



ORDINANCE NO. 28371

1 AN ORDINANCE relating to stormwater management; amending Chapter 12.08 of
2 the Tacoma Municipal Code by adding thereto a new Section 12.08.870, to
3 be known and designated as "Payment In-Lieu-of Construction Program," to
4 implement a voluntary program to mitigate stormwater impacts from new
development and redevelopment projects; and providing for assessment of
system development charges and maintenance surcharges.

5 WHEREAS the City of Tacoma Stormwater Management Manual ("SWMM")
6 requires certain projects to mitigate for stormwater impacts, and

7 WHEREAS the National Pollutant Discharge Elimination System ("NPDES")
8 Phase I Municipal Stormwater Permit ("NPDES Permit") allows for the use of
9 regional facilities to mitigate stormwater impacts, and
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11 WHEREAS the City owns, and may construct in the future, new or expanded
12 regional stormwater facilities that may be available to mitigate stormwater impacts
13 associated with new development and redevelopment projects in-lieu-of
14 constructing stormwater treatment or flow control facilities on the project site, and

15 WHEREAS Chapter 35.92 RCW authorizes the City to establish and collect
16 system development charges from persons to recover the property owner's
17 equitable share of the capital costs associated with the construction of new or
18 expanded regional stormwater facilities, and
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20 WHEREAS Chapters 35.92 and 35.67 RCW authorize the City to establish
21 and assess a maintenance surcharge to recover the additional cost of
22 maintenance, operation, repair, and replacement of such new or expanded
23 regional stormwater facilities providing specific benefit to properties and
24 improvements, and
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WHEREAS the City desires to establish a voluntary program (“Payment In-Lieu-of Construction Program” or “Program”) to allow applicants of qualified new development or redevelopment projects to pay a system development charge to the City in-lieu-of constructing stormwater treatment or flow control facilities on their project sites, and

WHEREAS it is necessary to amend Chapter 12.08 of the Tacoma Municipal Code to establish the proposed Program, and

WHEREAS the City Council finds that it is in the best interest of the public health, safety, and welfare to adopt the proposed Program; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

That Chapter 12.08 of the Tacoma Municipal Code is hereby amended by the addition of new Section 12.08.870, to be known and designated as “Payment In-Lieu-of Construction Program,” as set forth in the attached Exhibit “A.”

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Chief Deputy City Attorney



EXHIBIT “A”

**Chapter 12.08
WASTEWATER AND SURFACE WATER MANAGEMENT –
REGULATION AND RATES**

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Sections:

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12.08.740 Side Sewer and Sanitary Sewer Availability Manual.

12.08.870 Payment In-Lieu-of Construction Program.

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12.08.870 Payment In-Lieu-of Construction Program.

A. Purpose. This section establishes the Payment In-Lieu-of Construction Program (“Program”). Application for the Program is voluntary and not mandatory. This Program shall be available for qualified new development and redevelopment projects required to mitigate for stormwater impacts per Minimum Requirement #6 – Water Quality Treatment, or Minimum Requirement #7 – Flow Control, as defined in the City of Tacoma Stormwater Management Manual (“SWMM”). Property owners, or authorized persons on their behalf, may apply to the Director under this Program to pay a system development charge in-lieu-of constructing stormwater treatment and/or flow control best management practices on the project site. The available capacity of a regional stormwater facility to provide stormwater treatment and/or flow control for mitigation of stormwater impacts (“Mitigation Capacity”) will be allocated to qualifying benefitted premises under this Program. A system development charge will be assessed to reimburse the City for the historic capital costs to construct or expand regional stormwater facilities to provide mitigation capacity for projects approved under the Program. A maintenance surcharge may also be applicable to offset the additional maintenance costs resulting from the new or expanded regional stormwater facilities benefitting such properties.

All applications for the Program must be reviewed and approved by the Director.

B. Benefitted Premises.

For purposes of this Program, the phrase “benefitted premises” shall mean and refer to the specific parcel(s), tract(s), or lot(s), or portions thereof, the development or redevelopment of which has been approved under this Program for mitigation of associated stormwater impacts in-lieu-of constructing individual stormwater treatment and/or flow control best management practices on the project site. Such benefitted premises, and associated improvements, shall be described in the voluntary payment agreement.

C. Regional Stormwater Facility. For purposes of this Program, the phrase “regional stormwater facility” shall mean and include (1) a single stormwater facility designed to provide water quality and/or flow control for a large region or portion of a basin or subbasin and designated by the Director to be utilized under the Program to provide mitigation capacity, and (2) multiple stormwater facilities that are designed to provide water quality and/or flow control for a large region or portion of a basin or subbasin and designated by the Director to be utilized under the Program to collectively provide mitigation capacity.

D. Voluntary Payment Agreement. For purposes of this Program, the phrase “voluntary payment agreement” shall mean and refer to that agreement entered into, by, and between the property owner and the City which sets forth the terms and conditions pursuant to which the applicant agrees to pay a system development charge in consideration for the City’s covenant to make mitigation capacity available to mitigate stormwater impacts associated with development or redevelopment of the benefitted premises.

E. System Development Charge. A system development charge is a charge assessed to the property owner which represents the property owner’s equitable share of the present worth of capital cost associated with the City-owned regional stormwater facilities that will be designated under the Program to mitigate for stormwater impacts associated with the permitted project. An applicant qualified under this Program shall be assessed a system development charge. The system development charges are different for each regional stormwater facility in the Program or group of facilities. The methodology for calculation of the system



1 development charge is defined in the City of Tacoma Regional Stormwater Facility Plan and is based on the
2 present worth of capital costs for each facility. The system development charge for each regional stormwater
3 facility included in the Program shall be established by ordinance of the City Council.

4 F. Calculation; Payment. The amount of surface area requiring stormwater mitigation will be calculated based
5 upon the proposed project as approved with a City of Tacoma construction permit. An applicant cannot pay
6 for and reserve mitigation capacity within a regional stormwater facility for potential future mitigation needs.
7 Each system development charge assessed shall be paid to the City at the time of construction permit
8 issuance.

9 G. Maintenance Surcharge. A maintenance surcharge may be assessed upon the benefitted premises in
10 addition to the surface water rate or charges. The maintenance surcharge is intended to equitably recover the
11 maintenance costs associated with the regional stormwater facility. For purposes of this section, the term
12 "maintenance" shall mean and include ongoing maintenance, operation, repair, and replacement. For purposes
13 of this section, the term "maintenance costs" shall mean, as applicable, (1) the total costs of maintenance of a
14 regional stormwater facility for which all, or substantially all, of the capacity of the regional stormwater
15 facility to provide stormwater treatment and/or flow control is allocated to provide mitigation capacity under
16 this Program, or (2) the total increase in the costs of maintenance of a regional stormwater facility that has
17 been expanded to provide mitigation capacity under this Program.

18 The maintenance surcharge will be calculated by multiplying the total maintenance costs for the regional
19 facility by the percentage of total mitigation capacity of the regional facility allocated to the benefitted parcel.
20 The maintenance surcharge for each regional stormwater facility included in the Program shall be established
21 by ordinance of the City Council.

22 H. Rules and Regulations. The Director is authorized to develop and publish rules and regulations
23 implementing this Program; provided that, such rules and regulations shall be consistent with the provisions
24 of this section.

25 I. Qualification. In order to qualify for the Program outlined under this section:

26 1. The applicant shall submit a completed Program application, on forms provided by the Department,
prior to final approval of construction permits for the proposed project;

2. The proposed project must be considered a new development or redevelopment project, as those terms
are defined in the City of Tacoma SWMM;

3. The proposed project must be located in an area defined by the City of Tacoma Regional Stormwater
Facility Plan and the regional stormwater facility specific ordinance;

4. The Director must determine that the regional stormwater facility has mitigation capacity available for
the proposed project;

5. Projects shall comply with all applicable portions of the City of Tacoma SWMM and City of Tacoma
Regional Stormwater Facility Plan;

6. The applicant shall provide all information requested by the City that is reasonably related to
qualification for the Program; and

7. The property owner shall execute a voluntary payment agreement with the City, in a form approved by
the Director and the City Attorney. The benefitted premises shall be designated in the voluntary payment
agreement.

The covenants set forth in the voluntary payment agreement shall, upon recording with the Pierce County
Auditor, or successor, be credited to and considered as a benefit to the benefitted premises running with
the land; provided that, the City's covenants shall not apply to additional stormwater mitigation required
for redevelopment or new development of any portion of the benefitted premises. It shall be the
responsibility of the applicant to timely record the voluntary payment agreement as provided herein and
submit a copy of the recorded agreement to the Director. The City shall maintain a copy of the agreement
in the City's permanent records.