

Chapter 11.02

STORM DRAINAGE AND SURFACE WATER MANAGEMENT

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11.02.010 Purpose.

This Chapter creates a funding methodology which provides resources to (1) plan, manage, design, construct, maintain, revise, and upgrade the storm drainage and surface water runoff systems within Pierce County's drainage basins as specified in and pursuant to Chapters 36.89 and 39.34 Revised Code of Washington, and Article 11, Section 11 of the Washington State Constitution, and (2) manage waters subject to flood conditions from rivers, streams, tidal or other bodies of water affecting Pierce county pursuant to Chapter 86.12 of the Revised Code of Washington. 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 County's waterways, protect aquifers, insure the safety of County 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. (Ord. 95-128 § 1, 1995; Ord. 91-153S2 § 2 (part), 1991)

11.02.020 Utility Creation and Authority.

There is hereby created a Storm Drainage and Surface Water Management Utility and corresponding Surface Water Management Fund for Pierce County. Said Storm Drainage and Surface Water Management Utility shall be administered by the Pierce County Executive as a division of the Department of Public Works and Utilities.

The County elects to exercise all lawful powers necessary and appropriate for the construction, acquisition, and condemnation of property rights, maintenance, management, operations and regulations of (1) storm drainage and surface water runoff systems and (2) waters subject to flood conditions from rivers, streams, tidal or other bodies of water including, without limitation, all lawful powers to fix, alter, regulate, and control the charges and conditions for the use thereof.

The Storm Drainage and Surface Water Management Utility is hereby authorized and directed to install temporary construction signs at major project sites which indicate the name of the drainage basin, the amount of the project and its scope.
(Ord. 95-128 § 2, 1995; Ord. 91-153S2 § 2 (part), 1991)

11.02.030 Definitions.

For the purposes of this Chapter, the words or phrases below shall have the following meanings:

- A. "Base Service Charge" means the uniform service charge applied to all drainage basins to support non-basin specific services.
- B. "Capital Improvement Program (CIP) Level I Charge" means the additional service charge for parcels within the following drainage basins which have moderate CIP needs: Browns/Dash Pt., Chambers Bay, Hylebos, Gig Harbor, Muck Creek, and Mid Puyallup River.
- C. "Capital Improvement Program (CIP) Level II Charge" means the additional service charge for parcels within the following drainage basins which have a high level of CIP needs: Clover Creek/Steilacoom and Clear/Clarks Creek.
- D. "County" shall mean Pierce County, Washington, or as indicated by the context, may mean the Department of Public Works, Public Works Director, County Engineer, or other official, officer, employee or agent representing the County in the discharge of his or her duties. For purposes of this Chapter, County shall be construed to also include those incorporated areas joining the utility by executing with the County an interlocal agreement for drainage.
- E. "Detention" shall mean the short-term storage of storm drainage runoff that has been artificially collected and then released at a predetermined rate.
- F. "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.
- G. "Duplex Equivalent" shall mean 3406 square feet of impervious area.
- H. "Engineer" shall mean a professional civil engineer, currently licensed by the State of Washington, retained by and acting on behalf of the parcel owner.
- I. "Forest and Timber Land" shall mean lands classified as such according to the provisions of Chapters 84.33 and 84.34 respectively.
- J. "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. (Gravel surface area shall be considered 75% impervious.)
- K. "Highway" shall mean all impervious ways, lanes, roads, streets, boulevards, and/or places in the County open as a matter of right to public vehicular travel both inside and outside the limits of incorporated cities and towns.
- L. "Impervious Area" shall mean the horizontally projected surface area of all non-vertical surfaces of all buildings, mobile homes, or other structures, and the surface area of all asphalt, concrete, gravel, oil mat, bituminous or other finished surfaces not covered by structures.

- M. "Interlocal Agreement" shall mean that contract between the County and other incorporated areas of Pierce County, Drainage Districts, 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.
- N. "Master Plan" shall mean the Storm Drainage and Surface Water Management Plan adopted by County Ordinance 91-113 for managing storm drainage and surface water runoff facilities and features within unincorporated Pierce County.
- O. "Mobile Home Equivalent" shall mean 1457 square feet of impervious area.
- P. "Multifamily" shall mean a dwelling, either wholly or partially located on an individual parcel, consisting of a building containing more than two (2) 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.
- Q. "Owner or Owner of Record" shall mean the holder of title by recorded deed or the purchaser under a recorded real estate contract.
- R. "Parcel" shall mean a state, county, or city public highway, or the smallest unit or plot of land separately segregated for tax purposes.
- S. "Residential Equivalent" shall mean 2640 square feet of impervious area.
- T. "Residential" shall mean a parcel or contiguous parcels with one single family home or mobile home, designed and/or used to house a single family, either wholly or partially located on it or them.
- U. "Retention" shall mean the long-term storage of water onsite with the dissipation of said water into the ground by means of percolation.
- V. "River Maintenance Charge" means the additional service charge levied on parcels within the following drainage basins which benefit from River Maintenance activities: Mid Puyallup River, South Prairie, Mud Mountain, Lower White River, Lower Carbon River, Upper White River, Upper Puyallup River, and Upper Carbon River.
- W. "Service Charge" means the charge levied on parcels in unincorporated areas of the County and those incorporated areas defined by an interlocal drainage agreement as authorized by Section 11.02.050.
- X. "System" shall mean the entire system of storm drainage and surface water runoff facilities owned by the County or over which the County 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.
- Y. "Vacant/Undeveloped" shall mean a parcel of land that has no impervious area. (Ord. 97-93 § 1 (part), 1997; Ord. 92-166S § 1 (part), 1992; Ord. 91-153S2 § 2 (part), 1991)

11.02.040 Policy for Service Charges.

The County shall apply a rate structure as a utility service charge to all parcels within unincorporated Pierce County and those incorporated areas defined by an interlocal drainage agreement as authorized by Section 11.02.050.

All parcels are subject to a service charge except the following exempt parcels:

- A. All parcels consisting of mineral rights only.
- B. All parcels consisting entirely of tidelands, rivers, lakes, creeks and/or streams.
- C. All vacant/undeveloped parcels less than two-tenths (2/10ths) of an acre (8,712 square feet) in total area.

- D. All parcels within national parks due to the minuscule amount of impervious area compared to the pristine nature of total acreage protected for future generations.
- E. Tax title parcels which the County has offered for public sale but no willing buyer came forward to bid on the property.
- F. Cemetery parcels which are owned by a nonprofit corporation or an association which receives no profit from the sale of lots, or crypts.
- G. All parcels which are: (1) used for church, community center, community hall, or grange purposes; and (2) owned by an organization with a nonprofit public benefit status as defined by RCW 24.03.490.

(Ord. 97-93 § 1 (part), 1997; Ord. 91-153S2 § 2 (part), 1991)

11.02.050 Method of Calculating Service Charges.*

An annual service charge schedule is hereby established for the unincorporated areas of the County.

- A. *Code reviser's note: Edgewood Ordinance No. 98-119 amends subsection (A) of this section. See EMC 13.10.
- B. Credits. To qualify for a service charge credit, the following must be completed before October 1 of the year preceding the year for which the owner is requesting credit. Service charge credits as provided for in this Section will become effective January 1, 1994.
 - 1. Credit will apply to all categories listed in Section 11.02.050 A.
 - 2. To qualify for a credit, the Owner of Record shall provide the County engineering calculations in accordance with design criteria acceptable to the County and "As Constructed Plans" stamped and signed by the Owner's Engineer to verify that the drainage system has adequate capacity to meet the design criteria for which the Owner is requesting a credit. The Owner's engineer shall prepare and stamp an operation and maintenance manual for the Owner to follow in maintaining any drainage pond. The County shall be provided a copy of the maintenance manual. New calculations, "As Constructed Plans", and a maintenance and operation manual shall be prepared and stamped by the Owner's engineer if the drainage pond is increased or decreased in size from the original credit request.
 - 3. Annually, each Owner of Record shall provide a certified statement by October 1 of the year preceding the year for which the Owner of Record is requesting credit on a form provided by the County verifying that all specified maintenance has been performed in accordance with the operation and maintenance manual prepared by the Owner's engineer on the facility for the calendar year the credit is being requested. Once every five (5) years, the certified statement shall be stamped and signed by the Owner's Engineer.
 - 4. Each Owner of Record shall provide a "hold harmless" statement on a form provided by the County that indemnifies the County 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 County a copy of the agreement with the County Auditor recording number stamped on it before the application will be deemed completed.

5. Each Owner of Record must enter into an agreement with the County that allows the County 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 County. This agreement will be recorded with the County Auditor by the Owner of Record. The Owner of Record shall provide the County a copy of the agreement with the County Auditor recording number stamped on it before the credit application will be deemed completed.
6. Credit percentages shall be provided in accordance with the following:

CREDIT PERCENTAGES			
Retention Facility	Percent Credit	Detention Facility	Percent Credit
100 Year Storage	85%	100 Year Storage; Release rate of 50% of the predevelopment discharge rate for a 2 year storm	85%
50 Year Storage	40%	50 Year Storage; 2 Year Release	40%
25 Year Storage	20%	25 Year Storage; 2 Year Release	20%
10 Year Storage	10%	10 Year Storage; 2 Year Release	10%

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

In order to determine the credit percentage for a retention/detention facility, the following shall apply:

1. For a retention/detention facility whose year storage is not listed in Section 11.02.050 B.6., the next lower year storage category will be used.
2. The release rate shall be equal to or less than a two-year release rate for a detention facility with a 10, 25, or 50-year storage. The release rate for a detention facility with a 100-year storage shall be equal to or less than 50% of the predevelopment discharge rate for a 2-year storm.
3. No credit shall be given for a retention/detention facility with less than a 10-year storage.

D. The annual service charge shall be calculated based on impervious area and parcel status as of January 1 each year. The annual service charge shall be due and payable to Pierce County on or before April 30 of each year and shall be paid together with payment of real property tax upon the parcel, if any, and shall be delinquent thereafter. Provided, that if real property tax upon the parcel payable in that year exceeds thirty dollars, and one-half of the tax, together with one-half of the annual service charge provided by this Section are paid on or before April 30 of such year, the remaining one-half of the annual service charge shall be due and payable on October 30, next following, or at the time of payment of the remaining tax on the parcel, whichever is earlier, and shall be delinquent after that date. The service charge shall be incorporated on the Pierce County Real Property Tax Statement.

- 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 with the exception that adjustments to the annual service charge may be made when the property is incorporated or annexed by another jurisdiction. In that situation, the service charge for the billing year during which the incorporation or annexation occurs may:
1. Be subject to a proration formula included in an interlocal agreement between the County and the incorporating or annexing jurisdiction; or
 2. If the incorporation or annexation agreement does not address the surface water management charge, then incorporated or annexed parcels shall be subject to a service charge of twenty five percent of the annual service charge for each quarter of the billing year during which the property was in unincorporated Pierce County for one or more days. For purposes of determining this adjusted service charge, the billing quarters shall be for January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31.
 3. Whenever a city or town annexes or incorporates an area and the County has issued revenue bonds, general obligation bonds, or secured funds through other indebtedness to finance storm water control facilities that are payable in whole or in part from rates or charges imposed in the area, the County shall continue imposing all portions of the rates or charges that are allocated to payment of the debt service on the bonds or indebtedness in that area after the effective date of the annexation or official date of the incorporation until:
 - a. The debt is retired;
 - b. Any debt that is issued to refinance the underlying debt is retired; or
 - c. Any debt is repaid to lending institutions, agencies, or parties; or
 - d. The city or town reimburses the County an amount sufficient to retire that portion of the debt borne by the annexed or incorporated area.

(Ord. 97-93 § 1 (part), 1997; Ord. 95-128 § 3, 1995; Ord. 92-166S § 1 (part), 1992; Ord. 91-153S2 § 2 (part), 1991)

11.02.060 County Administrative Support.

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. All revenue in the Surface Water Management Fund shall be deposited in interest-bearing or income earning accounts.

All support services provided to the Storm Drainage and Surface Water Management Utility by the County's Assessor-Treasurer shall be annually reimbursed based on actual labor and non-labor costs expended but not exceeding \$20,000.00, subject to review and approval by the Public Works Director.

(Ord. 91-153S2 § 2 (part), 1991)

11.02.070 Implementation.

The Pierce County Executive and the Pierce County Assessor-Treasurer are hereby authorized and directed to establish all administrative procedures necessary to implement the provisions of this Chapter. (Ord. 91-153S2 § 2 (part), 1991)

11.02.080 Lien for Delinquent Charges and Foreclosures.

- A. Pursuant to RCW 36.89.090, Pierce County 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 County Auditor, as provided for in RCW 36.89.093, in lieu of the provisions provided for in RCW 35.67.210. In accordance with RCW 36.89.094, the County may commence to foreclose a service charge lien after three (3) years from the date surface water management charges become delinquent, in lieu of the provisions provided for in RCW 35.67.230.
- B. Delinquent service charges shall bear interest provided in RCW 36.89.090, RCW 36.89.092, and RCW 35.67.200 at the rate of twelve percent (12%) 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. (Ord. 91-153S2 § 2 (part), 1991)

11.02.085 Modification of Delinquency Date for 1992.

Notwithstanding any other provision of this Chapter, the annual service charge upon property effective January 1, 1992, shall not be deemed delinquent, and interest shall not be collected, if such annual service charge is paid on or before April 30, 1993. Nothing in this Section shall change the otherwise applicable delinquency date(s) for annual service charges for any other year. (Ord. 92-166S § 2, 1992)

11.02.090 Overpayment Refund Requests.

Any person may request the refund of service charge overpayment(s) by doing so in writing to the Director of Public Works. The basis of the request explaining the nature of the overpayment should be clearly stated. The Director shall investigate the request and authorize a refund or credit if he/she finds an overpayment to have occurred. The Director will use best efforts to notify the requesting party of his/her decision in writing within sixty (60) days of receipt of the request. The Director will 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 three (3) years prior to the date the written request is received. (Ord. 91-153S2 § 2 (part), 1991)

11.02.100 Administrative Refunds or Adjustments.

The Director 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 Director within three (3) years of the occurrence of the error, miscalculation or mistake. (Ord. 91-153S2 § 2 (part), 1991)

11.02.110 Amount of Refund Limited.

In any instance where a refund or credit is authorized by the Director, the amount shall not include any interest. (Ord. 91-153S2 § 2 (part), 1991)

11.02.120 Appeals.

Any decision of the Director made pursuant to this Chapter may be appealed to the Pierce County Hearing Examiner and/or Pierce County Council upon payment of the fees and pursuant to the procedures set forth in the Pierce County Code Chapter 2.36. (Ord. 91-153S2 § 2 (part), 1991)

11.02.130 Severability.

If any Section, clause or provision of this Chapter be declared invalid by the courts, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part declared invalid. (Ord. 91-153S2 § 2 (part), 1991; Ord. 87-205 § 1 (part), 1987)