

ORDINANCE NO. 2009-_____

AN ORDINANCE of Asotin County, Washington relating to stormwater services, rates, fees, and charges.

WHEREAS, The Federal Clean Water Act, 33 U.S.C. 1251 et seq., requires certain political entities, such as Asotin County (the County), to implement stormwater management programs within prescribed time frames, and the Environmental Protection Agency (EPA), pursuant of the Federal Clean Water Act, 33 U.S.C. 1251 et seq., has promulgated a Phase II rule that extends coverage under the National Pollutant Discharge Elimination System (NPDES) to certain small municipal separate stormwater sewage systems (MS4s), such as the County, that apply for coverage under a NPDES Phase II municipal stormwater general permit; and

WHEREAS, the County applied for coverage under the NPDES Phase II municipal stormwater general permit on **Month Day, 200X**; and

WHEREAS, the NPDES Phase II municipal stormwater general permit program requires the County to regulate activities that impact stormwater quality; to operate and maintain a stormwater system; to protect surface water quality; to educate and involve the public in stormwater matters; and to provide for the planning, design and construction of necessary capital facilities; and

WHEREAS, Part C of the Federal Safe Drinking Water Act (SDWA) 42 U.S.C. 300h et seq. as administered in Washington State by Chapter 173-218 of the Washington Administrative Code (WAC) – UNDERGROUND INJECTION CONTROL PROGRAM – requires the location, registration, and proper operation of existing and new subsurface stormwater infiltration systems to ensure that quality of underground sources of drinking water is not endangered; and

WHEREAS, In Washington State, the EPA has delegated primacy for the Federal Clean Water Act and Federal Safe Drinking Water Act to the Washington State Department of Ecology; and

WHEREAS, Chapter 90.48 of the Revised Code of Washington (RCW) – the Water Pollution Control Act of Washington – establishes that it is the public policy of the state of Washington to maintain the highest possible standards to insure the purity of all waters of the state consistent with public health and public enjoyment thereof, the propagation and protection of wild life, birds, game, fish and other aquatic life, and the industrial development of the state, and to that end requires the use of all known available and reasonable methods to prevent and control the pollution of the surface waters and groundwaters of the state of Washington from discharges including those arising from stormwater runoff; and

WHEREAS, the County is required to comply with these applicable stormwater and surface water regulations under federal and state laws, and implementation by the County of the stormwater pollution prevention programs required by these regulations is a necessary part of providing stormwater services and operating storm sewer systems; and

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WHEREAS, the development of property adversely affects stormwater quality, generates stormwater runoff, and otherwise necessitates stormwater regulation and management and burdens the stormwater system; and

WHEREAS, owners of developed property will benefit from the provision of stormwater management services and from the operation of the system; and

WHEREAS, The County desires to form a Storm Drainage and Surface Water Management Utility to regulate public and private activities that impact stormwater discharges, and to provide related facilities and services, in order to promote and protect the public health, safety and welfare; minimize water quality degradation; protect aquifers; ensure the safety of County roads and right-of-ways; assure compliance with federal and state storm drainage, surface water management, and water quality regulations; encourage the preservation of natural drainage systems; and

WHEREAS, the County is authorized to own and operate a Storm Drainage and Surface Water Management Utility, and to impose charges thereof, pursuant to RCW 36.94 and 36.89; and

WHEREAS, the revenues to be generated by the rates set forth in this ordinance will be used solely for purposes of storm drainage and surface water management.

**THE COUNTY COMMISSIONERS OF ASOTIN COUNTY, WASHINGTON, DO
ORDAIN AS FOLLOWS:**

ARTICLE I – STORM DRAINAGE AND SURFACE WATER MANAGEMENT UTILITY

I.01 Legislative Findings and Policy.

The Board of Asotin County Commissioners find, determine and declare that the streams, rivers, lakes, ponds, waterways, groundwater, and functionally related natural and manmade stormwater control facilities constitute a stormwater control facility.

The Commissioners find, determine and declare that the public stormwater control facility including its administration, which provides for the collection, treatment, storage and disposal of stormwater, provides benefits and services to all developed property within the unincorporated County limits where such services and facilities are available. Such benefits include, but are not limited to: the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater; the reduction of hazards to property and life resulting from stormwater runoff; improvements in general health and welfare through reduction of undesirable stormwater conditions; and improvements to the water quality of the stormwater and its receiving waters. State and federal laws mandate that operation of such systems requires Asotin County to implement regional water quality protection activities and programs to reduce and control the

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potential to pollute surface waters and groundwaters by storm drainage originating on both public and private properties.

The Commissioners find, determine and declare that development of lands alter both the amount of stormwater runoff and the amount of pollution contained in such runoff and that the variation in these two factors constitutes a fair way to determine the burdens imposed upon the system and the benefits of the services received by the customer from the pollution management and regulatory services and facilities provided by a utility for storm drainage and surface water management, and the customer's charges for management of such burdens and provision of such services and facilities.

The Commissioners find, determine and declare that the amount of impervious surface, land use, and rainfall will determine the volume of runoff and the general level of pollution from a property, which has been well established in both engineering practice and water quality studies by the Environmental Protection Agency, the Department of Ecology, the United States Geological Survey, the Soil Conservation Service, and others. While the relationships established by the above studies are adequate to assign charges, the County Storm Drainage and Surface Water Management Utility may perform local studies and based upon the results of these, may adjust rates and charges in the future to more accurately reflect the burdens imposed by customer classes within the Asotin County.

The Commissioners find, determine and declare that to fund the costs of storm drainage and surface water management in the Urban Area, it is necessary to adopt service charges for stormwater users, with rates varying according to the services furnished, the burdens imposed or benefits received by Urban Area customers; and the character, use and stormwater runoff characteristics of the land.

I.02 Creation of Asotin County Urban Area Storm Drainage and Surface Water Management Utility.

Pursuant to RCW 36.94 and 36.89, there is hereby created an Asotin County Urban Area Storm Drainage and Surface Water Management Utility.

The Storm Drainage and Surface Water Management Utility, under the legislative policy, supervision and control of the governing body of the County, shall perform the following activities within the Urban Utility Service Area:

1. Administer the acquisition, design, construction, maintenance and operation of the public stormwater and surface water system, including capital improvements designated in the capital improvement program;
2. Administer and enforce this ordinance and all regulations and procedures adopted thereto relating to the design, construction, maintenance, operation and alteration of the stormwater and surface water system, including, but not limited to, the quantity, quality and/or velocity of the stormwater conveyed thereby;

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3. Advise the County's governing body and other County departments on matters relating to the utility;
4. Prepare and periodically revise, as determined by state and federal law, comprehensive stormwater management and drainage plans for adoption by the County's governing body;
5. Develop standards and ordinances relating to stormwater drainage and treatment to apply to new development and redevelopment;
6. Enforce regulations to protect and maintain water quality and quantity within the stormwater and surface water system in compliance with water quality standards established by state, regional and/or federal agencies as now adopted or hereafter amended;
7. Periodically analyze the cost of services and benefits provided to, and burdens imposed by, different classes of customers, and the system and structure of fees, charges, civil penalties and other revenues of the utility, and prepare budgets for adoption by the County's governing body; and
8. Perform all other activities allowable by law and required to ensure compliance with state and federal stormwater and surface water quality laws.

I.03 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this article:

1. "Base Rate" means the stormwater user's fee for an equivalent residential unit (ERU).
2. "County" means the Asotin County, Washington, a political subdivision created and existing under the laws of the state of Washington.
3. "Credit" means the extent to which utility customers meeting specified criteria are billed at a reduced fee, such reduction representing a fee credit. The fee credit is provided in recognition that those utility customers who meet the specified criteria provide an in-kind service or contribution that offsets a portion of the burdens on the stormwater system imposed by the credited parcel.
4. "Developed Property" means real property that has been altered from its natural state by the creation or addition of impervious surface areas, such as buildings, structures, pavement or other improvements.
5. "Director" means the duly appointed Director of the Asotin County Department of Public Works or his/her designee.

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6. “Duplex, Tri-plex, and Four-plex” mean buildings designed and arranged exclusively for occupancy by two (2), three (3), and four (4) families, respectively, living independently of each other in separate dwelling units.
7. “Dwelling Unit” means a single unit providing complete, independent living facilities for one (1) family including permanent provisions for living, sleeping, eating, cooking, and sanitation.
8. “Fee” or “Stormwater Fee” means the charge established under this ordinance for parcels or pieces of real property to fund the costs of stormwater management and of operating, maintaining, and improving the stormwater system within the Urban Utility Service Area.
9. “Impervious Surface” means a surface which is covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded, compacted, or any other surface which impedes the natural infiltration of surface water.
10. “Impervious Surface Area” means the number of square feet of horizontal surface covered by buildings and other impervious surfaces.
11. “Multiple Family Dwelling Unit” means a building or portion thereof, designed for, or occupied by five (5) or more families living independently of each other in separate dwelling units.
12. “National Pollutant Discharge Elimination System” or “NPDES” refers to the federal permit system under the Clean Water Act for discharges of pollutants to surface waters of the United States. Congress amended the Clean Water Act in 1987 to regulate stormwater. Under the revisions, NPDES Phase II permits are required for municipal stormwater discharges to surface waters.
13. “Nonresidential Parcel” means a parcel which has been developed for any purpose other than a single-family residence, duplex, tri-plex, or four-plex and includes, but is not limited to, commercial parcels, industrial parcels, parking lots, hospitals, schools, hotels, offices, churches, governmental parcels and multiple family dwelling units.
14. “Residential Parcel” means a parcel which has been developed as a single-family residence, a mobile home on a separate parcel, and other parcels where the primary use is residential, excluding apartment complexes.
15. “Single-Family Residence” means a parcel which has been developed with a residential structure designated for occupancy by one (1) family or household unit, including mobile homes and manufactured homes on a separate parcel.
16. “Stormwater” means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes and other features of a

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stormwater drainage system into a defined surface waterbody or a constructed infiltration facility.

17. “Stormwater Control Facility” means the streams, rivers, lakes, ponds, waterways, groundwater, and functionally related natural and manmade stormwater control facilities that combined constitute the County stormwater control facility.
18. “Stormwater Management Fund” or “Fund” means the enterprise fund created by this ordinance to operate, maintain, and improve the County’s Urban Area stormwater system.
19. “Storm Drainage and Surface Water Management” means the planning, design, construction, regulation, improvement, repair, maintenance, and operation of Urban Area facilities and programs relating to stormwater.
20. “Stormwater and Surface Water System” or “Stormwater System” means all properties, interest, physical and intangible rights of every kind or nature owned, held or operated by the County within the unincorporated Urban Area of the County, however acquired, insofar as they contribute to the management of storm or surface water. It shall further include without limitation, all such properties, interests and rights acquired by adverse possession or by prescription, directly or through another; in and to the drainage or storage, or both of storm or surface waters, or both; and through, under, or over lands, landforms, watercourses, streams, ponds and swamps. In each case or instance, their inclusion begins at a point where storm or surface waters first enter the stormwater control facility of the County within the County limits, and ends where storm or surface waters exit from the stormwater control facility of the County within the County limits, and in width to the full extent of inundation caused by the largest storm or flood condition.
21. “Storm Drainage and Surface Water Management Utility” or “Stormwater Utility” or “Utility” means the Urban Area Storm Drainage and Surface Water Management Utility created by this ordinance as it may be amended from time to time.
22. “Undeveloped Property” means property that has not been developed resulting in the creation of impervious surface. Undeveloped property has no improvements, generates little to no traffic, and generally exists in a natural state, thereby imposing little burden upon the system and receiving no benefit from the utility’s services. This includes property previously used for agricultural crop production.
23. “Urban Area” means the Utility service area encompassing the unincorporated area around the cities of Clarkston and Asotin where more stormwater regulations apply, greater stormwater burdens arise from increased levels of impervious surface and higher intensity stormwater programs will be in effect. The Urban Area is determined by combining: (1) the areas of the federally defined Lewiston Urbanized Area under the jurisdictional control of Asotin County and (2) lands within the Clarkston-Asotin Urban

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Area that are zoned to allow development of a more urban character than rural County lands and therefore impose a greater burden upon the system.

24. “Urban Equivalent Residential Unit” or “Urban ERU” means, and is equal to, 3,700 square feet of impervious groundcover, which constitutes the median impervious surface area contained on single-family residential parcels within the Asotin County Urban Area, City of Clarkston, and City of Asotin. An ERU is the unit of impervious groundcover to be used by the utility in calculating service charges for each parcel of property in the Urban Area.
25. “Waiver” means that determination by the Director/Other that a utility customer’s property has met the criteria specified in Article I.15 to receive a waiver from paying stormwater fees. Any waiver will require a showing that parcels that meet the specified criteria provide an in-kind service or contribution that offsets the burdens on the stormwater system imposed by the parcels subject to the waiver.

I.04 Funding of Urban Area Storm Drainage and Surface Water Management Utility.

Funding for the Storm Drainage and Surface Water Management Utility’s services and facilities may include, but not be limited to, the following:

1. Stormwater user’s fees;
2. Civil penalties and damage assessments imposed for or arising from the violation of this ordinance;
3. Stormwater permit, development and/or inspection fees;
4. Revenue bonds and/or general obligation bonds; and
5. Other funds or income obtained from federal, state, local or private grants and/or loans.

I.05 Special Operating Fund.

All revenues generated by, or on behalf of the stormwater utility shall be deposited in a special fund in the County Treasury. The revenue deposited into this special fund shall be used in accordance with state law and used only for the purposes of constructing, acquiring, adding to, maintaining, replacing, conducting, operating, managing, regulating, and controlling the stormwater system within the Urban Utility Service Area, or to secure the payment of all or any portion of any issue of general obligation bond or revenue bond issued for such purposes, or for other legal purposes consistent with this ordinance.

I.06 Operating Budget.

The County Commissioners shall adopt an operating budget for the Urban Area Storm Drainage and Surface Water Management Utility each fiscal year. The operating budget shall set forth for

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such fiscal year the estimated revenues and the established costs for operations and maintenance, capital improvement projects, and debt service.

I.07 Investments.

Moneys in the fund not needed for immediate expenditures shall be invested for the benefit of the storm drainage and surface water management fund pursuant to the first paragraph of RCW 36.89.020 and such procedures and limitations contained in County ordinance.

I.08 Reserve Account.

An operating and emergency reserve account shall be maintained with the designated funds to provide for cash flow, emergencies and capital improvement project needs.

I.09 Bad Debts

The storm drainage and surface water management utility is authorized to write off debts upon specific approval by the Asotin County Board of County Commissioners by resolution after determination of uncollectability using collection process concluding with the use of a collection agency if needed.

I.10 Stormwater User's Fees Established

Except with respect to those parcels that are waived from paying fees as described in **Article I.15**, the County shall charge and collect from the owner of each and every developed property in the unincorporated County a stormwater user's fee, which shall be set in the manner and amount as determined from time to time by resolution of the County Commissioners. The purpose of this fee is to fund the Urban Area Storm Drainage and Surface Water Management Utility.

Prior to establishing or amending user fees, the County shall advertise its intent to do so by publishing notice in a newspaper of general circulation in the County. The publication date of such advertisement shall meet public notice requirements of local and state laws.

I.11 Delineation of Storm Drainage and Surface Water Management Utility Boundary

The County Commissioners find that there is a large variation in the density of development and the proportion of the land covered by impervious surfaces between Urban and Rural areas of the County. The County Commissioners further find that there is also a variation in the number of stormwater regulations that apply between the Urban and Rural areas of the County, thus affecting the intensity of the required management programs. The County Commissioners find that Utility services are necessary within the Urban Area of the County. Therefore, Asotin County parcels shall be divided into the following two (2) categories: (a) those that fall within the Urban Utility Service Area shall be known as Urban Area parcels and are subject to the charges set forth by this ordinance; and (b) those that fall outside the Urban Utility Service Area shall be known as Rural Area parcels and are not subject to the charges set forth by this ordinance.

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1. The boundary of the Urban Area Utility Service Area shall incorporate parcels within the following areas: (1) the boundary of the Federal Census Bureau defined Lewiston Urbanized Area located in Washington State; and (2) the Clarkston-Asotin Urban Area boundary.

The current boundary of the Urban Area Utility Service Area shown in **Exhibit 1** is hereby incorporated into this ordinance. A list of all parcels included in the Urban Utility Service Area is attached as **Exhibit 2** and is incorporated into this ordinance. Stormwater user's fees shall apply to parcels created by future subdivision and mergers of parcels in **Exhibit 2**.

The Urban Utility Service Area boundaries and parcels included shall adjust as lands are rezoned, changes to urban growth areas are made, and as lands are annexed into cities.

I.12 Equivalent Residential Unit

1. Establishment. The Urban Equivalent Residential Unit (ERU) is hereby established for purposes of calculating the stormwater user's fee.
2. Definition. The Urban ERU is the approximate median average square footage of impervious surface area on a single-family residential parcel.
3. Setting the ERU. The ERU shall be set by the County Commissioners from time to time by ordinance or resolution. The ERU is presently set as 3,700 square feet and was determined through the measurement of impervious surface on a random sample of single-family residential properties within the Urban Area in and around the cities of Clarkston and Asotin.
4. Source of ERU. The impervious surface area of developed property shall be determined through property tax assessor's rolls or site examination, mapping information, aerial photographs, and other reliable information.

I.13 Property Classification for Stormwater User's Fee

As authorized by RCW Chapters 36.89 and 36.94, the County Commissioners find that variations in land use, location and impervious surface results in differences in the burdens imposed upon the stormwater system and the costs to serve such parcels. County parcels shall be differentiated from one another based upon the stormwater burdens imposed and the costs of County stormwater services.

1. Customer Classification. For purposes of determining the stormwater user's fees, owners of all developed parcels in the County are classified into one of the following general classes:
 - a. Urban residential;

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- b. Urban Duplex, Tri-plex and Four-plex;
- c. Urban non-residential; and
- d. Exempt.

To reflect the burdens imposed upon the County stormwater system, parcels with facilities deemed to be more industrial or commercial in nature will have fees determined in the same manner as the non-residential class regardless of the land use codes assigned by the County Assessor or zoning.

2. Urban Residential Fee. The stormwater fee for Urban residential parcels shall equal the Urban Area base rate. Condominiums shall be assigned one ERU per residential dwelling unit. The fee for commercial mobile home parks shall be determined using the same methodology as used for Urban non-residential parcels.
3. Urban Duplex, Tri-plex, Four-plex Fee. The stormwater fee for an Urban duplex, tri-plex and four-plex shall equal one half the Urban Area base rate multiplied by the number of dwelling units.
4. Urban Non-residential Fee. Owners of developed non-residential parcels in the Urban Area shall pay a stormwater fee equal to the Urban Area base rate multiplied by the numerical factor obtained by dividing the estimated total impervious surface area of the parcel by one ERU. The minimum stormwater fee for developed non-residential parcels shall equal the base rate for Urban residential parcels.

I.14 Base Rate and Appeal Fee Establishment and Review

1. Base Rate. The base rate shall be calculated to provide adequate revenues to cover all costs allowable under applicable law that are incurred by the Storm Drainage and Surface Water Management Utility. The base rate for services to utility customers shall be determined from time to time by resolution of the County Commissioners. The effective date for such rates shall be established as set forth in the appropriate resolution of the County Commissioners.

The utility base rate schedule and fees set by resolution of the County Commissioners shall be reviewed periodically and revised as necessary to reflect any changes in operation and capital costs and to ensure fair and full funding of the program.

2. Appeal Fee. The appeal fee shall be calculated to provide adequate revenues to cover all costs associated with the review and processing of requests for adjustment to customer charges as described in **Article I.18**. The appeal fee shall be determined from time to time by resolution of the County Commissioners. The effective date for such fees shall be established as set forth in the appropriate resolution of the County Commissioners.

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The appeal fee set by resolution of the County Commissioners shall be reviewed periodically and revised as necessary to ensure fair and full recovery of costs for review and processing of appeals.

I.15 Adjustments to Stormwater User's Fees

Credits allowed under this section shall not be cumulative. Credits or waivers must be granted by the **Director/Other** by October 15th of a given year in order for the credit or waiver to be in effect for the following billing season. Credits or waivers are not retroactive to current or prior billings and are only in effect for the next billing cycle. Credits or waivers may be in effect for multiple future billing cycles provided that ongoing qualifying criteria are met. The **Director/Other** will take such time as necessary to process requests for credits or waivers in an orderly fashion. Late requests and related submittals of information may result in credits or waivers being granted too late to be applied for the following billing cycle.

1. Credits for Qualified Stormwater Facilities. The County Commissioners recognize that some parcel owners have constructed or will construct private on-site stormwater quality and quantity mitigation facilities, which, when properly operated and maintained, may aid the County in controlling the overall effects of stormwater pollution. Parcels or portions of parcels with facilities that meet the criteria listed below, to the **[Director/Other]**'s satisfaction, shall receive a reduction of **XX%** from the annual fee charged under **Article I.14** as currently enacted or hereafter amended for that portion of the site draining to such facilities.
 - a. Any non-residential category parcel with a properly constructed and maintained stormwater retention facility that meets or exceeds the design requirements of the 2004 Department of Ecology Stormwater Management Manual for Eastern Washington or an equivalent Design Manual adopted by the County. Retention facilities include engineered stormwater evaporation or infiltration systems. Owners of subsurface stormwater infiltration systems shall provide evidence of compliance with the Washington State Underground Injection Control Program (Chapter 173-218 WAC) in order to receive the discount.

The property owner is responsible for providing all documentation necessary to demonstrate compliance with the above requirements. Documentation shall be by a licensed engineer with the State of Washington. In the event facilities or control measures address only a portion of the total parcel, the credit will be applied to only that affected portion. The customer must maintain any water quantity and/or quality control facility in accordance with Department of Ecology maintenance guidelines and appropriate practices, to ensure proper function and effectiveness of the facility. Non-residential category property owners receiving credits shall agree to allow the County to periodically inspect the subject stormwater facilities. The County may request documentation from facility owners to verify that proper maintenance has been performed. The County may notify owners in writing of maintenance needs or deficiencies. Failure to maintain the facilities within **thirty (30)** days after written notice may be cause for termination of the adjustment authorized by this section.

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2. Credits for Properties Covered by Industrial or Municipal Stormwater Permits. The County Commissioners recognize that some parcel owners have been required or will be required to obtain coverage under a separate NPDES stormwater permit, which authorizes stormwater discharges associated with certain industrial or municipal activities. The County Commissioners further recognize that such permit holders are required to develop extensive stormwater management programs, which, when properly implemented, can reduce the discharge of pollutants into the public stormwater and surface water system and aid the County in controlling the overall effects of stormwater pollution. Parcels or portions of parcels that meet one of the criteria listed below, to the [Director/Other]'s satisfaction, shall receive a reduction of XX% from the annual fee charged under **Article I.14** as currently enacted or hereafter amended for that portion of the parcels covered under an applicable NPDES stormwater permit.
 - a. Any parcel that has an active and valid NPDES Industrial Stormwater Permit. A copy of the permit and the Stormwater Pollution Prevention Plan (SWPPP) shall be provided to the Director/Other.
 - b. Any parcel that has an active and valid NPDES Municipal Stormwater Permit. A copy of the permit and current version of the Stormwater Management Plan (SWMP) shall be provided to the Director/Other.

The property owner is responsible for providing all documentation necessary to demonstrate compliance with the above requirements. In the event that an applicable NPDES stormwater permit addresses only a portion of the total parcel, the credit will be applied to only that affected portion. Non-residential category property owners receiving credits shall agree to allow the County to periodically inspect/review any applicable on-site stormwater facilities and/or stormwater management activities conducted by permit holders. Failure to comply with these provisions may be cause for termination of the adjustment authorized by this section.

3. Credit for Rainwater Harvesting Systems.
 - a. Per RCW 35.67.020 (3), owners of new or remodeled non-residential class buildings that utilize a properly constructed and maintained permissive rainwater harvesting system shall be eligible for a 10% credit applied toward that portion of their stormwater charge arising from the building upon which the system is used.
 - b. Customers desiring this credit shall apply to the Director/Other and shall submit engineering design and operational information as deemed necessary by the Director/Other to make their evaluation and decision. The Director/Other will consider additional credit in excess of 10%, up to a maximum of XX%, based upon the amount of rainwater harvested. Rainwater harvesting and beneficial reuse of the runoff is found by the Commissioners to both reduce the burden imposed upon the system by the building by reducing runoff and to also have

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other beneficial water quality effects such as reduced consumption of potable water.

4. Credits for Low-Income Senior and Low-Income Disabled Households. Upon submittal of the necessary verification documentation to the **Director/Other**, low-income senior and disabled households receiving relief under RCW 84.36.381(5)(a), RCW 84.36.381(5)(b)(i), or RCW 84.36.381(5)(ii) shall receive a **XX%** credit from the annual fee charged under **Article I.14** as currently enacted or hereafter amended. Verification of eligibility under RCW 84.36.381 must be provided to the Director/Other by October 15th of any year in order to be eligible for the credit in the following billing season. Credits shall not be retroactive to the current or preceding billing cycle.
5. Credits or Waivers for Schools Participating in Stormwater and Surface Water Education. The County Commissioners find that many of the concerns about stormwater quality are created by a general lack of knowledge about the relationship between human activities and the health of the environment. Pursuant to RCW 36.89.085, the County Commissioners also find that Public and Private schools can provide regional benefits to the County's Stormwater and Surface Water Management Program by carrying out certain types of educational and community activities related to protection and enhancement of surface water, groundwater, and stormwater quality. Kindergarten through grade 12 schools that are in compliance with all requirements for their own stormwater facilities, and that are carrying out surface water, groundwater, and stormwater quality educational and community activities in cooperation with the County may apply to the **Director/Other** for a credit towards, or waiver from, their stormwater fees. The amount of an approved credit, or the issuance of a waiver, shall depend upon the nature and extent of the programs and activities being performed. Schools shall pay the full charge under **Article I.14** as currently enacted or hereafter amended until such time as a discount or waiver is granted by the **Director/Other**.
6. Waiver of Utility Fees for Certain Property. The **Director/Other** shall waive stormwater and surface water utility fees for a parcel falling within the following special categories of property upon a showing that the parcel meets the following applicable criteria for so long as the criteria are met:
 - a. Fees shall be waived for County roads and street rights-of-way provided that the County transportation system continues to be an integral component of the County stormwater control facility.
 - b. Fees shall be waived for State of Washington highway rights-of-way, provided the State of Washington cooperates with the utility in the provision of services and maintains, constructs and improves 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 County.

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- c. Fees shall be waived for municipal, county, and state and federal parks, fishing areas, wildlife reserve, public trails and bike paths so long as their owners cooperate with the utility in the provisions of educational services and water quality control efforts. Parks, trails and bike paths have minimal intensity of impervious development and provide opportunities for natural resource education and development of an appreciation for water quality.
- d. Fees shall be waived for all undeveloped parcels. The County Commissioners find that such parcels generally have no improvements built on them, generate little to no traffic, utilize no chemicals, generate less runoff, and generally are in a natural state, thereby imposing no burden upon the system and receiving no benefit from the utility's services and facilities. Information that a property categorized as undeveloped is being used otherwise may result in a loss of this waiver.

I.16 Property Owners to Pay Fees

The owner of each non-waived parcel within the boundaries of the Urban Utility Service Area, as they now exist or as they may be hereafter amended, shall pay the stormwater user's fee and charges as provided in this article. Property owners seeking credits or waivers shall pay the full fee until such time that the credit or waiver is granted by the **Director/Other**, after which reduced fees will be applied.

I.17 Billing Procedures and Penalties for Late or Non-payment

1. The charges as herein provided for shall be billed annually, shall be due on or before the **30th day of April**, and shall become delinquent thereafter if not paid.
2. Collection of delinquencies, interest, penalty, and costs of collection for delinquent utility fees provided for herein shall be charged interest on the delinquent balance at the rate of **eight percent (8%)** per annum, computed on a monthly basis. A penalty of **ten percent (10%)** of the fee for the parcel shall be added to charges that are more than **six** months delinquent. The County shall have a lien for delinquent charges, including interest and penalties thereon, against the real property for which the service charges are calculated. The lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. The **Director/Other** may excuse delinquencies of less than **thirty (30)** days.
3. Pursuant to RCW 36.89.090, Yakima County shall place a lien on any parcel with a delinquent account, including interest thereon. Liens shall be effective and shall be enforced in the same manner as provided for sewerage liens of Cities and Towns by RCW 35.67.200 through 35.67.290, except that the lien shall be effective for a total not to exceed one year's delinquent fees without the necessity of any writing or recording of the lien with the County Auditor, as provided for in RCW 35.89.093, in lieu of the provisions of RCW 35.67.210. In accordance with RCW 36.89.094, the County may commence to

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foreclose a delinquent account lien after three (3) years from the date the account becomes delinquent, in lieu of the provisions provided for in RCW 36.89.230.

- 4. Delinquent accounts shall bear interest at a rate of eight percent (8%) per annum calculated on a monthly basis from the time of the delinquency to the date the account is made current.

I.18 Appeals of ERU Determination

If an owner of a non-residential parcel subject to this article, or other responsible party, believes the ERU applied to their property is incorrect or otherwise disagrees with the utility rate determination, the owner may appeal the correctness of the ERU to the Director/Other within thirty (30) calendar days of the initial mailing of the billing for the fee. Such appeals shall be in writing and shall specify the grounds of the appeal and the requested remedy and shall include a non-refundable appeal fee. The Director/Other shall work with Other to resolve appeals. Upon resolution of the appeal, an appropriate adjustment to the ERU will be made accordingly. Decisions of the Director/Other regarding such appeals and rate adjustments shall be final after thirty (30) days of the date the decision was mailed.

I.19 Severability

If any section, subsection, paragraph, sentence, clause or phrase of this article is declared invalid or unconstitutional for any reason, such decision shall not affect the validity of the remaining portions of this article.

I.20 Effective Date of Service Charge

This ordinance shall be in full force and take effect X (X) days from and after its publication, or a summary thereof published, in the official newspaper of Asotin County.

PASSED by the County Commissioners at a regular meeting held on the _____ day of _____, 200X.

ATTEST:

ASOTIN COUNTY BOARD OF COMMISSIONERS

Vivian Bly
Clerk of the Board

Don Brown, Chairman

APPROVED AS TO FORM:

Doug Mattoon, Vice-Chair

Jane Bremner Risley
Chief Deputy Prosecuting Attorney
WSBA #20791

R.E. (Buck) Lane, Member