

CHAPTER 14.28

STORMWATER

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14.28.010: Definitions: The following definitions control for the purposes of this chapter:

- (1) “City” shall mean the City of Kennewick, Washington, a municipal corporation.
- (2) “City Manager” shall mean the City Manager of the City of Kennewick, Washington, or his or her designee.
- (3) “Commercial” shall mean those units, both public or private and profit or nonprofit in nature that inhabit the community for the use, service or benefit of the citizenry solely within the community area except “other non-residential.”
- (4) “Dwelling Unit” shall mean a building or portion thereof designed as a residence or the living quarters of one or more persons living together, or of one family.
- (5) “Developed Parcel or Developed Property” means any parcel altered from the natural state by the construction, creation, or addition of impervious surfaces.
- (6) “Drainage Facility” means the system of collecting, conveying, and storing surface and stormwater runoff. Drainage facilities shall include, but not be limited to all surface and stormwater conveyance and containment facilities including streams, pipelines, channels, ditches, swamps, lakes, wetlands, closed depressions, infiltration facilities, retention/detention facilities, erosion/sedimentation control facilities, and other drainage structures and appurtenances, both natural and constructed.
- (7) “Impervious Area” means those surfaced areas which prevent or retard the entry of water into the soil in the manner that such water entered the soil under natural conditions preexistent to development, or which cause water to run off the surface in greater quantities or at an increased rate of flow than what would have occurred under natural conditions preexistent to development, including but not limited to, such compacted or covered surfaces as rooftops, asphalt or concrete sidewalks, paved driveways, roadways and parking lots, walkways, patio areas, storage areas, and compacted gravel, oiled macadam or other surfaces which similarly affect the natural infiltration or runoff patterns existing prior to development.

(8) “Multi-Family” shall mean two or more dwelling units, including apartments, duplexes, mobile home parks and any other residential structure except hotels, motels, and similar temporary transit accommodations or where more than one residential dwelling unit is connected to a single water meter.

(9) “Other Non-Residential” shall include properties used for public and private elementary, middle and high schools, churches, synagogues, and mosques.

(10) “Owner” shall mean the property owner of record, according to the Benton County Auditor’s office.

(11) “Parcel” means the smallest separately segregated unit or plot of land having an identified owner, boundaries, and surface area which is documented for property tax purposes and given a tax lot number by the Benton County Assessor.

(12) “Property Owner of Record” means a person or persons shown in the records of the Benton County Assessor to be the owner of property and to whom property tax statements are directed.

(13) “Residential” shall mean a single dwelling unit. Private boarding houses and other such businesses shall be considered under this category.

(14) “Stormwater” means the water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes, and wetlands as well as shallow groundwater.

(15) “Utility” shall mean the City of Kennewick, Washington Stormwater Utility, a utility authorized to plan, own, administer, maintain, operate, construct, procure and preserve all City storm drainage systems and related facilities.

(16) “Vacant Land” shall mean property with no man-made impervious surfaces thereon including property designated as public open space. (Ord. 5260 Sec. 4, 2009)

14.28.020: Creation of Stormwater-Utility-Authority: There is hereby created and established a stormwater utility, a separate enterprise, and facility. The utility is authorized to plan, own, administer, construct, maintain, operate and preserve all City stormwater infrastructure and facilities as now exist and as may be added to in the future by the addition of other existing or the construction or procurement of storm drainage systems or related facilities. In addition to its authority over City stormwater facilities, the utility is authorized to administer, maintain, and operate the street sweeping functions of the City's street maintenance program. The utility is also being created to address other elements associated with compliance with the City’s stormwater permit. (Ord. 5260 Sec. 4, 2009)

14.28.030: Governing Body and Management of Stormwater Utility: The City Council shall be the governing body of the stormwater utility. Management of the utility shall be provided by the City Manager. (Ord. 5260 Sec. 4, 2009)

14.28.040: Ownership of Stormwater Facilities: Title and all other incidents of ownership of the following assets are hereby vested in the utility: all properties, interest and physical and intangible rights of every nature owned or held by the City, however acquired, insofar as they relate to:

- (1) Drainage systems and related maintenance facilities.
- (2) Street sweeping and other stormwater maintenance equipment. (Ord. 5260 Sec. 4, 2009)

14.28.050 Liability Disclaimer:

(1) Floods from stormwater runoff may occasionally occur which exceed the capacity of storm drainage facilities constructed and maintained by funds made available under this chapter. The City's adoption of this code does not imply that property liable for the storm and surface water drainage charge shall always be free from stormwater flooding or flood drainage. Further, this code does not purport to reduce the need or the necessity for any property owner to obtain flood insurance.

(2) This chapter shall be administered and enforced for the benefit of the health, safety, and welfare of the general public, and not for the benefit of any particular person or class of persons.

(3) No provision of or any term used in this chapter is intended to impose any duty upon the City or any of its officers or employees which would subject them to damages in a civil action. (Ord. 5260 Sec. 4, 2009)

14.28.060: System of Rates and Charges:

(1) Active residential, multi-family, commercial, or other non-residential water or sewer accounts, and developed properties without a city utility account located within the boundaries of the City shall be assessed a monthly stormwater utility rate. Due to their increased impacts on the public stormwater system, commercial and other non residential accounts shall incur an additional charge.

(2) The stormwater utility categories, monthly rates and charges shall be established by the City Council by a separate resolution. These rates and charges shall be adjusted annually, without separate resolution and in accordance with Section 14.28.120, to reflect changes in the Consumer Price Index.

(3) Developed commercial property or other non-residential property without a water or a sewer account within the boundaries of the City shall be assessed a stormwater utility base rate plus the appropriate additional charge.

(4) Exempt properties. The owners of the following properties are exempt from the charges imposed by this section:

- (a) All vacant property.
- (b) All city-owned property, streets and railroads.
- (c) Airport runways, taxiways, hangars, and other buildings used primarily by airplanes. (Ord. 5260 Sec. 4, 2009)

14.28.070: Billing and Collection:

(1) Stormwater utility rate and charges, as imposed by Section 14.28.060 of this chapter shall be computed on a monthly or bi-monthly basis and shall be included as a separate charge listed on the City utility bill. Stormwater rates and charges will be billed as follows:

- (a) To residential, multi-family, commercial, and other non-residential active water or sewer utility customers; or
- (b) To commercial active water or sewer utility customers and the remaining to the parcel owner when a parcel has multiple water or sewer accounts; or
- (c) To the property owner when no other utility services are provided at a specific location or property.

(2) The City Manager is hereby authorized to administer the billing and collection of stormwater utility rate and charges, including the development of any rules or regulations which are consistent with this chapter and are necessary for its administration. In the event a property does not have utility service but is subject to charges imposed by this chapter, a new

account shall be established and that property shall be billed separately for the stormwater utility charges. (Ord. 5260 Sec. 4, 2009)

14.28.080: Remedies: In the event a customer or property owner shall fail to pay the stormwater utility rate or charge, the City shall have the authority to terminate domestic water service to said property or customer. Termination of such water service shall not limit other remedies available to the City under state law. Collection and enforcement shall be as provided in the statutes of the State of Washington, RCW 35.67 et seq., as they currently exist or may hereafter be modified and construed. (Ord. 5260 Sec. 4, 2009)

14.28.090: Appeals: Any customer or property owner who feels that the stormwater utility rate or charge as set forth in Section 14.28.060 for their property has been incorrectly computed or applied, may petition, in writing, to the City Manager for a review of said computations or application. The decision of the City Manager shall be final. (Ord. 5260 Sec. 4, 2009)

14.28.100: Use of Stormwater Utility Funds: The proceeds from the rates and charges imposed by Section 14.28.060 of this chapter shall be used for stormwater system operation and maintenance, street sweeping, regulatory compliance, planning, administration, investigation, inspection, enforcement, public involvement, and the design, procurement, construction, restoration and preservation of the storm drainage system. (Ord. 5260 Sec. 4, 2009)

14.28.110: Use of Other Proceeds by Stormwater Utility: The stormwater utility may finance the planning, design, administration, construction, operation, maintenance, restoration, procurement and preservation of stormwater infrastructure and related facilities through local improvement districts and utility local improvement districts, or with the proceeds of revenue bonds, or any combination thereof. In addition, the utility, through appropriation by the City Council, may use funds from general taxation, money received from the federal, state, or other local governments and other funds made available to it. (Ord. 5260 Sec. 4, 2009)

14.28.120: Indexing Rates and Charges: The rates and charges for stormwater set out in Section 14.28.060 shall be indexed annually by the City Manager to reflect one hundred percent (100%) of any change from the Consumer Price Index (U.S. Cities - Urban Wage Earners and Clerical Workers – CPI-W) for October, or other comparable index if not published. The City Manager shall adjust the rates and charges and publish them each December to take effect on all goods and services delivered or contracted after the beginning of each year and all utility bills mailed after the first of each year. In no event shall the cumulative change in rates or charges be less than zero percent (0%) nor more than four percent (4%) per year. Unit prices shall be to the nearest cent. (Ord. 5260 Sec. 4, 2009)

14.28.130: Severability: If any portion of this chapter as now or hereafter amended, or its application to any person or circumstances, is held invalid or unconstitutional, such adjudication shall not affect the validity of the chapter as a whole, or any section, provision or part thereof not adjudged to be invalid or unconstitutional and its application to other persons or circumstances shall not be affected. (Ord. 5260 Sec. 4, 2009)