



**City of Gig Harbor
City Council Meeting Agenda Bill**

Meeting Date: February 14, 2022

SUBJECT: First Reading of Ordinance 1482 Stormwater Code Revisions

PURPOSE: The purpose of this ordinance is to update the City's stormwater code due to updated regulations and to charge various classes of property owners more fairly.

SUGGESTED MOTION: None. Consider adoption of an ordinance establishing new Stormwater Billing and Collection code updates at the second reading.

SUBMITTED BY: Jeff Langhelm, PE, Public Works Director

DEPARTMENT: Public Works

PHONE: 253-853-7630

BACKGROUND INFORMATION: The City created its stormwater utility in 1984. The creation of the stormwater utility was codified in Chapter 14.00 GHMC (Creation and Purpose) and Chapter 14.10 GHMC (Billing Policy and Collection). Since then, much has changed in terms of how properties have developed, the awareness of environmental impacts due to development, and establishment and intensity of environmental regulations on development. The City has also experienced significant growth in size, density, and amount of stormwater infrastructure.

Beginning in 2007 the City was mandated to manage the City stormwater facilities under a National Pollution Discharge Elimination System (NPDES) permit for stormwater issued by the Department of Ecology on behalf of the Environmental Protection Agency. This permit is intended to protect waters of the state from water quality and other stormwater impacts in urban areas due to the amount of hard surfaces. The City's NPDES stormwater permit identifies many requirements the City must follow and has been updated and reissued multiple time since 2007. These updates and changes have created a mixture of regulations under which the City has managed stormwater between 1984 and today.

To manage the City's stormwater program and stormwater permit in 2021 the City used a portion of time from 23 different staff and almost 10,000 hours of staff time. The estimated 2021 expenses for simply operating the utility totaled almost \$1,000,000. These expenses are necessary to simply operate the utility, regardless of the amount of rain that reaches hard surfaces.

As the City developed since 1984 the changes in policies and regulations have caused perceived stormwater rate inequalities in between properties. The City subsequently embarked on a stormwater revenue study in March 2021 to review these perceived inequalities and propose changes to the City's code to address any inequalities.

This study and the proposed ordinance does not intend to adjust the City's base monthly stormwater rate. Rather, adjustments to the City's base monthly stormwater rate will be considered later in 2022 as part of the City's utility rate study.

DISCUSSION: The City has held multiple key meetings and opportunities in 2021 for Council and the public to understand the City's existing stormwater billing, the issues the City is facing, and the proposals to rectify the issues. In June 2021 Council held a study session where Council heard details of the perceived stormwater rate inequities and discussed ways to remedy these inequities. Staff received initial direction from Council and then held two public open houses in September 2021. Through this public process Staff heard concerns and questions about how the City got to this point, why are we addressing it now, and what will be the next steps. The draft code changes were then developed and presented to the Public Works Committee on October 12, 2021. Once further input was received Staff presented a draft ordinance to City Council at the November 18, 2021 Study Session.

Prior to first reading of this ordinance I encourage all Councilmembers to review these key meetings and the information related to the stormwater revenue study by reviewing the City's webpage, including watching this video from the September public open house: (<https://www.cityofgigharbor.net/747/Stormwater-Revenue-Study>).

The proposed ordinance is a result of these key meetings. This ordinance will repeal the existing Chapter 14.10 GHMC and create new stormwater billing and collection policies by adopting a proposed Chapter 14.10. Primary changes to the proposed Chapter 14.10 include:

1. Clarifying the definition of "developed" land.
2. Introducing the term "hard surface".
3. Redefining an equivalent billing unit (EBU) from 2,200 sq ft to 4,400 sq ft. This change will reduce stormwater bills for customers not receiving an existing discount.
4. Making the definition of the stormwater system consistent with the City's NPDES stormwater permit.
5. Establishing two rate classes: A single family rate class and a rate class for anything that is not single family.
6. Subdividing a single-family rate class into properties with small, medium, and large hard surface areas.
7. Charging stormwater fees to property owners instead of account holders (sometimes the building owner.)
8. Clarifying that all classes will pay the same monthly rate.
9. Eliminating the discount for developments with city-approved detention facilities. The current subsection 14.10.050(C) provides for an existing discount that has been removed in this proposed code because:
 - a. In 1984 this discount was an incentive for developers to construct detention facilities.
 - b. As early as 1996 all new larger developments were required by the City's stormwater manual to have detention facilities and therefore construction of detention facilities no longer need to be incentivized.
 - c. The City's current stormwater manual from 2016 actually requires the use of low impact development techniques such as the infiltration of

stormwater (where feasible). Therefore some new developments will not have detention facilities and will not be eligible for the discount.

10. Providing for a rate reduction for commercial rainwater harvesting system as required by RCW.

The result of these revisions will impact property owners in different ways. More than half of all property owners will either see no change in their monthly stormwater bill or will see a reduction in monthly stormwater bill. Those property owners that will see increases to stormwater rates will see increases because either: (1) their stormwater facility discount will no longer be applied; or (2) the amount of hard surface on their property in the existing billing system was underreported to the City

The City has reviewed examples of stormwater impacts to small businesses on small lots. Examples of those impacts will be reviewed by Staff at the presentation of the ordinance. However, where impacts to any non-single-family class will be large, the ordinance provides for an implementation of their new monthly stormwater amount to span two years.

FISCAL CONSIDERATION:

This ordinance does not adjust the City's base monthly stormwater rate. Rather, the ordinance proposes to adjust the amount of hard surface associated with each property. The adjustment will determine the property's overall monthly stormwater bill. This adjustment establishes an accurate amount of hard surface area that exists on each property.

Initial estimates indicate the City's overall stormwater revenues if this change is adopted will be more than current stormwater revenues. As previously noted, the City we'll be reviewing and likely adjusting the base monthly stormwater rate before the end of 2022 to consider if the City will need more stormwater revenues or less stormwater revenues.

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| Expenditure Required: \$ 0 | Amount Budgeted: \$ 0 | Appropriation Required: \$ 0 |
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BOARD/COMMISSION/COMMITTEE RECOMMENDATION: This topic has been presented to the City Council at study sessions on June 10, 2021 and on November 18, 2021 and also the Public Works Committee on October 12, 2021. While Staff received input at each meeting, no formal recommendations were made.

ATTACHMENTS: Draft Ordinance 1482

REVIEWED BY:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Mayor | <input checked="" type="checkbox"/> Finance Director |
| <input type="checkbox"/> City Administrator | <input type="checkbox"/> Department Head |
| <input checked="" type="checkbox"/> City Attorney | |

ORDINANCE 1482

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY GIG HARBOR, WASHINGTON, RELATED TO STORMWATER BILLING AND COLLECTION, REPEALING CHAPTER 14.10, ESTABLISHING A NEW CHAPTER 14.10, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City created its stormwater utility in 1984, which included Chapter 14.00 GHMC (Creation and Purpose) and Chapter 14.10 GHMC (Billing Policy and Collection); and

WHEREAS, since 1984, the City has also experienced significant growth in size, density, and amount of stormwater infrastructure and much has changed in terms of how properties have developed, the awareness of environmental impacts due to development, and establishment and intensity of environmental regulations on development; and

WHEREAS, beginning in 2007 the City was mandated to manage the City stormwater facilities under a National Pollution Discharge Elimination System (NPDES) permit for stormwater issued by the Department of Ecology on behalf of the Environmental Protection Agency; and

WHEREAS, the NPDES permit is intended to protect waters of the state from water quality and other stormwater impacts in urban areas due to the amount of hard surfaces; and

WHEREAS, the NPDES permit identifies many requirements the City must follow and has been updated and reissued multiple time since 2007, which has created a mixture of regulations under which the City has managed stormwater between 1984 and today; and

WHEREAS, as the City developed since 1984 the changes in policies and regulations have caused perceived stormwater rate inequalities in between properties so the City embarked on a stormwater revenue study in March 2021 to review these perceived inequalities and propose changes to the City's code to address any inequalities; and

WHEREAS, this study and the proposed ordinance does not intend to adjust the City's base monthly stormwater rate rather the purpose of this ordinance is to update the City's stormwater code to more fairly charge various classes of property owners

NOW THEREFORE, the City Council of the City of Gig Harbor, Washington, do ordain as follows:

Section 1. Chapter 14.10 is hereby repealed and replaced with the following:

Chapter 14.10 STORMWATER BILLING AND COLLECTION

14.10.010 Definitions.

The following words when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

- A. The “city” shall mean the corporate limits of the city of Gig Harbor, Washington, a municipal corporation created and existing under the laws of the state of Washington.
- B. “Developed” shall mean real property that has 600 sq. ft. or more of hard surfaces.
- C. “Equivalent billing unit” or “EBU” shall mean 4,400 square feet of hard surface.
- D. “Hard surface” shall mean an impermeable surface, a permeable pavement, or a vegetated roof.
- E. “Impermeable surface” means a nonvegetated surface which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or 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 impermeable surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads with compacted sub-grade, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities and tidelands shall not be considered as impermeable surfaces for the purposes of determining whether the thresholds for application of stormwater minimum requirements are exceeded but shall be considered impermeable surfaces for purposes of runoff modeling.
- F. “Parcel” shall mean each legally defined tract of real property.
- G. “Residential” means activity involving the human occupation of a building for living, cooking, sleeping, and recreation.
- H. “Single-family dwelling” means a residential structure with one dwelling unit that is constructed on a permanent foundation. Single-family dwellings are detached from other single-family dwellings except that accessory apartments may be attached to a single-family dwelling.
- I. “System” shall mean the entire system of stormwater facilities owned by the utility or over which the utility has control or right of use for the movement and retention of storm and surface waters, including both naturally occurring and manmade facilities.
- J. “Undeveloped” shall mean real property that is not considered developed.
- K. “Utility” shall mean the city stormwater utility, a municipal separate storm sewer system (MS4) as defined by the Western Washington Phase II Municipal Stormwater Permit, which operates and maintains the storm or surface water drains, channels, and facilities, outfalls for storm drainage and the rights and interests in real property related to the system.

14.10.020 Policy on rates and charges.

- A. For each single-family dwelling, each accessory dwelling unit, each residential unit of a duplex, and each mobile/manufactured home on developed real property, the utility shall charge the number of equivalent billings units based on the following classification:
 - 1. Small Residence (4,400 sq. ft. or less of hard surface area) shall be 1 EBU.
 - 2. Medium Residence (more than 4,401 sq. ft. of hard surface area and less than 7,000 sq. ft. of hard surface area) shall be 1.3 EBUs.
 - 3. Large Residence (7,000 sq. ft. or more of hard surface area) shall be 1.6 EBUs.
- B. Commercial buildings shall be granted a 10% rate reduction if all buildings on the property are shown to utilize a rainwater harvesting system in accordance with RCW 35.92.020(3).
- C. For all other developed real properties, the utility shall charge the number of equivalent billing units calculated on each parcel based on the amount of hard surface on each parcel divided by the definition of an equivalent billing unit identified in GHMC 14.10.010. Regardless of calculation of hard surface, a minimum of one equivalent billing unit shall be charged. Calculations that result in more than one equivalent billing unit shall be rounded to the nearest 0.1 EBU.

14.10.050 Stormwater monthly service rates.

- A. In accordance with the basis for a rate structure set forth in GHMC [14.10.020](#), each parcel of developed real property shall be charged the following monthly service rates, not including state and city sales tax, which shall be collected from the owner of each parcel based on the number of equivalent billing units contained on each parcel:

Effective January 1, 2020, shall be \$14.92.

14.10.055 Stormwater system general facilities charges.

The city shall impose a stormwater general facilities charge of \$1,770 for each equivalent billing unit for each parcel of developed real property pursuant to GHMC [14.10.020](#). Each general facilities charge shall be calculated and paid to the city at the time of building permit issuance

14.10.060 Property exempt from monthly rates and general facilities charges.

The following special categories of developed property are exempt from monthly service rates and general facilities charges:

- A. City street rights-of-way; and
- B. State of Washington and Pierce County highway rights-of-way.

14.10.070 Collections and appeals.

- A. All rates, charges, and all other utility fees or charges hereafter established by the city council by ordinance shall be deemed to be levied upon the premises themselves.
- B. The city shall have a lien for all delinquent and unpaid rates, charges, and fees for stormwater utility purposes, including without limitation monthly rates and

system development charges assessed against all premises to which service was furnished, which lien shall have the superiority established by RCW [35.67.200](#) and shall be foreclosed in the manner provided in RCW [35.67.220](#) et seq.

- C. As an additional and concurrent method of enforcing its lien upon any premises for delinquent stormwater utility rates, charges, and fees, the utility is authorized, in accordance with law and in the manner provided by this code to stop providing water service to such premises for so long as any delinquent rates, charges, or fees remain unpaid.
- D. Unpaid stormwater monthly service rates shall be deemed delinquent if not paid within 30 days following the billing date. Interest at the rate of eight percent per year shall be charged on all delinquent monthly service rates and late charges.
- E. Appeals of utility rates and charges, including appeals of hard surface area determinations, shall be directed to the Public Works Director or designee.

14.10.080 Periodic review of rates, charges, and fees.

Periodic review of rates, charges and fees will be completed by the city.

14.10.090 Commencement or termination of stormwater monthly service rates.

- A. Monthly service rates shall commence when any of the following conditions first exists:
 - 1. A water utility meter at the property is turned on; or
 - 2. A Certificate of Occupancy for the parcel is issued; or
 - 3. A property is converted from the status of undeveloped to developed.
- B. Monthly service rates shall terminate on parcels that undergo city permits to bring property back into a state of undeveloped real property as of the date of final approval for a city-issued demolition permit.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Correction of Errors. The City Clerk and codifiers of the ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. Effective Date. This ordinance shall take effect on July 1, 2022, which is at least five days after publication of this ordinance, except as follows:

- A. All developed real properties consistent with GHMC 14.10.020(C) that have 10 EBUs or less shall be charged 100% of their calculated stormwater monthly service rates starting on July 1, 2022.
- B. All developed real properties consistent with GHMC 14.10.020(C) that have more than 10 EBUs shall be charged 50% of their calculated stormwater

monthly service rates starting on July 1, 2022 then shall be charged 100% of their calculated stormwater monthly service rates starting on July 1, 2023.

ADOPTED by the Council of the City of Gig Harbor at a regular meeting thereof, held this 28th day of February, 2022.

Tracie Markley
Mayor

Approved as to form:

Attest:

Daniel Kenny
City Attorney

Joshua Stecker, CMC
City Clerk

PUBLICATION DATE: 03/01/2022
EFFECTIVE DATE: 07/01/2022