

**SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET**

ITEM NO: Public Hearing
DATE: August 9, 2007
SUBJECT: Public Hearing to Consider Establishing a Stormwater Utility
CONTACT PERSON: Deborah Knight, City Administrator

ISSUE:

The issue before the City Council is to hold a Public Hearing to take comment on adopting Ordinance No. xxx-08 (Attachment A) to establish a stormwater utility and fee schedule (Attachment B).

Budget	Proposed Fee	Notes
\$216,800	\$12.35 - \$13.23 Based on impervious surface	<ul style="list-style-type: none">▪ Based on ERU▪ Flat fee per month▪ 1 FTE▪ No cost share with street budget▪ \$50,000 capital improvement▪ City maintains HOA ponds▪ No credits

STAFF RECOMMENDATION:

1. City staff recommend the City Council hold a Public Hearing to take comment on establishing a stormwater utility for properties in Sultan.
2. Direct staff to make any changes to the proposed stormwater utility and return to Council with an adopting ordinance on July 3, 2008.

PLANNING BOARD RECOMMENDATION:

The Planning Board held a public hearing at its meeting on July 17, 2007. Public comment at the meeting was supportive of adopting the Utility. The Board received comments requesting a stormwater utility credit potential for private residential property owners that fully contain all rain water and resulting runoff from adjacent property and buildings.

Although the Small Work Group did not contemplate a credit for private residential facilities, City staff recommend incorporating language into credit section (14.04.08) to address this situation.

COUNCIL SUBCOMMITTEE RECOMMENDATION:

The Council subcommittee reviewed the stormwater utility at its July 17, 2007 meeting. The committee discussed establishing a connection fee for new development in addition to the user fee. The City of Edmonds has adopted a stormwater connection fee. City staff recommend the City Council proceed with adopting the proposed ordinance as written and directing staff to review the stormwater connection fee following adoption of the proposed ordinance.

STORMWATER STAKEHOLDER'S RECOMMENDATION:

A subgroup of the Stormwater Stakeholders prepared and submitted a recommendation to the City Council on May 29, 2008 (Attachment C).

Budget	Proposed Fee	Notes
\$100,000	\$5.75-\$6.60	<ul style="list-style-type: none">▪ Based on ERU▪ Flat fee per month▪ 1 FTE▪ Includes cost share with street budget▪ \$20,000 capital improvement▪ City maintains HOA ponds▪ No credits

SUMMARY:

Proposed Ordinance

The proposed ordinance creates a new chapter (Chapter 14.04) in the Sultan Municipal Code for the Stormwater Utility. The new chapter establishes the utility, rate policy, affected properties, initial utility fees, exemptions, credits, billings, adjustments and appeals.

Establishing the Utility

A surface water utility is essentially a special assessment district set up to generate funding specifically for surface water management. Users within the district pay a surface water fee, and the revenue generated directly supports maintenance and upgrade of existing storm drain systems; development of drainage plans, flood control measures, and water-quality programs; administrative costs; and sometimes

construction of major capital improvements. Unlike a surface water program that draws on the general tax fund or uses property taxes for revenue, the people who benefit are the only ones who pay.

Surface water management within the City is governed by federal, state, regional, county and city laws including the Clean Water Act, Endangered Species Act, the Growth Management Act, Shoreline Management Act, State Environmental Policy Act, Stormwater Management Performance Standards, and Puget Sound Water Quality Action Plan.

There are a number of state statutes that pertain either directly or indirectly to the City's authority to form a surface water utility. One of the more broad based statutes pertains to municipal utilities in general and states that a code city may provide utility service within and outside its city limits and this includes the exercise of all powers to the extent authorized by law (RCW 35A.80.010).

Rates and Policies

The stormwater utility is made up of three components:

1. Calculation of Equivalent Residential Units (ERU)
2. Annual budget needed to accomplish stormwater functions within the City (e.g. maintenance, operations, capital improvements, public outreach, etc.)
3. Stormwater fee charged to for each ERU

Equivalent Residential Units

The Equivalent Residential Unit is the most prevalent method for calculating a stormwater rate. ERU's are used for the purpose of calculating the stormwater user's rate. An ERU represents the average square footage of impervious surface of a detached single-family residential property and is applied to commercial properties to calculate the commercial rate. The ERU is established by reviewing a representative sample of recorded data, maps, surveys or field measurement to obtain the average impervious area for a single-family lot. Non-residential properties are converted into ERUS based on the amount of impervious area on the property.

Each single family residential customer = 1 ERU

Each non-residential customer = n ERUs

When n = the property's impervious area divided by the average single-family parcel impervious area (x square feet)

For the City of Sultan, the calculated ERU is 4,519 square feet. Of the 14 jurisdictions examined in the phone survey for the study, Sultan's ERU was the second highest. This is largely due to the rural nature of residential properties and the number of barns and outbuildings.

The total number of ERUs in the City are:

Multifamily Residential 1-4 plexes	75
Commercial Properties	920
Residential Properties	1,246
Schools	<u>398</u>
Total	2,639

The Stormwater Utility Rate Study (available at City Hall upon Request) includes a section Appendix B to the Study titled "Equivalent Residential Unit – City of Sultan Stormwater Utility". This section provides the detail on how the ERU was calculated for the City. Appendix C to the Study details the impervious surface calculation for each commercial property.

Property Classification for Stormwater Utility Fee

All residential properties will be charged the rate for one (1) ERU

All multi-plex 2-4 unit dwellings will be charged the rate for 1.75 ERUs

All non residential properties and multi-plex properties will be charged based on the square footage of impervious surfaces on their property divided by the number of ERUs and multiplied by the base rate per ERU.

Real Property in an Undeveloped Condition

Stormwater utility fees are based on impervious surface which is the nexus between stormwater runoff and impact to the stormwater system. No stormwater fee will be imposed on parcels of real property that are in an entirely undeveloped state and are determined by the Public Works Director to not make use of the services of the Utility.

Proposed Level-of-Service

Budget	Proposed Fee	Notes
\$216,800	\$12.35 - \$13.23	<ul style="list-style-type: none">▪ Based on ERU▪ Flat fee per month▪ 1 FTE▪ No cost share with street budget▪ \$50,000 capital improvement▪ City maintains HOA ponds▪ No credits

Annual Budget

Costs to operate a stormwater utility are broken down into two categories:

1. On-going costs or costs of conducting Operations and Maintenance, and for associated administrative costs for the stormwater system
2. One-time costs or capital improvements

The City currently maintains 3 detention ponds, 15 infiltration trenches, 592 inlets and 5 outlets. The proposed first-year budget is as follows.

Proposed 2009 Budget

Category	Task	Frequency	Cost	
Personnel	Salary	1 FTE (\$35hour)	\$ 72,800.00	1 FTE. Hourly rate proposed by Stakeholders.
	Benefits		\$ 20,000.00	
Maintenance	Vactor Catchbasins	\$55/basin x 24 basins/day x 15 days. No direct cost for in-house service.	\$ -	4 catchbasins/hour x 6 hours = 24 catchbasins/day. 600 basins/24 = 25 days. \$55/basin = \$33,000
	Maintain retention/detention ponds		\$ 9,000.00	City maintains up to standard "private" retention/detention ponds
	Repair existing system	catchbasins, manholes, piping	\$ 10,000.00	
	Miscellaneous		\$ 10,000.00	
Debt Service	Street Sweeper	Annual payment split with street	\$ 25,000.00	All city streets are swept once per month
	Vactor Truck	Annual payment split with water, sewer, streets	\$ 20,000.00	Purchase and use new vactor truck or share cost with other agency or contract with private vendor.
Capital Investment	Water Quality Report	2002 Water Quality Report Loan Payment		
	Prioritized improvements	Annual	\$ 50,000.00	Capital improvements required by GMA and Council authority
Total			\$216,800.00	

Initial Stormwater Fee

The annual cost for operations, maintenance, and capital improvements divided by the number of ERUs yields the total annual amount that must be charged per ERU to satisfy the needs of the utility. The required rate per ERU per month would be approximately \$12.35.

The level-of-service and stormwater utility fee will be adopted by a separate fee resolution. The proposed fees are based on Equivalent Residential Units (ERUs) using the 4,513 square feet as the basis.

The City Council directed staff to prepare for discussion and public comment the fee schedule as described in Attachment B:

Single family residential: \$12.35/month = 1 ERU

Duplex to fourplex: \$12.50/months = 1.75 ERU

Multi-family, Commercial, Industrial, Retail and other developed property:

<1 ERU = \$12.35/month

1.1 to 25 ERU = \$12.50/month

25.1 to 50 ERU = \$12.75/month

50.1 to 100 ERU = \$13.00/month

>100 ERU = \$13.25/month

Properties Exempt from Fees

The following special categories of property are exempt from the Stormwater Utility Fee:

- 1) City street rights-of-way, because the City Council has determined that the value of the in-kind service provided by the rights-of-way in collecting and transporting storm and surface water from adjacent properties is equal to or exceeds the Stormwater Utility Fee that would be charged by the Utility
- 2) State of Washington highway rights-of-way and Snohomish County road rights-of-way so long as the State of Washington and Snohomish County shall agree to maintain, construct and improve all drainage facilities contained within such rights-of-way as required by the Utility in conformance with all Utility standards for maintenance, construction and improvement hereafter established by the Utility and so far as such maintenance, construction and improvements shall be achieved at no cost to the Utility or to the City.
- 3) Real property within the boundaries of the Utility that are in an entirely undeveloped state and are deemed by the Public Works Director or his/her designee not to make use of the services of the Utility.

Credits Available Against Stormwater Utility Fees

The proposed ordinance includes the fee credits as originally developed by the Small Work Group in 2007.

- 1) The Utility may grant a credit of twenty-five (25) percent for private, on-site control facilities that benefit the overall stormwater system. If a homeowners association is granted the discount it will be applied to all residential properties listed by the homeowners association as participating properties.
- 2) The Utility may grant a credit of seventy (70) percent for condition and performance that is compliant with the most recent City and Department of Ecology Best Management Practices (BMP) standards for on-site control facilities that have the capacity to fully contain and infiltrate on the parcel the runoff from the 100-year, 7-day storm event.
- 3) The Utility may grant public schools twenty-five (25) percent additional credit upon receipt of an acceptable curriculum showing how the school district provides education regarding stormwater issues.
- 4) Low income senior citizens may apply for a 50% discount to their stormwater utility fee. "Low income senior citizen" means persons 62 years of age or older, on or before January 31st of the year of the filing for the discount. Low income is based on 125 percent of the federal poverty guidelines.

Billing

The charges will be billed in conjunction with the property owner's or user's customary water and sanitary sewer bill issued by the City. The City may allocate receipts on billings first to stormwater and sewer to preserve its right to shut off water. For developed properties subject to the service charge that do not otherwise receive a water or sanitary sewer bill from the City of Sultan, the stormwater service charge may be billed at intervals set by the Public Works Director, but not less than annually.

Delinquent accounts shall be determined and administered in a manner consistent with that provided for water and sewer.

Billings may be made in the name of tenant or other occupants of the premises that are provided Stormwater Utility services at the mailing address of the property.

The owner of the property will have liability payment of the charges

In the event the City must bring legal action to collect stormwater service charges and/or penalties, the City, in addition to such charges and penalties, will recover its attorney's fees and other costs incurred in connection with such collection.

Appeals

- 1) Any person billed a stormwater fee under may file an "Adjustment Request" with the Public Works Director within sixty (60) days of the date of the billing statement. The Public Works Director will review the request and make a preliminary determination after a review of Utility records or a site visit. The Public Works Director may grant a rate adjustment only upon a finding that one or more of the following conditions exist:
 - a. The parcel charged is not within the Sultan city limits.
 - b. The impervious surface area of the parcel would change the number of Equivalent Residential Units used in determining the stormwater fee.
 - c. The parcel is in an undeveloped condition and not paved, graveled or covered with any impervious surface.
 - d. The parcel is not single-family and contains a constructed or natural on-site surface water control facility that is determined by the stormwater engineer or inspector to be maintained at optimum operating condition and improves water quality at the outlet to meet State standards for stormwater discharge.
 - e. The rate charged was otherwise not calculated in accordance with the terms of this chapter.
- 2) If the property owner does not agree with the preliminary determination, the property owner may submit further evidence supporting the calculation prepared by a licensed surveyor, engineer or professional. This may include an approved drainage plan, a detailed site plan or other information required by the Public Works Director.
- 3) The property owner will have the burden of proving by a preponderance of the evidence that the desired Adjustment Request meets the requirements of this section.
- 4) When granted, an Adjustment Request will only apply to the Service Charge bills subsequently issued. If an Adjustment Request is granted which reduces the rate charge for the current year, the applicant shall be refunded the amount overpaid in the current calendar year only. If the Public Works Director finds that a rate charge bill has been undercharged, then at the Director's discretion, either an amended bill shall be issued which reflects the increase in the service charge, or the undercharged amount shall be added to the next bill. Any amended bill shall be due and payable under the provisions set forth in this chapter.
- 5) Decisions of the Public Works Director on Adjustment Requests shall be final unless appealed to the Snohomish County Superior Court within thirty (30) days of the final decision on the Adjustment Request.

PUBLIC OUTREACH:

The City has endeavored to keep the community informed and involved in the discussion to establish a stormwater utility.

The City established a Small Work Group comprised of a city resident, business owner, and Planning Board member to review alternatives and make a recommendation to the Planning Board.

- The Small Work Group met on February 20, March 6, April 17, and May 1.
- The City held an open house on March 13, 2007. The Open House included information on the proposed Stormwater Utility. Notice of the Open House was mailed to all residents and businesses within the Sultan zip code, including residents outside the City limits.
- On March 20, 2007 the Planning Board received an update from the Small Work Group – the Board reviewed the need to form a stormwater utility and the survey of stormwater utilities across the state.
- On April 12, 2007 the City Council received an update from the Small Work Group – the Council reviewed the need to form a stormwater utility and the survey of stormwater utilities across the state, and key policy questions.
- A second Open House was held on May 15, 2007
- On May 1, 2007 the Planning Board reviewed the calculations for the ERU, draft Stormwater Utility Report, and budget, and directed staff to areas of concern.
- On May 17, the City Council subcommittee received a similar update.
- Notice of the proposed formation of the Stormwater Utility was included in the June and July utility billing statements.
- On May 24, the full Council reviewed the calculations for the ERU, draft Stormwater Utility Report, and budget.
- On June 26, the Planning Board discussed credits for private facilities, public schools, non-profit organizations, and senior citizens and low-income residents. The Board also reviewed the draft ordinance and credit manual, and directed staff to set the Public Hearing for July 17, 2007.
- July 23, meeting with the Sultan School Board to discuss the proposed utility, calculation of equivalent residential units, and grass as a pervious/impervious surface.
- August 9, 2007 Public Hearing
- On November 30, 2007, the City issued a SEPA determination of non-significance on the proposed stormwater utility. The SEPA comment period closed December 14, 2007.
- City staff notified commercial property owners by letter on December 5, 2007 about the proposed utility.

- November and December 2007 – Equivalent Residential Units calculated for each commercial, industrial and retail property
- January 24, 2008 Public Hearing.
- February 28, 2008 continued Public Hearing.
- March 10, 2008 Stormwater Stakeholder's Group Formed. Meetings on March 10, 2008, March 17, 2008, April 7, 2008 and April 21, 2008.
- May 29, 2008 presentation by Stormwater Stakeholder's Group.
- May 29, 2008 Council sets the public hearing for June 3, 2008.

The schedule to review and adopt a Stormwater Utility is as follows:

- City Council action to adopt ordinance and amend fee schedule – July 2008
- Public outreach and implementation – August and September.
- Implementation - October 1, 2008

FISCAL IMPACT:

Cost to Adopt a Surface Water Utility

The cost to adopt a surface water utility include the fee analysis work currently contracted with Shockey Brent. This work is budgeted at approximately \$18,500.

The proposed public education/awareness program consists of press releases, community workshop(s), flyers, discussions with interested citizen groups, and public hearings. The estimate for education/awareness is approximately \$1,500.

The cost of establishing a billing system is estimated between \$2,500 to use the City's existing billing system to \$20,000 for a separate system. These costs will be refined throughout the year and will be included in the overall cost of running the utility.

The stormwater utility will be established as an enterprise fund and will reduce expenditures in the General Fund as a result of moving stormwater maintenance functions such as street sweeping, vactoring and staff time to maintain the stormwater system from the General Fund.

RECOMMENDED ACTION:

1. Hold a Public Hearing to take comment on establishing a stormwater utility for developed residential and commercial properties in Sultan.
2. Direct staff to make any changes to the proposed stormwater utility and return to Council with an adopting ordinance.

**City of Sultan
Snohomish County, Washington**

Ordinance _____

An ordinance of the City of Sultan, Washington enacting a new Title 14 and establishing a Stormwater Utility for the City

Whereas, the Federal Clean Water Act, 33 U.S.C. 1251 et seq., requires certain political entities, such as the City, to implement stormwater management programs within prescribed time frames, and the Environmental Protection Agency, pursuant to the Federal Clean Water Act, 33 U.S.C. 1251 et seq., has published rules for stormwater outfall permits; and

Whereas, pursuant to RCW Ch. 35 A.11, Ch. 35.67 and Ch. 35.92, the City has the authority to establish a Stormwater Utility and set utility rates, and

Whereas, the City currently combines its Sewer and Stormwater Utility rates into a single utility rate; and

Whereas, in 2001 the City received a loan for \$140,000 from the Washington State Revolving Fund to develop a Surface Water Quality Management Plan; and

Whereas, the City commissioned a Surface Water Quality Management Plan Report including analysis of existing conditions and recommendations for a Stormwater Utility and Stormwater Utility rate. A written report was developed by a qualified consultant. Said report is dated December 1, 2002 and is hereby incorporated by this reference; and

Whereas, the City Council finds that the extent of impervious area preventing infiltration or hastening the drainage of storm and surface water from a parcel of property, and carrying contaminants into the streams and receiving waters is the primary factor determining an individual property's contribution into the City stormwater system; and

Whereas, impervious surfaces, as well as the failure of existing stormwater systems due to inadequate maintenance has increased flood events in recent years.

Whereas, all property within the City will benefit from the Stormwater Utility, which will provide a regional system and improvements, which will protect property from upslope and upstream stormwater effects.

Whereas, the City desires to establish a Stormwater Utility to be responsible for the operation, construction and maintenance of stormwater facilities; for stormwater system planning, and for review of stormwater development plans for compliance with stormwater management codes; and

Whereas, the City Clerk did give notice of a public hearing as required by law; and

A-1

Whereas, on August 21, 2003 the City Council did conduct a public meeting for a Surface Water Quality Management Plan to include the establishment of a Stormwater Utility and Stormwater Utility rate; and

Whereas, for purposes of convenience and efficiency, the City has combined its rates and charges for water, sewer, garbage and stormwater into one ordinance; and

Whereas, the City adopted and incorporated the Surface Water Quality Management Plan into the Comprehensive Plan in February 2006 by Ordinance No. 913-06; and

Whereas, the City did set up and involve a Citizen's Advisory Board to participate in the formation of the Stormwater Utility; and

Whereas, the Citizen's Advisory Board met on February 10, 2007, March 6, 2007, April 17, 2007 and May 1, 2007; and

Whereas, the City noticed all residents in the Sultan zip code and held an Open House on March 13, 2007 to share information on the proposed utility and take public comment; and

Whereas, on March 20, 2007 the City did update the Planning Board on the progress of the Stormwater Utility development and associated research activities and public involvement; and

Whereas, on May 10, 2007 the City did update the Planning Board; and

Whereas, the Planning Board held a Public Hearing to take public comment on July 17, 2007;

Whereas, the City Council held a Public Hearing to take public comment on August 9, 2007;

Whereas, the City notified all commercial, industrial and retail property owners by mail in October 2007 regarding the proposed utility and fees; and

Whereas, the City Council held a second Public Hearing on January 24, 2008 to take public comment; and

Whereas, the Public Hearing was continued to February 28, 2008 to allow additional comment opportunities; and

Whereas, the City Council formed a Stormwater Stakeholders Group comprised of city residents, business owners, planning board and council representatives to review the proposed utility and make recommendations to the City Council; and

Whereas, the Stormwater Stakeholders met on March 10, 2008, March 24, 2008, April 7, 2008, and April 21, 2008; and

Whereas, the Stormwater Stakeholders support the City's efforts to establish the Stormwater Utility

Now therefore, the City Council of the City of Sultan, Washington do ordain as follows:

Section 1. The City of Sultan finds, determines and declares that the stormwater system, which provides for the collection, treatment, storage and disposal of stormwater, provides benefits and services to all property within the incorporated City limits. Such benefits include, but are not limited to:

1. the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater;
2. the reduction of hazards to property and life resulting from stormwater runoff;
3. improvements in general health and welfare through reduction of undesirable stormwater conditions; and
4. improvements to the water quality in the stormwater and surface water system and its receiving waters.

Section 2. A new Title 14 Sultan Municipal Code, entitled "Stormwater" is hereby enacted to read as follows:

A-3

TITLE 14 – STORMWATER

Chapter 14.04 STORMWATER UTILITY

Sections:

- 14.04.010 Establishment of Utility
- 14.04.020 Definitions
- 14.04.030 Rate Policy and establishment
- 14.04.040 Property Classification for Stormwater Utility fee
- 14.04.050 Real Property in an Undeveloped Condition
- 14.04.060 Initial Stormwater Fee
- 14.04.070 Property Exempt from Stormwater Fees
- 14.04.080 Credits available against Stormwater Fees
- 14.04.090 Billing
- 14.04.100 Rate/Charge Adjustment and Appeals

14.04.010 Establishment of Utility. For those purposes of the Federal Clean Water Act and pursuant to authority set forth in RCW Chapters 35A.11, 35.67, and 35.92, there is created a Stormwater Utility (“Utility”), which shall consist of a separate fund account and such staff necessary to implement and manage the Utility as the City Council shall authorize.

The City shall exercise throughout the Utility all lawful powers necessary and appropriate to implement the policies of the City pertaining to the collection, treatment, storage, and disposal of stormwater within the incorporated City limits.

It is not the purpose of this Chapter to create a duty to individual persons or property. [[this language may be amended before adoption.]]

14.04.020 Definitions. The following words when used herein shall have the following meanings, unless the context clearly indicates otherwise:

- 1) “Adjustment Request” means a request by a rate payer for review and adjustment of the rate or fee levied upon the property.
- 2) “Base Rate” means the gross charge per ERU needed to satisfy all of the projected costs associated with the stormwater utility for an established period of time.
- 3) “City” means the City of Sultan, Washington or another city with whom Sultan has an interlocal agreement for stormwater rate collection.
- 4) “Developed” means the state, status, or condition of the subject property at the time the proposed project has been completed or development permits have expired, which may include existing buildings, impervious areas, and topography as is affected.

A-4

- 5) "Equivalent Residential Unit (ERU)" shall mean the measure of impervious square feet to be used by the Utility in assessing stormwater utility fees against each parcel of property.
- 6) "Impervious Area" means that hard surface area which 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 prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of surface and stormwater runoff.

An area may be impervious whether or not the same is occupied or inhabited.

For the purposes of this definition, open retention/detention facilities and wetlands, appropriately drained grass playfields, playgrounds and sports fields shall not be considered as impervious surfaces.

- 7) "Non-Profit Organization" as defined by RCW 24.03.490 and RCW 35.92.020(g) or as may be amended.
- 8) "Stormwater Utility Fee" means the monthly fee levied by the Utility upon all developed real property within the boundary of the Utility as authorized herein.
- 9) "System" shall mean the entire system of storm drainage facilities owned by the Utility or within the public rights of way for the movement and control of storm and surface waters, including both naturally occurring and manmade facilities.
- 10) "Undeveloped Property" means the state, status, or condition of the subject property prior to any development of the property, which may include trees, pastures, or native features.
- 11) "Utility" means the Sultan Stormwater Utility, created by Ordinance No. xxx-08 a utility which operates and maintains the storm or surface water drains, channels and facilities, outfalls for storm drainage and the rights and interests in property relating to the system the boundaries of which shall be the city limits of the City of Sultan and future additions thereto.

14.04.030 Rate Policy. It shall be the policy of the City that the rate structure be based upon the Equivalent Residential Unit (ERU), which will be adopted by separate resolution by the City.

1). The Base Rate shall be based on the relative contribution of increased surface and stormwater runoff from a given parcel to the stormwater system. The percentage of impervious surfaces on the parcel and the total parcel acreage will be used to indicate the relative contribution of increased surface and stormwater runoff from the parcel to the stormwater system. The relative contribution of increased stormwater runoff from each parcel will determine that parcel's share of the Stormwater Utility Fee revenue needs. The Stormwater Utility Fee revenue needs of the Utility are based upon all or any part, as determined by the Council, of the cost of stormwater services or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bonds issued for such purpose.

A-5

2). The Public Works Department shall determine the stormwater utility fee for each parcel within the Utility based on percentage of impervious surface. Aerial photographic mapping, ortho-rectified aerial photographs (orthophotos), as-built drawings, and parcel boundaries obtained from the Snohomish County Assessor (or other appropriate data) will be used to determine each parcel's percentage of impervious surface coverage.

14.04.040 Property Classification for Stormwater Utility Fee.

1) Property Classification: For purposes of determining the Stormwater Utility Fee, all properties in the City are classified into one of the following classes:

Single-family detached residential property;

Two-, three- and four-family residential property; or

Commercial and Other developed property including multi-family (5-99 units).

2) Single-family residential fee: The City Council finds that the intensity of development of most parcels of real property in the City classified as single-family residential is similar and that it would be excessively and unnecessarily expensive to determine precisely the square footage of the improvements (such as building, structures, and other impervious areas) on each such parcel. Therefore, all single-family residential properties in the City shall be charged a flat stormwater management fee, equal the Base Rate, regardless of the size of the parcel or the improvements.

3) Two-, three- and four-family residential fee: The City Council finds that the intensity of development of most two-, three- and four-family residential properties is approximately 1.75 times that of the average single-family residential properties. Therefore, the fee for all two-, three- and four-family residential properties will be 1.75 times the stormwater fee charged to single-family residential properties.

4) Commercial and Other developed property fee: The fee for commercial and all other developed property in the City shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious surface area (square feet) of the property by one ERU. The minimum stormwater utility fees for other developed property shall be equal the Base Rate for single-family residential property.

14.04.050 Real Property in an Undeveloped Condition. In accordance with the policy established in Section 14.04.030, the stormwater utility fee shall be determined by the amount of impervious area contained on each parcel of real property. Therefore, no stormwater utility fee shall be imposed upon those parcels of real property within the boundaries of the Utility that are in an entirely undeveloped state and are determined by the Public Works Director or his/her designee to not make use of the services of the Utility.

14.04.060. Initial Stormwater Utility Fee. In accordance with the rate structure established herein, there is hereby levied upon all developed real property within the boundaries of the Utility the following Stormwater Utility Fee:

- 1) For all single-family residences and detached single-family condominiums, the monthly Stormwater Utility Fee shall be the fee established and approved by separate resolution for one Equivalent Residential Unit (ERU).
- 2) For two-, three- and four-family residential property, the monthly stormwater utility fee shall be the fee established and approved by separate resolution for 1.75 ERUs.
- 3) For all other developed property including commercial, institutional, manufacturing, multi-family greater than four (4), attached condominiums of greater than four (4) units and mobile home parks within the boundaries of the Utility, except as specified under Section 14.04.070, the monthly services charge shall be the product of the fee adopted by separate resolution and the number of ERUs determined by the Utility to be contained in such parcel pursuant to Section 14.04.040.

14.04.070. Property Exempt From the Stormwater Utility Fee. The following special categories of property are exempt from the Stormwater Utility Fee:

- 1) City street rights-of-way, because the City Council has determined that the value of the in-kind service provided by the rights-of-way in collecting and transporting storm and surface water from adjacent properties is equal to or exceeds the Stormwater Utility Fee that would be charged by the Utility. [[This additional language will be moved to the findings section, and the language may be changed before the ordinance is adopted]]
- 2) State of Washington highway rights-of-way and Snohomish County road rights-of way so long as the State of Washington and Snohomish County shall agree to maintain, construct and improve all drainage facilities contained within such rights-of-way as required by the Utility in conformance with all Utility standards for maintenance, construction and improvement hereafter established by the Utility and so far as such maintenance, construction and improvements shall be achieved at no cost to the Utility or to the City.
- 3) Real property within the boundaries of the Utility that are in an entirely undeveloped state and are deemed by the Public Works Director or his/her designee not to make use of the services of the Utility.

14.04.080. Credits Available against Stormwater Utility Fees.

- 1) The Utility may grant a credit of twenty-five (25) percent for private, on-site control facilities that benefit the overall stormwater system.

To be eligible for the credit, the property owner or homeowners association (for common area) must demonstrate that the on-site control system exists, was installed per the City and Department of Ecology's standards at the time of development, and the system has been maintained by the property owner or homeowner's association in accordance with City and Department of Ecology standards at the time of development.

A Technical Information Report prepared by a licensed professional engineer shall be provided to document the engineering design of the facility. Infiltration facilities that serve portions of a site, such as rooftops only, may receive a pro rata discount based on the drainage area being infiltrated.

The eligibility of the credit shall be reviewed and the facility inspected by the City on an annual basis to ensure proper maintenance of said private facilities. The Public Works Director shall determine the forms, requirements and process for determining eligibility. If a homeowners association is granted the discount it will be applied to all residential properties listed by the homeowners association as participating properties.

- 2) The Utility may grant a credit of seventy (70) percent for condition and performance that is compliant with the most recent City and Department of Ecology Best Management Practices (BMP) standards for on-site control facilities that have the capacity to fully contain and infiltrate on the parcel the runoff from the 100-year, 7-day storm event. The facility must be properly maintained to achieve performance standards by the property owner or homeowner's association. The eligibility of the credit shall be reviewed and the facility inspected on an annual basis to ensure proper maintenance of said private facilities. The Public Works Director shall determine the forms, requirements and process for determining eligibility.
- 3) The Utility may grant public schools twenty-five (25) percent additional credit upon receipt of an acceptable curriculum showing how the school district provides education regarding stormwater issues. Each site owned and operated by the school district in support of education shall be eligible for this credit in addition to any site-specific credits also available for individual sites. The Public Works Director shall determine the forms, requirements and process for determining eligibility.
- 4) Low income senior citizens may apply for a 50% discount to their stormwater utility fee. "Low income senior citizen" means persons 62 years of age or older, on or before January 31st of the year of the filing for the discount. Low income is based on 125 percent of the federal poverty guidelines.
- 5) Credits shall not be added together. The maximum total credit is 70%.

14.04.090. Billing.

- 1) The charges imposed by this chapter shall be billed in conjunction with the property owner's or user's customary water and sanitary sewer bill issued by the City and for the purposes of billing only the city shall be deemed to have a consolidated sewer, water and stormwater utility and therefore the City may allocate receipts on billings first to stormwater and sewer to preserve its right to shut off water. For developed properties subject to the stormwater utility fee that do not otherwise receive a water or sanitary sewer bill from the City of Sultan, the stormwater utility fee may be billed at intervals set by the Public Works Director, but not less than annually.
- 2) Delinquent accounts shall be determined and administered in a manner consistent with that provided for water and sewer.
- 3) Billings may be made in the name of tenant or other occupants of the premises that are provided Stormwater Utility services at the mailing address of the property. Such billings shall not relieve the owner of the property from liability for the payment of the charges for furnishing of such stormwater services nor in any way affect the lien rights of the City against the premises to which said stormwater services are furnished. Failure to receive mail properly addressed to the mailing address provided above shall not be a valid

defense for failure to pay the delinquent charges and penalties. Any change in the mailing address provided above must be properly filed in writing with the Office of the City Clerk before it will become effective.

- 4) In the event the City must bring legal action to collect stormwater utility fees and/or penalties, the City, in addition to such charges and penalties, shall recover its attorney's fees and other costs incurred in connection with such collection.

14.04.100. Rate/Charge Adjustment and Appeals:

- 1) Any person billed a stormwater fee under this chapter may file an "Adjustment Request" with the Public Works Director within sixty (60) days of the date of the billing statement. Submittal of an Adjustment Request shall be made on forms provided by the Director and shall not extend the period of payment for the stormwater fee.
- 2) Upon timely receipt of an Adjustment Request, the Public Works Director or his/her designee will review the request and make a preliminary determination after a review of Utility records or a site visit.
- 3) The Public Works Director may grant a rate adjustment only in accordance with this chapter and only upon a finding that one or more of the following conditions exist:
 - a. The parcel charged is not within the Sultan city limits.
 - b. The impervious surface area of the parcel would change the number of Equivalent Residential Units used in determining the stormwater fee.
 - c. The parcel is in an undeveloped condition and not paved, graveled or covered with any impervious surface.
 - d. The parcel is not single-family and contains a constructed or natural on-site surface water control facility that is determined by the stormwater engineer or inspector to be maintained at optimum operating condition and improves water quality at the outlet to meet State standards for stormwater discharge.
 - e. The rate charged was otherwise not calculated in accordance with the terms of this chapter.
- 4) If the property owner does not agree with the preliminary determination, the property owner may submit further evidence supporting the calculation prepared by a licensed surveyor, engineer or professional. This may include an approved drainage plan, a detailed site plan or other information required by the Public Works Director.
- 5) The property owner shall have the burden of proving by a preponderance of the evidence that the desired Adjustment Request meets the requirements of this section.
- 6) When granted, an Adjustment Request shall only apply to the Stormwater utility fee bills subsequently issued. If an Adjustment Request is granted which reduces the rate charge for the current year, the applicant shall be refunded the amount overpaid in the current calendar year only. If the Public Works Director finds that a rate charge bill has been undercharged, then at the Director's discretion, either an amended bill shall be issued which reflects the increase in the stormwater utility fee, or the undercharged amount shall

be added to the next bill. Any amended bill shall be due and payable under the provisions set forth in this chapter.

- 7) Decisions on Adjustment Requests shall be made by the Public Works Director based on information submitted by the applicant in the Adjustment Request, the utility's records and a site visit. Decisions shall be made within thirty (30) days of the date of the Adjustment Request, except when additional information is requested or needed by the Public Works Director. The applicant shall be notified in writing of the Public Works Director's decision.
- 8) Decisions of the Public Works Director on Adjustment Requests shall be final unless appealed to the Snohomish County Superior Court within thirty (30) days of the final decision on the Adjustment Request.

Section 3. Effective Date. This ordinance shall become effective from and after its passage and the expiration of five (5) days after publication as provided by law, except the provisions of Section 2 relating to Initial Stormwater Utility Fee Rates, SMC 14.04.060 shall be effective on July 1, 2008.

Section 14. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

ADOPTED by the City Council and APPROVED by the Mayor this ___ day of ____, 2007.

CITY OF SULTAN

By: _____
Carolyn Eslick, Mayor

ATTEST:

By: _____
Laura Koenig, City Clerk

APPROVED AS TO FORM:

By _____
Kathy Hardy, City Attorney

Date of Publication: ___ day of ____, 2008

Effective Date: ___ day of ____, 2008

A-10

**City of Sultan
Snohomish County, Washington**

Ordinance _____

An ordinance of the City of Sultan-, Washington enacting a new Title 14 and establishing a Stormwater Utility for the City

Whereas, the Federal Clean Water Act, 33 U.S.C. 1251 et seq., requires certain political entities, such as the City, to implement stormwater management programs within prescribed time frames, and the Environmental Protection Agency, pursuant to the Federal Clean Water Act, 33 U.S.C. 1251 et seq., has published rules for stormwater outfall permits; and

Whereas, pursuant to RCW Ch. 35 A.11, Ch. 35.67 and Ch. 35.92, the City has the authority to establish a Stormwater Utility and set utility rates, and

Whereas, the City currently combines its Sewer and Stormwater Utility rates into a single utility rate; and

Whereas, in 2001 the City received a loan for \$140,000 from the Washington State Revolving Fund to develop a Surface Water Quality Management Plan; and

Whereas, the City commissioned a Surface Water Quality Management Plan Report including analysis of existing conditions and recommendations for a Stormwater Utility and Stormwater Utility rate. A written report was developed by a qualified consultant. Said report is dated December 1, 2002 and is hereby incorporated by this reference; and

Whereas, the City Council finds that the extent of impervious area preventing infiltration or hastening the drainage of storm and surface water from a parcel of property, and carrying contaminants into the streams and receiving waters is the primary factor determining an individual property's contribution into the City stormwater system; and

Whereas, impervious surfaces, as well as the failure of existing stormwater systems due to inadequate maintenance has increased flood events in recent years.

Whereas, all property within the City will benefit from the Stormwater Utility, which will provide a regional system and improvements, which will protect property from upslope and upstream stormwater effects.

Whereas, the City desires to establish a Stormwater Utility to be responsible for the operation, construction and maintenance of stormwater facilities; for stormwater system planning, and for review of stormwater development plans for compliance with stormwater management codes; and

Whereas, the City Clerk did give notice of a public hearing as required by law; and

A-11

Whereas, on August 21, 2003 the City Council did conduct a public meeting for a Surface Water Quality Management Plan to include the establishment of a Stormwater Utility and Stormwater Utility rate; and

Whereas, for purposes of convenience and efficiency, the City has combined its rates and charges for water, sewer, garbage and stormwater into one ordinance; and

Whereas, the City adopted and incorporated the Surface Water Quality Management Plan into the Comprehensive Plan in February 2006 by Ordinance No. 913-06; and

Whereas, the City did set up and involve a Citizen's Advisory Board to participate in the formation of the Stormwater Utility; and

Whereas, the Citizen's Advisory Board met on February 10, 2007, March 6, 2007, April 17, 2007 and May 1, 2007; and

Whereas, the City noticed all residents in the Sultan zip code and held an Open House on March 13, 2007 to share information on the proposed utility and take public comment; and

Whereas, on March 20, 2007 the City did update the Planning Board on the progress of the Stormwater Utility development and associated research activities and public involvement; and

Whereas, on May 10, 2007 the City did update the Planning Board; and

Whereas, the Planning Board held a Public Hearing to take public comment on July 17, 2007;

Whereas, the City Council held a Public Hearing to take public comment on August 9, 2007;

Whereas, the City notified all commercial, industrial and retail property owners by mail in October 2007 regarding the proposed utility and fees; and

Whereas, the City Council held a second Public Hearing on January 24, 2008 to take public comment; and

Whereas, the Public Hearing was continued to February 28, 2008 to allow additional comment opportunities; and

Whereas, the City Council formed a Stormwater Stakeholders Group comprised of city residents, business owners, planning board and council representatives to review the proposed utility and make recommendations to the City Council; and

Whereas, the Stormwater Stakeholders met on March 10, 2008, March 24, 2008, April 7, 2008, and April 21, 2008; and

Whereas, the Stormwater Stakeholders support the City's efforts to establish the Stormwater Utility

Now therefore, the City Council of the City of Sultan, Washington do ordain as follows:

Section 1. The City of Sultan finds, determines and declares that the stormwater system, which provides for the collection, treatment, storage and disposal of stormwater, provides benefits and services to all property within the incorporated City limits. Such benefits include, but are not limited to:

1. the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater;
2. the reduction of hazards to property and life resulting from stormwater runoff;
3. improvements in general health and welfare through reduction of undesirable stormwater conditions; and
4. improvements to the water quality in the stormwater and surface water system and its receiving waters.

~~1) Toxic metals, organic compounds, and bacterial and viral pathogens that are unsafe to humans and can pollute our streams, drinking water, fish and animal habitat.~~

~~2) The City Council finds that the extent of impervious area preventing infiltration or hastening the drainage of storm and surface water from a parcel of property, and carrying contaminants into the streams and receiving waters is the primary factor determining an individual property's contribution into the City stormwater system.~~

~~3) Impervious surfaces, as well as the failure of existing stormwater systems due to inadequate maintenance has increased flood events in recent years.~~

~~4) The City will be required to meet the standards of its National Pollution Discharge Elimination System Phase II requirements in the near future.~~

~~5) All property within the City will benefit from the Stormwater Utility, which will provide a regional system and improvements, which will protect property from upslope and upstream stormwater effects.~~

~~2) In 2003 the City's Surface Water Quality Plan contained a recommended storm and surface water management program and recommended establishing a Stormwater Utility as the primary funding mechanism.~~

~~3) In 2007 the City of Sultan formed a Citizen's Advisory Board to review the Plan and establish a budget for the implementation and ongoing activities of a Stormwater Utility.~~

Section 2. A new Title 14 Sultan Municipal Code, entitled "Stormwater" is hereby enacted to reading as follows:

A-13

TITLE 14 – STORMWATER

Chapter 14.04 STORMWATER UTILITY

Sections:

- 14.04.010 Establishment of Utility
- 14.04.020 Definitions
- 14.04.030 Rate Policy and establishment
- 14.04.040 Property Classification for Stormwater Utility fee
- 14.04.050 Real Property in an Undeveloped Condition
- 14.04.060 Initial ~~Service Charge Rates~~ Stormwater Utility Fee
- 14.04.070 Property Exempt ~~form Service Charges~~ from Stormwater Utility Fee
- 14.04.080 Credits available against ~~Service Charges~~ Stormwater Utility Fees
- 14.04.090 Billing
- 14.04.100 Rate/Charge Adjustment and Appeals

14.04.010 Establishment of Utility. For those purposes of the Federal Clean Water Act and pursuant to authority set forth in RCW Chapters 35A.11, 35.67, and 35.92, there is created a Stormwater Utility (“Utility”), which shall consist of a separate fund account and such staff necessary to implement and manage the Utility as the City Council shall authorize. The Stormwater Utility, under the control of the City Council shall:

- ~~1) Administer the acquisition, design, construction, maintenance and operation of the Stormwater Utility system, including capital improvements.~~
- ~~2) Administer and enforce this ordinance and all regulations and procedures adopted relating to the design, construction, maintenance, operation and alteration of the Utility stormwater system, including, but not limited to the quantity, quality and/or velocity of the stormwater conveyed thereby;~~
- ~~3) Advise the City Council and other City departments on matters relating to the Utility;~~
- ~~4) Review plans and approve or deny, inspect and accept extensions and connections to the system;~~
- ~~5) Enforce regulations to protect and maintain water quality and quantity within the system in compliance with water quality standards established by State, regional and/or federal agencies as now adopted or here after amended; Deborah this may be inconsistent with the duties of the Director of Community Development~~
- ~~6) Periodically analyze the cost of services and benefits provided, and the system and structure of fees, charges, civil penalties and other revenues of the Utility;~~
- ~~7) Perform such other actions as are consistent with the Federal Clean Water Act and RCW Chapters 35A.11, 35.67 and 35.92.~~

The City shall exercise throughout the Utility all lawful powers necessary and appropriate to implement the policies of the City pertaining to stormwater the collection, treatment, storage, and disposal of stormwater with-in the incorporated City limits.

It is not the purpose of this Chapter to create a duty of the City or its Utility to insure or protect individual persons or property against drainage. [[This language may change before adoption.]]

14.04.020 Definitions. The following words when used herein shall have the following meanings, unless the context clearly indicates otherwise:

- 1) "Adjustment Request" means a request by a rate payer for review and adjustment of the rate or ~~charge-fee~~ levied upon the property.
- 2) "Base Rate" means the gross charge per ERU needed to satisfy all of the projected costs associated with the stormwater utility for an established period of time.
- 3) "City" means the City of Sultan, Washington or another city with whom Sultan has an interlocal agreement for stormwater rate collection.
- 4) "Developed" means the state, status, or condition of the subject property at the time the proposed project has been completed or development permits have expired, which may include existing buildings, impervious areas, and topography as is affected.
- 5) "Equivalent Residential Unit (ERU)" shall mean the measure of impervious square feet to be used by the Utility in assessing ~~service-charge~~ stormwater utility fees against each parcel of property. ~~It shall be calculated by averaging the impervious square footage of a randomly selected sample set of at least twenty (20) single family residential properties.~~
- 6) "Impervious Area" means that hard surface area which 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 prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of surface and stormwater runoff.

An area may be impervious whether or not the same is occupied or inhabited.

For the purposes of this definition, open retention/detention facilities and wetlands, appropriately drained grass playfields, playgrounds and sports fields shall not be considered as impervious surfaces.

- 7) "~~Non-Profit Organization" as defined by United States Internal Revenue Code (26 U.S.C. § 501(c)) means Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.~~ RCW 24.03.490 and RCW 35.92..020(g) or as may be amended.

- 8) "Stormwater Utility Fee" means the monthly fee levied by the Utility upon all developed real property within the boundary of the Utility as authorized herein.
- 9) "System" shall mean the entire systems of storm drainage facilities owned by the Utility or within the public rights off way for the movement and control of storm and surface waters, including both naturally occurring and manmade facilities.
- 10) "~~Undeveloped Conditions~~Property" means the state, status, or condition of the subject property prior to any development of the property ~~that has occurred~~, which may include trees, pastures, or native features.
- 11) "Utility" means the Sultan Stormwater Utility, created by Ordinance No. xxx-08 a utility which operates and maintains the storm or surface water drains, channels and facilities, outfalls for storm drainage and the rights and interests in property relating to the system the boundaries of which shall be the city limits of the City of Sultan and future additions thereto.

14.04.030 Rate Policy. It shall be the policy of the City that the rate structure be based upon the Equivalent Residential Unit (ERU), which will be adopted by separate resolution by the City.

1). The Base Rate shall be based on the relative contribution of increased surface and stormwater runoff from a given parcel to the stormwater system. The percentage of impervious surfaces on the parcel and the total parcel acreage will be used to indicate the relative contribution of increased surface and stormwater runoff from the parcel to the stormwater system. The relative contribution of increased stormwater runoff from each parcel will determine that parcel's share of the Stormwater Utility Fee revenue needs. The Stormwater Utility Fee revenue needs of the Utility are based upon all or any part, as determined by the Council, of the cost of stormwater services or to pay or secure the payment of all or any portion of any issue of general obligation or revenue bonds issued for such purpose.

2). The Public Works Department shall determine the stormwater utility fee for each parcel within the Utility based on percentage of impervious surface. Aerial photographic mapping, ortho-rectified aerial photographs (orthophotos), as-built drawings, and parcel boundaries obtained from the Snohomish County Assessor (or other appropriate data) will be used to determine each parcel's percentage of impervious surface coverage.

14.04.040 Property Classification for Stormwater Utility Fee.

1) Property Classification: For purposes of determining the ~~s~~Stormwater user's ~~u~~Utility ~~f~~Fee, all properties in the City are classified into one of the following classes:

Single-family detached residential property;

Two-, three- and four-family residential property; or

Commercial and Other developed property including multi-family (5-99 units).

2) Single-family residential fee: The City Council finds that the intensity of development of most parcels of real property in the City classified as single-family residential is similar and that it would be excessively and unnecessarily expensive to determine precisely the square footage of the improvements (such as building, structures, and other impervious areas) on each such parcel. Therefore, all single-family residential properties in the City shall be charged a flat stormwater management fee, equal the ~~the~~ Base Rate, regardless of the size of the parcel or the improvements.

3) Two-, three- and four-family residential fee: The City Council finds that the intensity of development of most two-, three- and four-family residential properties is approximately 1.75 times that of the average single-family residential properties. Therefore, the fee for all two-, three- and four-family residential properties will be 1.75 times the stormwater fee charged to single-family residential properties.

4) Commercial and Other developed property fee: The fee for commercial and all other developed property in the City shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious surface area (square feet) of the property by one ERU. ~~The impervious surface area for other developed property is the square footage for the buildings and other improvements on the property.~~ The minimum stormwater management fees for other developed property shall be equal the ~~the~~ Base Rate for single-family residential property.

14.04.050 Real Property in an Undeveloped Condition. In accordance with the policy established in Section 14.04.030, the ~~service charge~~ stormwater utility fee shall be determined by the amount of impervious area contained on each parcel of real property. ~~Those properties remaining in an undeveloped condition are deemed not to make use of the services of the Utility or of the facilities of the system beyond that used by such property in the natural state.~~ Therefore, no ~~service charge~~ stormwater utility fee shall be imposed upon those parcels of real property within the boundaries of the Utility that are in an entirely undeveloped state and are determined ~~deemed~~ by the Public Works Director or his/her designee to ~~not to~~ make use of the services of the Utility.

14.04.060. Initial Service Charge Rates ~~Stormwater Utility Fee.~~ In accordance with the rate structure established herein, there is hereby levied upon all developed real property within the boundaries of the Utility the following ~~service charges~~ Stormwater Utility Fee:

- 1) For all single-family residences and detached single-family condominiums, the monthly ~~service charge~~ Stormwater Utility Fee shall be the fee established and approved by separate resolution for one Equivalent Residential Unit (ERU).
- 2) For two-, three- and four-family residential property, the monthly ~~service charge~~ stormwater utility fee shall be the fee established and approved by separate resolution for 1.75 ERUs.
- 3) For all other developed property including commercial, institutional, manufacturing, multi-family greater than four (54)-99 units, attached condominiums of greater than four (4) units and mobile home parks within the boundaries of the Utility, except as specified under Section 14.04.070, the monthly services charge shall be the product of the fee

adopted by separate resolution and the number of ERUs determined by the Utility to be contained in such parcel pursuant to Section 14.04.040.

14.04.070. Property Exempt From ~~Service Charges~~the Stormwater Utility Fee. The following special categories of property are exempt from ~~service charges~~the Stormwater Utility Fee:

- 1) City street rights-of-way, because the City Council has determined that the value of the in-kind service provided by the rights-of-way in collecting and transporting storm and surface water from adjacent properties is equal to or exceeds the Stormwater Utility Fee that would be charged by the Utility all of which are part of the system pursuant to the plan. [[This additional language will be moved to the findings section, and the language may be changed before the ordinance is adopted]]
- 2) State of Washington highway rights-of-way and Snohomish County road rights-of way so long as the State of Washington and Snohomish County shall agree to maintain, construct and improve all drainage facilities contained within such rights-of-way as required by the Utility in conformance with all Utility standards for maintenance, construction and improvement hereafter established by the Utility and so far as such maintenance, construction and improvements shall be achieved at no cost to the Utility or to the City.
- 3) Real property within the boundaries of the Utility that are in an entirely undeveloped state and are deemed by the Public Works Director or his/her designee not to make use of the services of the Utility.

14.04.080. Credits Available against ~~Service Charges~~Stormwater Utility Fees.

- 1) The Utility may grant a credit of twenty-five (25) percent for private, on-site control facilities that benefit the overall stormwater system. To be eligible for the credit, the property owner or homeowners association (for common area) must demonstrate that the on-site control system exists, was installed per the City and Department of Ecology's standards at the time of development, and the system has been maintained by the property owner or homeowner's association in accordance with City and Department of Ecology standards at the time of development. A Technical Information Report prepared by a licensed professional engineer shall be provided to document the engineering design of the facility. Infiltration facilities that serve portions of a site, such as rooftops only, may receive a pro rata discount based on the drainage area being infiltrated. The eligibility of the credit shall be reviewed and the facility inspected by the City on an annual basis to ensure proper maintenance of said private facilities. The Public Works Director shall determine the forms, requirements and process for determining eligibility. If a homeowners association is granted the discount it will be applied to all residential properties listed by the homeowners association as participating properties.
- 2) The Utility may grant a credit of seventy (70) percent for condition and performance that is compliant with the most recent City and Department of Ecology Best Management Practices (BMP) standards for on-site control facilities that have the capacity to fully contain and infiltrate on the parcel the runoff from the 100-year, 7-day storm event. The facility must be properly maintained to achieve performance standards by the property owner or homeowner's association. The eligibility of the credit shall be reviewed and the

facility inspected on an annual basis to ensure proper maintenance of said private facilities. The Public Works Director shall determine the forms, requirements and process for determining eligibility. ~~[Deborah I think you said this applied to the business that had 39 ERU;s in Town. Are you sure? Connie's description seemed to indicate their storm water was going into the sewer system and was in infiltrating 100% on site.]~~

- 3) The Utility ~~shall~~ may grant public schools twenty-five (25) percent additional credit upon receipt of an acceptable curriculum showing how the school district provides education regarding stormwater issues. Each site owned and operated by the school district in support of education shall be eligible for this credit in addition to any site-specific credits also available for individual sites. The Public Works Director shall determine the forms, requirements and process for determining eligibility.
- 4) ~~The Utility shall grant non profit organizations up to 25% off of their stormwater bill if they (What are other cities doing?) Kim is finding out!~~
- 5) Low income senior citizens may apply for a 50% discount to their stormwater utility fee. "Low income senior citizen" means persons 62 years of age or older, on or before January 31st of the year of the filing for the discount. Low income is based on 125 percent of the federal poverty guidelines. Senior Citizens may apply the standard Senior Citizen Utility Discount to their stormwater utility fee.
- 4) ~~Deborah I believe you said eCredits could~~ shall not be added together, ~~or that t~~ The highest maximum total credit was is 70%.

14.04.090. Billing.

- 1) The charges imposed by this chapter shall be billed in conjunction with the property owner's or user's customary water and sanitary sewer bill issued by the City and for the purposes of billing only the city shall be deemed to have a consolidated sewer, water and stormwater utility and therefore the City may allocate receipts on billings first to stormwater and sewer to preserve its right to shut off water.. For developed properties subject to the ~~service charge~~ stormwater utility fee that do not otherwise receive a water or sanitary sewer bill from the City of Sultan, the stormwater ~~service charge~~ utility fee may be billed at intervals set by the Public Works Director, but not less than annually.
- 2) Delinquent accounts shall be determined and administered in a manner consistent with that provided for water and sewer.
- 3) Billings may be made in the name of tenant or other occupants of the premises that are provided Stormwater Utility services at the mailing address of the property. Such billings shall not relieve the owner of the property from liability for the payment of the charges for furnishing of such stormwater services nor in any way affect the lien rights of the City against the premises to which said stormwater services are furnished. Failure to receive mail properly addressed to the mailing address provided above shall not be a valid defense for failure to pay the delinquent charges and penalties. Any change in the mailing address provided above must be properly filed in writing with the Office of the City Clerk before it will become effective.
- 4) In the event the City must bring legal action to collect stormwater ~~service charge~~ utility fees and/or penalties, the City, in addition to such charges and penalties, shall recover its attorney's fees and other costs incurred in connection with such collection.

14.04.100. Rate/Charge Adjustment and Appeals:

- 1) Any person billed a stormwater fee under this chapter may file an "Adjustment Request" with the Public Works Director within sixty (60) days of the date of the billing statement. Submittal of an Adjustment Request shall be made on forms provided by the Director and shall not extend the period of payment for the stormwater fee.
- 2) Upon timely receipt of an Adjustment Request, the Public Works Director or his/her designee will review the request and make a preliminary determination after a review of Utility records or a site visit.
- 3) The Public Works Director may grant a rate adjustment only in accordance with this chapter and only upon a finding that one or more of the following conditions exist:
 - a. The parcel charged is not within the Sultan city limits.
 - b. The impervious surface area of the parcel would change the number of Equivalent Residential Units used in determining the stormwater fee.
 - c. The parcel is in an undeveloped condition and not paved, graveled or covered with any impervious surface.
 - d. The parcel is not single-family and contains a constructed or natural on-site surface water control facility that is determined by the stormwater engineer or inspector to be maintained at optimum operating condition and improves water quality at the outlet to meet State standards for stormwater discharge.
 - e. The rate charged was otherwise not calculated in accordance with the terms of this chapter.
- 4) If the property owner does not agree with the preliminary determination, the property owner may submit further evidence supporting the calculation prepared by a licensed surveyor, engineer or professional. This may include an approved drainage plan, a detailed site plan or other information required by the Public Works Director.
- 5) The property owner shall have the burden of proving by a preponderance of the evidence that the desired Adjustment Request meets the requirements of this section.
- 6) When granted, an Adjustment Request shall only apply to the ~~Service Charge~~ stormwater utility fee bills subsequently issued. If an Adjustment Request is granted which reduces the rate charge for the current year, the applicant shall be refunded the amount overpaid in the current calendar year only. If the Public Works Director finds that a rate charge bill has been undercharged, then at the Director's discretion, either an amended bill shall be issued which reflects the increase in the ~~service charge~~ stormwater utility fee, or the undercharged amount shall be added to the next bill. Any amended bill shall be due and payable under the provisions set forth in this chapter.
- 7) Decisions on Adjustment Requests shall be made by the Public Works Director based on information submitted by the applicant in the Adjustment Request, the utility's records and a site visit. Decisions shall be made within thirty (30) days of the date of the Adjustment Request, except when additional information is requested or needed by the Public Works Director. The applicant shall be notified in writing of the Public Works Director's decision.
- 8) Decisions of the Public Works Director on Adjustment Requests shall be final unless appealed to the Snohomish County Superior Court within thirty (30) days of the final decision on the Adjustment Request.

Section 3. Effective Date. This ordinance shall become effective from and after its passage and the expiration of five (5) days after publication as provided by law, except the provisions of Section 2 relating to Initial ~~Service Charge~~ stormwater utility fee Rates, SMC 14.04.060 shall be effective on ~~January~~ July 1, 2008.

Section 14. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

ADOPTED by the City Council and APPROVED by the Mayor this ___ day of _____, 2007.

CITY OF SULTAN

By: _____
~~Ben Tolsen~~ Carolyn Eslick, Mayor

ATTEST:

By: _____
Laura Koenig, City Clerk

APPROVED AS TO FORM:

By _____
~~Tom Graafstra~~ Kathy Hardy, City Attorney

Date of Publication: ___ day of _____, ~~2007~~ 2008

Effective Date: ___ day of _____, ~~2007~~ 2008

Stormwater Fee and Revenue Assumptions
(Sliding Scale/parcel with \$50,000 Capital Investment)

Attachment B

		BUDGET		
Category	Task	Frequency	Cost	
Personnel	Salary	1 FTE (\$35/hour)	\$ 72,800.00	
	Benefits		\$ 20,000.00	
Maintenance	Vactor	\$55/basin x 24 basins/day x 15 days	\$ -	4 catchbasins/hour x 6 hours = 24 catchbasins/day. 600 basins/24 = 25 days. \$55/basin = \$33,000
	Catchbasins			
	Maintain retention/detention ponds		\$ 9,000.00	
	Repair existing system	catchbasins, manholes, piping	\$ 10,000.00	
	Miscellaneous		\$ 10,000.00	
Debt Service	Street Sweeper	Annual payment split with street	\$ 25,000.00	
	Vactor Truck	Annual payment split with water, sewer, streets	\$ 20,000.00	
Capital Investment	Prioritized improvements	Annual	\$ 50,000.00	
Total			\$ 216,800.00	

Commercial		Equivalent Residential Units											
ERU		<1	1.1-5.0	5.1-10.0	10.1-15.0	15.1-20.0	20.1-25.0	25.1-50.0	50.1-100.0	>100			
#Properties	30	74	20	7	5	6	5	4	1	152			
Proposed Fee/month	\$ 12.35	\$ 12.50	\$ 12.50	\$ 12.50	\$ 12.50	\$ 12.50	\$ 12.75	\$ 13.00	\$ 13.25				
Annual Fee	\$ 148.20	\$ 150.00	\$ 150.00	\$ 150.00	\$ 150.00	\$ 150.00	\$ 153.00	\$ 156.00	\$ 159.00				
Monthly Revenue	\$ 370.50	\$ 925.00	\$ 250.00	\$ 87.50	\$ 62.50	\$ 75.00	\$ 63.75	\$ 52.00	\$ 13.25				
Annual Revenue	\$ 4,446.00	\$ 11,100.00	\$ 3,000.00	\$ 1,050.00	\$ 750.00	\$ 900.00	\$ 765.00	\$ 624.00	\$ 159.00				\$ 22,794.00
Residential	SRF	2-4 Plex											
ERU	<1	1.75											
#Properties	1246	45											
Proposed Fee/month	\$ 12.35	\$ 12.50											
Monthly Revenue	\$ 15,388.10	\$ 562.50											
Annual Revenue	\$ 184,657.20	\$ 6,750.00											
Total Revenue	\$ 214,201.20	\$ 191,407.20											

6/6/2008
sliding scale w cap

As a committee of business and property owners, we have arrived at a tentative budget for the City of Sultan Storm-water Ordinance. This budget is a result of retaining experienced legal counsel, review of other cities compliance with governmental requirements and budgetary costs of currently existing similar cities.

The City of Sultan with an established budget as proposed will fulfill requirements of NPDES, EMA, Dept of Ecology and be well positioned to comply and grow with anticipated future growth.

Re: Sultan Stormwater Ordinance

Stake Holders Recommendation and Comments

- | | |
|----------------------------------------------------------------------------------|----------|
| A. Vactor catch basins (outsourced) | \$10,000 |
| 1. 1/3 of catchbasins vactored annually | |
| B. Street sweeping | \$20,000 |
| (Existing street budget should contribute 50% of suggested \$40,000 annual cost) | |
| C. Repairs and miscellaneous costs | \$26,000 |
| D. Capitol improvements | \$20,000 |
| E. Supervision of vactoring and oversight of items A, B, C, and D | \$24,000 |

A. This is not to be an administrative position. But would be a field hands on activity.

B. This function could be outsourced to an experienced person familiar with this type of activity.

C. Recommended practice would be an additional full time city employee allocated 1/3 to supervision for oversight and 1/3 to street sweeping, Storm water utility and 1/3 Street Sweeping Street budget.
Stake holders committee:

Stormwater Fee and Revenue Assumptions
\$20,000 Capital Investment

Category	Task	BUDGET	Frequency	Cost	Number of Developed Properties
Personnel			.3 FTE. No benefits - One week per month	\$24,000	Residential 1246 2-4 Plex 45
Maintenance	Vactor Catchbasins		5 days/year @\$1,000/day	\$10,000	Commercial 158 1449
	Street Sweeping		all city streets monthly. Half the budget from the Street Fund	\$20,000	
	Repairs of existing system		catchbasins, manholes, piping	\$13,000	
	Miscellaneous			\$13,000	
Capital Improvements				\$20,000	
Total				\$100,000	

Commercial	ERU	#Properties	Proposed Fee/month	Annual Fee	Monthly Revenue	Annual Revenue	Equivalent Residential Units						
							5.1-10.0	10.1-15.0	15.1-20.0	20.1-25.0	25.1-50.0	50.1-100.0	>100
	<1	30	5.75	\$ 69.00	\$ 172.50	\$ 2,070.00	20	7	5	6	5	4	1
				\$ 5.90	\$ 70.80	\$ 849.60	6.00	6.10	6.20	6.30	6.40	6.50	6.60
				\$ 436.60	\$ 5,239.20	\$ 62,858.40	72.00	73.20	74.40	75.60	76.80	78.00	79.20
				\$ 5,239.20	\$ 62,858.40	\$ 751,892.80	120.00	42.70	31.00	37.80	32.00	26.00	6.60
				\$ 2,070.00	\$ 24,840.00	\$ 298,080.00	1,440.00	\$ 512.40	372.00	453.60	384.00	312.00	79.20
Residential	SRF												
	<1	1246	5.75	\$ 7,164.50	\$ 85,974.00	\$ 1,031,714.00							
				\$ 5.90	\$ 265.50	\$ 3,186.00							
				\$ 85,974.00	\$ 1,031,714.00	\$ 12,348,764.00							
Total Revenue				\$ 100,022.40	\$ 1,217,708.40	\$ 14,380,528.00							



CITY OF SULTAN

STORMWATER UTILITY QUESTIONNAIRE

(Optional)

Name: JAMES LANGNER

Name of Company: FIBRECON PACIFIC

Address: [REDACTED] SULTAN

Phone No: [REDACTED] Fax No: _____

(Above information used for future notification only)

Do you feel the City should proceed with the stormwater utility?

Yes No

Why?: TO BEGIN PREPERATION
FOR FUTURE

If you do not want the stormwater utility, what would you suggest the City do to meet Federal and State mandates to treat stormwater?

Do you feel the \$12.35 Equivalent Residential Unit (ERU) cost is?

(1 ERU = 4,519 sq. ft. which is the average sq. ft. of impervious surface per property in the residential area of Sultan)

Appropriate Too high Too low

Please explain: AFTER SEVERAL MEETINGS
THE CITIZENS AGREED UPON
\$6.00 PER BUSINESS / HOUSEHOLD AS
A BUDGET - PLEASE TRY TO STAY IN
BUDGET

Alternate Amount: \$6.00

C-4

RECEIVED
MAY 23 2008

BY: _____



IDENTIFIED DRAINAGE PROBLEMS & CANDIDATE CIP LIST FOR SURFACE WATER

City of Sultan (**DRAFT ** Apr. 8, 2008)

- Sources:
- 2003 "Surface Water Quality Management Plan" for City of Sultan, Table 3-2, "Identified Drainage Problems"
 - Updates and Input from City Staff
 - Letter by Snohomish County Listing Fish Culvert Projects (11-17-05)
 - Site Assessment by Perteet Inc.

East Basin			
Problem ID	Location	Problem	Known Cause
E-1 (also See E-7)	132 nd St. at Culvert 1900' east of Sultan Basin Road	Flooding at culvert and street	Tail water constraint in downstream drainage channel
E-2 (also See E-8)	Cassey Road at culvert 1000' west of Rice Road	Flooding of residential yard	Culvert limitation
E-3	Rice Road 300' south of 140 th Street SE	Flooding of rural property	Tail water constraint in downstream drainage channel
E-4	Sultan Basin Road North of Bryant Road	Flooding of rural property and road	Flat grade and culvert limitation
E-5	Sultan Basin Road 400' south of Kessler Drive	Water quality point source	Common discharge point of collection pipes to drainage course
E-6	Wagleys Creek 1100' upstream of Sultan Basin Road	Flooding of nearby properties	Hydraulic limitation of drainage course
E-7	132 nd Street 1345' east of Sultan Basin Road and 132 nd Street intersection	Flooding	Unknown
E-8	132 nd Street 730' west of 339 th Avenue SE and 132 nd Street intersection	Partial Fish Barrier per Sno. County	Does not conform to WDFW Standards for fish Passage
E-9	170' south of 138 th Street and 650' east of 138 th Street and 339 th Street intersection	Sedimentation	Unknown



Problem ID	Location	Problem	Known Cause
E-10	East Main Street at 1140' east of Stevens Pass Highway and East Main Street intersection	Sedimentation	Unknown
E-11	186' north of Dyer Road and 1040' east of 10 th Street and Dyer Road intersection	Sedimentation	Unknown
E-12	170' north of Dyer Road and 1300' east of 10 th Street and Dyer Road intersection	Sedimentation	Unknown
E-13	245' south of Dyer Road and 1450' east of 10 th Street and Dyer Road intersection	Flooding	Unknown
E-14	138 th Street at 305' east of Sultan Basin Road and 138 th Street intersection	Sedimentation	Unknown
E-15	Sultan Basin Road at 345' north of Sultan basin Road and 138 th Street intersection	Flooding	Unknown
E-16	Dyer Rd. Culverts at Wagleys Creek	Partial Fish Barrier per Sno. County	Does not conform to WDFW Standards for fish Passage
E-17	Railroad Culvert at Wagleys Creek	Partial Fish Barrier per Sno. County	Does not conform to WDFW Standards for fish Passage
E-19	140 th Street at Wagleys Creek	Culvert Capacity Problem	Undersized Culvert
E-20	339 th Ave at Wagley's Creek, 700 ft. South of 132 nd Ave SE.	Partial Fish Barrier per Sno. County	Does not conform to WDFW Standards for fish Passage



Central Basin			
Problem ID	Location	Problem	Known Cause
C-2	3 rd Street and Date	Standing water in intersection	Undersized inlet piping
C-3	3 rd Street and Birch	Standing water in intersection	French drain system failing
C-5	5 th St and Alder St.	Undefined drainage problem	
C-7	Murphy Way Entrance	Standing water	No drainage at entrance
C-8	Corner of 5 th Place and 6 th Street	Sedimentation	Unknown
C-10	375' West of 10 th Street and Dyer Road intersection	Sedimentation	Unknown
C-11	South of HS Field	Low Area with No Discharge	
C-12	Bus Maint. Drive, Small Culvert	Potential Flooding of Maint. Drive	
C-13	Small Culvert on 1 st		
C-14	Murphy Way entrance	Flooding	No drainage at entrance
C-15	2 nd and Cedar	Flooding	SW corner, SE corner no drainage, standing water when raining
C-16	1 st and Date	Flooding	N side corner standing water when raining, no storm drain
C-17	2 nd and Birch	Flooding	SE side of Birch standing water when raining, no storm drain
C-18	High Street at entrance of bus barn	Flooding	Standing water
C-19	Across from Junction and Depot Lanes on 8 th Street	Flooding	No drainage facility for the road
C-20	4 th and Birch	Flooding	Standing water at times



North Basin			
Problem ID	Location	Problem	Known Cause
N-1	Trout Farm Road 300' north of Gohr Road	Deteriorating culvert	Old culvert
N-2	311 th and Wisteria	Flooding of property and road	Undersized culvert and possibly downstream limitation
N-3	Gohr Road 310' south of N Park Drive	Flooding of adjacent yard, per prop. owner	Unknown
N-4	Wisteria Avenue and Gohr Road	Flooding	Standing water when raining, no drainage
N-5	Undersized Culvert on Gohr Rd.		

West Basin			
Problem ID	Location	Problem	Known Cause
W-1	Owens Road 200' north of SR2 at Red Apple	Storm water inflow into sewer	Cross connected rain leaders and inlets
W-3	Marcus Road and W Stevens Ave	Sedimentation	Unknown
W-4	Harrison Road and W Stevens Ave	Sedimentation	Unknown

Southeast Basin			
Problem ID	Location	Problem	Known Cause
SE-1	339 th Avenue southeast and Old Sultan-Startup Road	Sedimentation	Unknown