

ORIGINAL

ORDINANCE 2010 - 05

**AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF SUNNYSIDE, WASHINGTON, AMENDING  
CHAPTER 13.30 OF THE SUNNYSIDE MUNICIPAL  
CODE TO PROVIDE SERVICE RATES FOR  
STORM WATER MANAGEMENT UTILITY**

**WHEREAS**, the City Council previously adopted Chapter 13.30 of the Sunnyside Municipal Code establishing a Storm Water Management Utility; and

**WHEREAS**, the City Council in 2008 amended Chapter 13.30 of the Sunnyside Municipal Code and thereby changed the calculations and methods by which Storm Water Management Utility fees were assessed and collected; and

**WHEREAS**, these amendments were repealed in 2009 without making substitute arrangements for the assessment and collection of Storm Water Management Utility fees; and

**WHEREAS**, the City of Sunnyside is not at present collecting Storm Water Management Utility fees to offset the considerable annual expenditures required to maintain said Storm Water Management Utility; and

**WHEREAS**, the City Council finds and determines that amending the Sunnyside Municipal Code to require the assessment and collection of a Storm Water Management Utility fee is in the best interest of residents of the City of Sunnyside and promotes general health, safety and welfare;

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF  
THE CITY OF SUNNYSIDE, WASHINGTON**, as follows:

**Section 1.** Sunnyside Municipal Code section 13.30.030 is hereby amended to read as follows:

**13.30.030 Definitions.**

For the purpose of this chapter, certain terms or words herein shall be interpreted or defined as follows: Except where specifically defined in this section, all words in this chapter shall carry the customary meanings. Words used in the present tense include the future and the future includes the present and the plural includes the singular and the singular includes the plural.

A. "City" means the City of Sunnyside, Washington.

B. "City Manager" means the City Manager of the City or his or her designee.

D. "Credit" means a credit to the service charge found in SMC 13.30.070. Credits are defined further in SMC 13.30.080.

E. "Drainage facility" means the system of collecting, conveying, and storing surface and storm water runoff. Drainage facilities shall include, but not be limited to, all surface and storm water conveyance and containment facilities including streams, pipelines, channels, ditches, swamps, lakes, wetlands, closed depressions, infiltration facilities, retention/detention facilities, erosion/sedimentation control facilities, and other drainage structures and appurtenances, both natural and constructed.

I. "Maintenance" means the act or process of cleaning, repairing or preserving a system, unit, facility, structure, or piece of equipment.

J. "Parcel" means the smallest separately segregated unit or plot of land having an identified owner, boundaries, and surface area which is documented for property tax purposes and given a tax lot number by the Yakima County Assessor.

K. "Person" means any individual, firm, company, association, corporation, or governmental agency.

L. "Property owner of record" means a person or persons shown in the records of the County Assessor to be the owner of property.

P. "Retention/detention facility" means a type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration and/or infiltration into the ground; or to hold runoff for a short period of time and then release it to the surface and storm water management system.

Q. "Right-of-way" means the right-of-way of a State limited access highway, and City streets, alleyways, sidewalks and rights-of-way.

R. "Service charges" means charges to parcels for storm and surface water management services, billed to the utility account holder or, if no utility account, the property owner of record.

S. "Storm water" means the water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes, and wetlands as well as shallow ground water.

T. "Storm water management services" means the services provided by the storm water management utility, including but not limited to basin planning, facilities maintenance, street sweeping, regulation, financial administration, BMP implementation, public involvement, drainage investigation and enforcement, aquatic resource restoration, surface and storm water quality and environmental monitoring, natural surface water drainage system planning, intergovernmental relations, and facility design and construction.

U. "Storm water management system" means constructed drainage facilities and any natural surface water drainage features which collect, store, control, treat and/or convey surface and storm water including pipes, pump stations, and street gutters.

V. "Utility" means the storm water management utility created under the provisions of this chapter.

**Section 2.** Sunnyside Municipal Code section 13.30.070 is hereby amended to read as follows:

**13.30.070 Storm water service charges.**

The monthly storm water service charge shall be \$3.75 per Parcel. The service charge shall be charged to each active utility account or, if no utility account, to the owner of record.

**Section 3.** Sunnyside Municipal Code section 13.30.080 is hereby amended to read as follows:

**13.30.080 Credits, discounts and exemptions.**

Credits to the rate presented in SMC 13.30.070 shall be allowed for the following purposes:

A. Low-Income Senior Citizen and Low-Income Disabled Citizen Special Utility Rate – Eligibility – Application. Any person who, as of November 30th of the year, has obtained from Yakima County any exemption or discount from property taxes for low-income senior citizen or low-income disabled citizen shall receive a 25 percent discount on the rates listed in SMC 13.30.070, or as periodically adjusted by the City Manager, for the next succeeding year. The City Manager shall be authorized and empowered to implement the procedures for processing the low-income senior citizen and low-income disabled citizen special utility discount. Any discount received pursuant to this section shall not be applied retroactively.

B. Rain Water Harvesting. Pursuant to RCW 35.67.020(3), any customer installing a permissive rain water harvesting system is eligible to receive a 10 percent reduction in the fee noted within SMC 13.30.070, or as periodically amended. The customer will apply for the credit, following procedures established by the City Manager, with full documentation of the system's design and functionality in eight by 11 inch or larger drawings. The customer is required to show proof of maintenance and functionality of the system every two years to keep the rate reduction current. If proof is not provided, the City can immediately remove the rate reduction from the customer's billing account. Any discount received pursuant to this section shall not be applied retroactively.

D. Waiver of Service Charge for Certain Property. The City Manager or his designee shall waive storm water service charge for a parcel falling within the following special categories of property upon a showing that the parcel meets the following applicable criteria for so long as the criteria are met.

1. City Rights-of-Way. The service charge shall be waived for City streets and street rights-of-way, since they act as storm water conveyance facilities. The City streets fund also contributes to the proper operation, maintenance, repair, improvement and construction of the street drainage system.

2. State Rights-of-Way. The service charge shall be waived for State of Washington highway rights-of-way.

E. No other rate reductions are authorized for the storm water utility service charge prescribed in SMC 13.30.070, as periodically amended by City Council.

**Section 4.** Sunnyside Municipal Code section 13.30.100 is hereby amended to read as follows:

**13.30.100 Billing.**

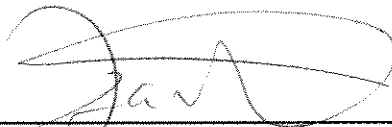
The charges herein provided for shall be billed monthly, and shall become delinquent thereafter if not paid.

**Section 5.** Except as amended herein, Chapter 13.30 of the Sunnyside Municipal Code shall remain unchanged.

**Section 6.** If a section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

**Section 7.** This ordinance shall be effective five days after passage, approval and publication as required by law.

PASSED this 8<sup>th</sup> day of March, 2010.

  
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JAMES A. RESTRUCCHI, MAYOR

ATTEST:

  
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DELILAH CYR, DEPUTY CITY CLERK

APPROVED AS TO FORM:

  
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Menke Jackson Beyer Ehlis & Harper, LLP  
Attorneys at Law