a de minimis account balance and to waive the penalties in subsections B. and D. of this section in de minimis or extenuating circumstances.
- (D) In addition to other lawful remedies, the City Recorder (or designee) may enforce the collection of charges authorized by this chapter by withholding delivery of water to any premises where the Stormwater Service fees and charges are delinquent or unpaid, following the procedures and standards for shutting off water service for non-payment of water bills as provided in City Code Chapter 3.36.020.

**3.70.070 Appeal.**

Any Customer aggrieved by any charge or decision made with regard to the Customer's account may appeal to the city recorder by filing with the city a written request for review no later than ten days after receiving the decision. The city recorder's decision shall be subject to review by the city council upon filing of an appeal within fifteen (15) days of the notice of decision.

**3.70.80 Tampering with system/prohibited discharges.**

- (A) No unauthorized person shall damage, destroy, uncover, deface, or tamper with any conduit, structure, appurtenance, or equipment that is part of the City Stormwater System. No person may alter any conduit, structure or equipment that is part of the City Stormwater System except as authorized by the city. No person may fill or divert any open portion of the city Stormwater drainage system except as authorized by the city.
- (B) No person shall discharge or cause to discharge directly or indirectly to the Stormwater System anything that could not be discharged to the sewage system under City Code Chapter 3.68.
- (C) No person shall discharge any sewage into the Stormwater System.
- (D) No person shall discharge any hazardous materials into the Stormwater System. Application of normal amounts of garden and lawn fertilizer and pesticides to lawns and gardens shall not be considered a discharge of a hazardous material under this section.

**3.70.090 Responsibility for private stormwater facilities.**

The owner of property where a Private Stormwater Facility is located shall maintain the Private Stormwater Facility in a properly functioning condition and shall operate the Private Stormwater Facility to avoid flooding or erosion in excess of what would occur under natural conditions. An improperly maintained or operated Private Stormwater Facility that results in flooding or erosion in excess of what would occur in natural conditions is a nuisance and may be abated as provided in City Code Chapter 5.04.

**3.70.100 Violation—penalty.**

A violation of any provision of this chapter is punishable as set forth in City Code Chapter 1.36 and is a civil infraction with a maximum civil penalty of \$500.00. Each day of violation may be cited as a separate infraction.

Section 2. Amendment. YMC Chapter 3.72, governing Utility Billing, is hereby amended to insert a new Section 3.72.060, to read as follows:

**3.72.060 Utility Service Billing.**

Billings for water, stormwater and sewer utility services shall be combined into one bill and shall be made monthly on the basis of the amount of service used during the previous monthly period. Bills are due and payable on or before the 25<sup>th</sup> day of each month and shall become delinquent on the 26<sup>th</sup> day of each month. The city will apply amounts received from customers first to the sewer and water charges pro-rata, next to any outstanding police service fee, with the remainder to the Stormwater Utility Fee.

Section 3. Continued Effect. All unamended provisions of YMC Title 3 shall remain unchanged and in full force and effect.

Section 4. Savings. Notwithstanding these amendments, the City Code provisions in existence at the time any criminal or civil enforcement actions were commenced shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said provision(s) or portions thereof were operative.

Section 5. Severability. The sections, subsections, paragraphs and clauses of this ordinance and the attached Code provisions are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

Section 6. Codification. The City Recorder is hereby directed to codify this ordinance as a part of the Yamhill Municipal Code, and the City Recorder is authorized to correct any cross-references and any typographical errors.

Section 7. Effective Date. This ordinance will go into full force and effect on the 30<sup>th</sup> day after the City Council enactment.

ENACTED by the City Council on the 9<sup>th</sup> day of June 2021, by the following votes:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Abstained: \_\_\_\_\_

Absent: \_\_\_\_\_

DATED and signed by the Mayor, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Yvette Potter  
Mayor, City of Yamhill

ATTEST:

\_\_\_\_\_  
Lori Gilmore, City Recorder