

CITY OF HOLLADAY

ORDINANCE NO. 2020-10

AN ORDINANCE ENACTING TITLE 17, CHAPTER 30, OF THE CITY OF HOLLADAY CODE OF ORDINANCES WITH RESPECT TO THE CREATION AND OPERATION OF A STORM WATER UTILITY FEE

WHEREAS, the City of Holladay City Council (the “*Council*”) met in a regular session on October 15, 2020, to consider, among other things, enacting Title 17, Chapter 30, of the City of Holladay Code of Ordinances with respect to the creation and operation of a storm water utility and imposition of an accompanying fee; and

WHEREAS, the City of Holladay (“*City*”) owns and operates a storm water system, which was developed over multiple years by Salt Lake County as the City’s predecessor in interest and currently consists of a network of natural conveyances and manmade structures and conduits that collect and route storm water runoff; and

WHEREAS, the Council finds that inadequate management of the quantity and quality of storm water runoff causes flooding and property damage, carries concentration of heavy metals, oils, and toxic materials into receiving and ground waters, and degrades the integrity of city streets and transportation systems; and

WHEREAS, the Council finds that such are hazards and pose a significant risk to public health, safety, and welfare; and

WHEREAS, the Council finds that such risks are best managed by a storm water system that is effectively repaired, replaced, improved, maintained, operated, regulated, and controlled; and

WHEREAS, the Environmental Protection Agency (“*EPA*”) has established rules setting forth the National Pollutant Discharge Elimination System permit application process and has adopted rules and regulations for storm water discharge; and

WHEREAS, the State of Utah, through its Department of Environmental Quality (“*DEQ*”), has established a Utah Pollutant Discharge Elimination System permit system and has adopted rules and regulations for storm water discharge; and

WHEREAS, the rules and regulations promulgated by the EPA and the DEQ provide that where more than one public entity owns or operates a municipal separate storm water system within a geographical area, such municipalities may join together and be co-applicants for a permit; and

WHEREAS, the City joined with Salt Lake County and other municipalities in the Salt Lake Valley as co-applicants pursuant to the and the Utah Pollutant Discharge Elimination System; and

WHEREAS, on February 26, 2020, the City was issued authorization to discharge

municipal storm water under the Utah Pollutant Discharge Elimination System (“*Permit*”); and

WHEREAS, pursuant to the Permit, the City is required, among other things, to have legal authority to (i) control the contribution of pollutants to the storm water system associated with residential, commercial, institutional, and industrial activities; (ii) prohibit illicit discharge to the storm water system; (iii) control discharges to the storm drain system of spills, dumping, or disposal of materials other than storm water; and (iv) means to enforce compliance with the conditions and ordinances; and

WHEREAS, the Council finds that implementing a storm water utility fee is fiscally necessary to achieve compliance with the requirements of the Permit; and

WHEREAS, the Council finds that implementing a storm water utility fee will enable ongoing maintenance, operations, regulation, enforcement, and improvement of the storm water system; and

WHEREAS, based on the review of information and data presented to the City and the Council by financial advisory consultant Lewis Young Robertson & Burningham, Inc. (“*LYRB*”), the Council finds that the owners of impervious surfaces contribute to, make use of, or benefit from the City’s storm water system and should proportionately contribute to the funding of the City’s program to maintain, operate, regulate, enforce, and improve the City storm water program; and

WHEREAS, LYRB has conducted a study, evaluated methods to fund the City storm water system and has recommended a storm water utility fee; and

WHEREAS, the Holladay@20 Preparing for Tomorrow Citizen Advisory Group has worked with LYRB over the course of their committee charge and process that subsequently resulted in the Group recommendation report that included the establishment of storm drain utility fee as presented to the Council on May 14, 2020; and

WHEREAS, the Council hereby finds that the establishment of a storm water utility is the most fair, equitable, and nondiscriminatory method to fund the City’s storm water program, including requirements of the Permit, and that the establishment of a storm water utility fee is in the best interest of the health, safety, and welfare of the citizens.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Holladay, Utah as follows:

Section 1. Adoption and Codification. Title 17 Chapter 30 of City of Holladay Code of Ordinances is hereby adopted and codified to read, in its entirety, as follows:

17.30.010 Purpose.

The purpose of this chapter is to protect the health, safety, and welfare of the city and its inhabitants by efficiently operating the storm water system, managing and controlling storm water runoff, protecting property, preventing polluted waters from entering the water supply and other receiving

waters, and establishing a viable and equitable method of financing the storm water system's long-term improvement, operation, and maintenance.

17.30.030 Definitions.

For purposes of this chapter, the following definitions shall apply. Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

"City" means City of Holladay, a Utah municipality.

"Class" means (1) Residential Area A with a mean impervious area of 5,200 square feet, (2) Residential Area B with a mean impervious area of 2.5 times the mean impervious area in Residential Area A, or 13,000 square feet, and (3) Non-Residential to capture all other property types. See exhibit A.

"County" means Salt Lake County.

"Council" means the City of Holladay City Council.

"Customer" or "Person" means any individual; public or private corporation and its officers; partnership; association; firm; trustee; executor of an estate; the State or its departments, institutions, bureaus, agencies; county; city; political subdivision; or any other governmental or legal entity recognized by law.

"City Engineer" means the Holladay City Engineer or Engineer's designee.

"Equivalent Residential Unit (ERU)" means a unit equal to the square footage of impervious surface area. This is based on an average single-family residential parcel, which has an impervious surface area of 5,200 square feet.

"Holladay Storm Water Fee Policy Manual" or "Policy Manual" means policies and procedures for the administration of the user fees maintained by the City and is hereby adopted in their entirety by this reference.

"Impervious Surface" means a parcel's hard surface area that causes water to run off its surface in quantities or speeds greater than under natural conditions and discharge directly into the City's storm sewer system. Some examples of impervious surfaces are rooftops, concrete or asphalt paving, walkways, patios, driveways, parking lots or storage areas, and gravel that has been subject to surface traffic, including compacted gravel surfaces.

"Mitigation" means on-site facilities or practices which reduce storm water quantity or improve storm water quality.

“Parcel” means the smallest, separately segregated unit of land having an owner. A parcel has boundaries and surface area and is documented with a property number by the county.

“Developed Parcel” means any parcel whose surface has been altered by grading, filling, or construction of any improvement.

“National Pollutant Discharge Elimination System (NPDES) Storm Water Regulations” means the provisions of the Federal Clean Water Act establishing specific permit requirements for the control of storm Water discharge.

“Single-Family Residential Parcel” means any parcel of land containing a single-family dwelling unit.

“Standard Plans for Public Works Manual” means the Holladay Standard Plans Design Manual maintained by the City and is hereby adopted in their entirety by this reference.

“Storm Water” means water produced by storms, surface drainage, snow and ice melt, and other water handled by the storm water drainage system.

“Storm Water Facilities” means any facility, improvement, development, or property made for controlling stormwater quantity and quality.

“Storm Water System” means all man-made storm water facilities and conveyances, and natural storm water systems owned or maintained by the City that store, control, treat, and/or convey storm water.

“Stormwater Utility” or “Utility” means the utility created by this Ordinance, which operates, maintains, regulates, and improves storm water facilities and programs within Holladay.

“User Fee” means the fee charged to use the Storm Drainage System and is imposed by this chapter.

“Undeveloped Parcel” means any parcel that has not been altered by grading, filling, or construction.

17.30.050 Storm sewer utility.

A. Creation. There is hereby created and established a storm water utility operated by the city that includes a user fee rate structure.

B. Enterprise Fund. There is hereby established a storm water utility enterprise fund to handle all income, expenses, and other financial transactions related to the storm water utility. All fees collected with respect to the storm water utility shall be deposited in the storm water utility enterprise fund. Money in the storm water utility enterprise fund shall not be commingled with other city funds and may only be transferred to other city funds as allowed by the Uniform Fiscal Procedures Act for Utah Cities.

C. Facilities and Assets. The city shall determine which storm water facility assets will be transferred to the storm water utility. Until such transfer, the utility shall operate, maintain, and improve all existing storm drain facilities.

D. Administration. The storm water utility shall be administered by the City Manager and the City Engineer.

17.30.070 Storm water utility user fee.

A. Imposed. All owners of impervious surfaces within the city which contribute runoff water to the storm water system or any others who otherwise use or benefit from the storm water system or the storm water utility will be responsible for paying the storm water utility user fee as set forth in this chapter.

B. Amount of User Fee. The user fee shall be based on: (1) for properties classified as Non-Residential Area, the number of equivalent residential units (ERU's) on the customer's property as calculated, based on the impervious surface on the property; and (2) for Class A and Class B Residential Area, an ERU shall be the average amount of impervious surfaces in a single-family residential parcel, based on a statistical analysis of homes within the city. One ERU equals 5,200 square feet of impervious surface area.

C. Calculation.

Each Class A Residential Area shall pay a base rate equal to 1 ERU, each Class B Residential Area shall pay a rate equal to the 2.5 of the base ERU rate, and each Non-Residential Area shall pay a multiple of the ERU base rate according to the measured impervious area on the property calculated by dividing the total square feet of impervious area of the property by 5,200 square feet.

D. User Fee per ERU. The user fee charge imposed hereby shall be as set forth in the consolidated fee schedule.

E. Credits. The City Engineer or his designee may grant a fee credit as set forth below. The credit shall be available for customers that (i) own and maintain a detention facility in accordance with City standards and as set forth in the Policy Manual, (ii) own and maintain a retention facility in accordance with City standards and as set forth in the Policy Manual, (iii) conduct training of personnel as set forth in the Policy Manual, or (iv) demonstrate a financial hardship or who have a family member in active military service as set forth in the Policy Manual.

F. Policies. The city hereby adopts the Holladay Storm Water Fee Policy Manual to assist in applying, administering, and interpreting the user fee, the user fee credit, and other provisions related to the storm water utility.

G. Appeals. Any person or entity who is aggrieved by a provision of this chapter, request for a credit, or the application and calculation of the user fee assessed to their property may appeal to the City as set forth in the Policy Manual.

H. Billing and Collection. The City will contract with Rocky Mountain Power to include the user fee on the monthly electric utility bill for all residences and commercial properties that are billed for electric service. The City shall bill the user fee to all other residential units or commercial property that are not billed by Rocky Mountain Power for electric service.

17.30.110 Severability. If any portion of this chapter is determined to be, or is rendered, illegal, invalid, or superseded by other lawful authority, including any state or federal, legislative, regulatory, or administrative authority having jurisdiction thereof, or determined to be unconstitutional, illegal, or invalid by any court of competent jurisdiction, such section shall be deemed a separate, distinct, and independent provision, and such determination shall have no effect on the validity of any other section.

Section 2. Severability. The Severability clause of the codified ordinance, Section 17.30.110, shall apply to this codifying ordinance and each of the separate codified sections of the adopted Ordinance.

Section 3. Effective Date. This Ordinance shall take effect upon the publication or posting or thirty (30) days after passage.

PASSED AND APPROVED this ___ day of October, 2020.

By: _____
Robert Dahle, Mayor

[SEAL]

VOTING:

Matt Durham	Yea ___	Nay ___
Sabrina R. Petersen	Yea ___	Nay ___
Drew Quinn	Yea ___	Nay ___
Paul Fotheringham	Yea ___	Nay ___
Dan Gibbons	Yea ___	Nay ___
Robert Dahle	Yea ___	Nay ___

ATTEST:

Stephanie N. Carlson, MMC
City Recorder

DEPOSITED in the office of the City Recorder this ___ day of October, 2020.

RECORDED this ___ day of October, 2020.