

YAKIMA COUNTY ORDINANCE NO. 12-2004

AN ORDINANCE relating to public services and utilities; creating a storm drainage and surface water management utility within a defined unincorporated urban service area of Yakima County to regulate public and private activities that impact stormwater discharges and to provide related facilities and services; providing authority for the imposition, collection and adjustment of stormwater utility rates, fees, and charges; and adding new chapter 12.09 to Title 12 of the Yakima County Code.

CITY OF YAKIMA ORDINANCE NO. _____

AN ORDINANCE relating to public services and utilities; creating a storm drainage and surface water management utility within the City of Yakima to regulate public and private activities that impact stormwater discharges and to provide related facilities and services; providing authority for the imposition, collection and adjustment of stormwater utility rates, fees, and charges; and adding new chapter 7.80 to Title 7 of the Yakima Municipal Code.

CITY OF UNION GAP ORDINANCE NO. 2448

AN ORDINANCE relating to public services and utilities; creating a storm drainage and surface water management utility within the City of Union Gap to regulate public and private activities that impact stormwater discharges and to provide related facilities and services; providing authority for the imposition, collection and adjustment of stormwater utility rates, fees, and charges; and adding new chapter 12.10 to Title 12 of the City of Union Gap Municipal Code.

WHEREAS, The Federal Clean Water Act, 33 U.S.C. 1251 et seq., requires certain political entities, such as Yakima County (the County) and the Cities of Yakima and Union Gap (the Cities), to implement stormwater management programs within prescribed time frames, and the Environmental Protection Agency, 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 and the Cities; and

WHEREAS, the County and the Cities of Yakima and Union Gap applied for coverage under the NPDES Phase II municipal stormwater general permit on March 10, 2003; and

WHEREAS, the NPDES Phase II municipal stormwater general permit program requires the County and the Cities of Yakima and Union Gap to regulate activities that impact stormwater quality; to operate and maintain a stormwater system; to monitor 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 the quality of underground sources of drinking water is not endangered; and

WHEREAS, Yakima County, The City of Yakima, and the City of Union Gap are required to regulate stormwater in order to ensure that runoff flowing from publicly owned subsurface stormwater infiltration systems to groundwater meets state and federal regulatory requirements; 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, Yakima County, Yakima, and Union Gap are required to comply with these applicable stormwater and surface water regulations under federal and state laws, and implementation by the Cities and 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 facilities; and

WHEREAS, the development of property may adversely affect stormwater quality, generate stormwater runoff, and otherwise necessitate stormwater regulation and management and burden the stormwater system; and

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

WHEREAS, Yakima County, the City of Yakima, and the City of Union Gap desire to form Storm Drainage and Surface Water Management Utilities within their respective jurisdiction to regulate public and private activities that impact stormwater discharges, and 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 city and county roads and right-of-ways; assure compliance with federal and state storm drainage, surface water management, and water quality regulations; increase educational and recreational opportunities; encourage the preservation of natural drainage systems; and foster other beneficial public uses; and

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

WHEREAS, the City of Yakima and the City of Union Gap are authorized to own and operate Storm Drainage and Surface Water Management Utilities, and to impose charges therefore, pursuant to RCW 35.67.010 - .020 and RCW 35.92.020; and

WHEREAS, several individual and joint Yakima County, Yakima, and Union Gap public hearings, informational open houses, and study sessions have been held to disseminate information regarding potential stormwater utilities and hear public concerns; and

WHEREAS, the implementation of stormwater and water quality management programs on a regional basis is most efficient and will most facilitate the successful and fair resolution of water quality problems; and

WHEREAS, Yakima County, Yakima, and Union Gap have worked cooperatively to plan for stormwater requirements and will develop consistent stormwater standards for use within their jurisdictions, and desire to continue this cooperative approach; and

WHEREAS, the County and the Cities desire to jointly implement a stormwater and surface water utility ordinance to ensure that, within the individual priorities of each jurisdiction, consistency of stormwater utility programs and approaches are utilized throughout the Yakima region; 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 by the County and the Cities within their respective jurisdictions;

NOW, THEREFORE, BE IT ORDAINED BY YAKIMA COUNTY:

Section 1. Chapter 12.09 entitled “Stormwater Drainage and Surface Water Management Utility” is hereby enacted as a new chapter to Title 12 of the Yakima County Code, which new chapter and various sections thereof, shall read as follows:

**“Chapter 12.09
STORM DRAINAGE AND SURFACE WATER MANAGEMENT UTILITY**

Sections:

- 12.09.010** Legislative findings and policy.
- 12.09.020** Creation of storm drainage and surface water management utility for the urban service area.
- 12.09.030** Definitions.
- 12.09.040** Funding of storm drainage and surface water management utility.
- 12.09.050** Operating budget.
- 12.09.060** Special operating fund.
- 12.09.070** Investments.
- 12.09.080** Reserve account.
- 12.09.090** Bad debts.
- 12.09.100** Stormwater and surface water user’s fees established.
- 12.09.110** Delineation of stormwater and surface water utility boundary.
- 12.09.120** Equivalent residential unit (ERU).
- 12.09.130** Property classifications for stormwater user’s fee.

- 12.09.140 Base rate.**
- 12.09.150 Adjustment to stormwater user's fees.**
- 12.09.160 Property exempt from fees.**
- 12.09.170 Property owners to pay fees.**
- 12.09.180 Billing procedures and penalties for late payment.**
- 12.09.190 Appeals of fees.**
- 12.09.200 Severability.**

12.09.010 Legislative findings and policy.

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

The County Commissioners find, determine and declare that the public stormwater control facility, which provides for the collection, treatment, storage and disposal of stormwater, provides benefits and services to 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. Federal and state laws mandate that operation of such systems requires Yakima County to implement regional water quality protection activities and programs to reduce and control the potential to pollute surface waters and groundwaters by storm drainage originating on both public and private properties.

The County 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 constitute 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 County Commissioners find, determine and declare that the amount of impervious surface, land use, and rainfall determines the volume of runoff and the general level of pollution from a property and this 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 Yakima County storm drainage and surface water management utility for the urban service area shall 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 Yakima County.

The County Commissioners find, determine and declare that to fund the costs of storm drainage and surface water management in the Urban Service Area, the service area of the Utility, 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 service area customers; and the character, use and stormwater runoff characteristics of the land.

12.09.020 Creation of stormwater and surface water management utility for the urban service area.

Pursuant to RCW 36.94 and 36.89, there is hereby created a Yakima County storm drainage and surface water management utility for the urban service area.

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 service area:

- (1) Administer the acquisition, design, construction, maintenance and operation of the stormwater and surface water system, including executing capital improvements designated in the capital improvement program and sharing appropriately in their costs;
- (2) Administer and enforce this ordinance and all regulations and procedures adopted thereto relating to the design, construction, maintenance, operation and alteration of the utility stormwater and surface water system, including, but not limited to,

the quantity, quality and/or velocity of the stormwater conveyed thereby;

(3) Advise the County's governing body and other County departments and divisions 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) Annually analyze the cost of services and benefits provided to and burden 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.

12.09.030 Definitions.

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

(1) "Agricultural parcel" means a parcel of real property that is currently used for production of agricultural crops or raising livestock, excluding: large processing, storage, and finishing facilities, and confined animal operations.

(2) "Base rate" means the stormwater user's charge for an equivalent residential unit.

(3) "Commercial/industrial parcel" means a parcel of real property that is primarily used for commercial purposes. For the purposes of stormwater fees, this grouping includes other parcels

of real property with large amounts of impervious surfaces, for example: apartment complexes and mobile home parks, governmental buildings, churches, schools, confined animal operations, and food processing, storage, and finishing facilities.

(4) “County” means Yakima County, Washington, a political subdivision created and existing under the laws of the state of Washington.

(5) “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.

(6) “Developed property” means real property, that has been altered from its natural state by: (a) the creation or addition of impervious surface areas such as buildings, structures, pavement, (b) agricultural production, or (c) other improvements.

(7) “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.

(8) “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.

(9) “Director” means the duly appointed director of the Yakima County Department of Public Services or his or her designee.

(10) “Exempt property” means parcels of real property which, for legal reasons, are not subject to utility fees, including: trust lands within the Yakama Nation Reservation and commercial timberlands. Lands categorized as vacant or undeveloped by the County assessor are also considered exempt as they are considered to impose no stormwater system burdens.

(11) “Fee” or “Stormwater fee” means the service charge established under this ordinance and charged to owners of parcels or pieces of real property to fund the costs of stormwater management within the utility service area.

(12) "Impervious surface area" means the number of square feet of horizontal surface covered by buildings and other impervious surfaces.

(13) "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, surface, or any other surface which impedes the natural infiltration of rainfall.

(14) "Residential parcel" means: a single-family residence, a vacation home, a mobile home on a separate parcel of real property, individual two to four unit duplexes and four-plexes on an individual parcel of real property, and other parcels of real property where the primary use is residential, excluding apartment complexes.

(15) "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 stormwater and surface water system into a defined surface waterbody, or a constructed infiltration facility.

(16) "Stormwater control facility" means the streams, rivers, ponds, lakes, waterways, groundwater, and functionally related natural and manmade facilities that combined provide stormwater management services within the urban service area.

(17) "Stormwater and surface water management fund" or "fund" means the enterprise fund created by this ordinance to operate, maintain, and improve the County's urban service area stormwater system, as required by stormwater laws.

(18) "Stormwater and surface water management" means the planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs within the urban service area of the County relating to storm drainage.

(19) "Stormwater and surface water system," "stormwater system" or "system" means all facilities, properties, interest, physical and intangible rights of every kind or nature owned, held or operated by the County within the unincorporated urban service 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 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, sloughs, streams, ponds, lakes, 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. The designation ends, in each case or instance where at a point where such storm or surface waters exit from the stormwater control facility of the County, and in width, to the full extent of inundation caused by the largest flood or storm condition.

(20) “Storm drainage and surface water management utility” or “stormwater utility”, or “utility” means the Storm Drainage and Surface Water Management Utility For the Urban Service Area created by this ordinance as it may be amended from time to time.

(21) “Urban service area” means the utility service area encompassing the unincorporated area around the cities of Yakima, Union Gap, and Selah where more stormwater regulations apply, greater stormwater burdens arise from increased levels of impervious surfaces and higher intensity stormwater programs will be in effect. The Urban Service Area is determined by combining: (a) the Yakima Urbanized Area as defined by the Federal Census Bureau, (b) the urban growth areas of the cities of Yakima, Union Gap, Selah and Moxee, and (3) parcels bordering (a) and/or (b) that are zoned to allow higher-density development than the density allowed on adjacent parcels.

(22) “Urban equivalent residential unit” or urban “ERU” means, and is equal to, 3,600 square feet of impervious groundcover, which approximates the average impervious surface area contained on single-family residential parcels within the urban area in and around the cities of Yakima and Union Gap. It is the measure of impervious groundcover to be used by the utility in calculating service charges for urban commercial/industrial parcels.

(23) “Waiver” means that the determination of the Director that a utility customer’s property has met the criteria specified in YCC 12.09.150(F) of this chapter 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 parcel(s) subject to the waiver.

12.09.040 Funding of the stormwater and surface water management utility for the urban service area.

Funding for the stormwater 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 and inspection fees adopted under separate authorities;
- (4) Revenue bonds; and
- (5) Other funds or income obtained from federal, state, local or private grants.

12.09.050 Operating budget.

The County Commissioners shall adopt an operating budget for the stormwater and surface water management utility each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the established costs for operations and maintenance, capital improvement projects, and debt service.

12.09.060 Special operating fund.

All service charges collected shall be deposited in a special fund in the County treasury, to be used only for the purpose of paying all or any part of the cost and expense of carrying out required urban service area stormwater and surface water quality programs, maintaining and operating stormwater management facilities, all or any part of the cost and expense of planning, designing, establishing, acquiring, developing, constructing and improving stormwater control and treatment facilities, or to secure the payment of all or any portion of any issue of general obligation bond or revenue bond issued for such purpose.

12.09.070 Investments.

Moneys in the fund not needed for immediate expenditure shall be invested for the benefit of the special operating fund pursuant to

the first paragraph of RCW 36.89.020 and such procedures and limitations contained in county ordinances.

12.09.080 Reserve account.

An operating and emergency reserve account shall be maintained. This fund will be reserved as an unappropriated operating reserve to accommodate cash flow variations, respond to emergencies, and react to other special circumstances.

12.09.090 Bad debts.

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

12.09.100 Stormwater and surface water user's fees established.

Except with respect to parcels that are waived from paying user fees as described in YCC 12.09.150 of this chapter or exempted from paying user fees as described in YCC 7.80.160 of this chapter, the County shall charge and collect from the owner of each and every developed property in the urban service area of the unincorporated County a stormwater and surface water user's fee, which shall be set from time to time by ordinance or resolution, and in the manner and amount prescribed by this ordinance. The purpose of this fee is to fund the storm drainage and surface water utility for the urban service area.

Prior to establishing or amending user's 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.

12.09.110 Delineation of stormwater and surface water 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 the 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 stormwater management programs. The County Commissioners find that utility services are necessary within the urban areas of the County but not within the rural areas of the County. Therefore, County parcels shall be divided into two (2) categories: (a) those that fall within the urban service area shall be known as urban service area parcels and shall be subject to the charges set forth in this ordinance; and (b) those that fall outside the urban area shall be known as rural area parcels and shall not be subject to the charges set forth in this ordinance.

The boundary of the urban service area shall include those parcels within the following areas: (a) the boundary of the Yakima urbanized area as defined by the Federal Census Bureau; (b) the urban growth boundaries of the cities of Yakima, Union Gap, Selah and Moxee; and (c) parcels bordering the Yakima urbanized area or the urban growth boundaries of the cities of Yakima, Union Gap, Selah and Moxee that are zoned to allow higher-density development than adjacent parcels.

The current boundary of the urban service area shown in **Exhibit 1** is hereby incorporated into this ordinance. A list of all parcels included in the urban service area is attached as **Exhibit 2** and is hereby incorporated into this ordinance. Stormwater charges shall apply to parcels created by future land division or merger of parcels listed in Exhibit 2.

The boundaries of, and parcels included in, the urban service area shall change as lands are rezoned, changes to urban growth areas are made, and as lands are annexed into cities.

12.09.120 Equivalent residential unit (ERU).

(1) Establishment. The urban equivalent residential unit (ERU) is hereby established for purposes of calculating the stormwater user's fees.

(2) Setting the ERUs. The ERUs shall be set by the County Commissioners from time to time by ordinance or resolution. Until such time that there is a change in conditions requiring an adjustment to the ERU, it is set at the following value: Urban ERU = 3600 sf. This value was determined through the measurements of impervious surface on single family home residential parcels.

(3) Source of ERU. The County Commissioners shall have the discretion to determine the impervious surface area, land use, parcel size and other information for developed property through property tax assessor's rolls, or site examination, mapping information, aerial photographs, statistical extrapolation, and other reliable information.

12.09.130 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 surfaces result 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 by the parcels and the costs of stormwater services provided to the parcels.

(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;
- (b) Urban commercial/industrial (including government, military, schools, churches, etc);
- (c) Urban agricultural; and
- (d) Exempt.

To reflect the burdens imposed upon the County stormwater system, parcels with industrially or commercially related facilities will have fees determined in the same manner as the commercial/industrial class regardless of the land use codes assigned by the County assessor or the zoning.

(2) Urban residential fee. The stormwater management fee for discrete urban residential parcels shall equal the urban service area base rate. Commercial mobile home park charges shall equal the base rate times the number of urban ERUs. The number of urban ERUs is determined by dividing the amount of impervious surface (in feet squared) on the parcel by 3600 square feet. Developed condominium parcels shall be charged the base rate.

(3) Urban commercial/industrial fee. The stormwater management fee for urban commercial, industrial, institutional, and

governmental parcels shall equal the base rate times the number of urban ERUs. The number of urban ERUs is determined by dividing the amount of impervious surface (in feet squared) on the parcel by 3600 square feet.

(4) Urban agricultural parcels. The stormwater management fee for urban agricultural parcels shall be the base rate multiplied by the number of assigned ERUs as shown below:

Assignment of ERUs to Agricultural Parcels	
Parcel Size-	Urban ERUs
Up to one acre -	0.5 ERU
Greater than 1 acre, up to and including 5 acres-	1 ERU
Greater than 5 acres, up to and including 20 acres-	1.5 ERU
Greater than 20 acres, up to and including 40 acres-	2 ERU
Greater than 40 acres, up to and including 70 acres-	3 ERU
Greater than 70 acres, up to and including 100 acres-	4 ERU
Greater than 100 acres (parcel sizes in acres)-	(parcel size)/(25)

(5) Exempt parcels. There shall be no stormwater user's fee for exempt parcels.

The minimum charge for developed non-exempt or non-waived parcels shall one half (1/2) of the base rate.

12.09.140 Base rate.

The base rate shall be calculated to provide adequate revenues to cover all costs incurred by the utility pursuant to this ordinance. A 5 year budget has been prepared for the utility. Federal and state stormwater regulations give the County up to five (5) years to fully implement the stormwater management program. Therefore, the revenue required for the stormwater program will begin at a low level, and increase over the five-year implementation period. The County Commissioners adopt the following monthly base rate for years 2005 through 2007 as shown:

<u>Year</u>	<u>Urban Base Rate \$/month (\$/Year)</u>
2005	1.50 (18.00)
2006	3.07 (36.84)
2007	4.57 (54.84)

In 2007 program expenditures and progress shall be reviewed and the required revenue for the years 2008 onward to develop a fully implemented program shall be determined and monthly base rates shall be adjusted or maintained as needed to account for inflation and/or changes in program expenses. If no action is taken by the Board of County Commissioners by November 1 of 2007, the base rate shown above for 2007 shall remain in effect in 2008 and shall continue until an adjustment is made. The frequency of adjustments to base rates thereafter shall be as required to ensure fair and full funding of the program.

12.09.150 Adjustments to stormwater user's fees.

Credits allowed under this section shall not be cumulative. Credits or waivers must be granted by the director by October 15th of a given year in order for the credit or waiver to be in effect for the following billing year. Credits or waivers are not retroactive to current or prior billings and are only in effect for the next billing years. Credits or waivers may be in effect for multiple future billing years provided that ongoing qualifying criteria are met. The director 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 year.

(A) Credits for qualified stormwater facilities. 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 will aid the County in controlling the overall effects of stormwater pollution. Parcels or portions of parcels with facilities that meet one of the criteria listed below, to the director's satisfaction, shall receive a reduction of 20% from the monthly fee charged for that portion of the site draining to such facilities.

(1) Any commercial/industrial 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 in order to receive the credit.

(2) Any parcel that has an active and valid NPDES Industrial Stormwater or Confined Animal Feeding Operation Stormwater permit. A copy of the permit and the Stormwater Pollution Prevention Plan (SWPPP) shall be provided to the director.

The property owner is responsible for providing all documentation necessary to demonstrate compliance with the above requirements. Documentation shall be by a licensed civil 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 property owner must maintain any water quantity and/or quality control facility in accordance with Department of Ecology maintenance guidelines and appropriate practice, to ensure proper function and effectiveness of the facility. Commercial/industrial parcel 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 30 days after written notice may be cause for termination of the credit granted in this section.

(B) Credits for low-income senior and low-income disabled households. Upon submittal of the necessary verification documentation to the director, low-income seniors and disabled households receiving relief under RCW 84.36.381 shall receive a 40% credit toward their fee, this includes:

(1) All parcels for which a homeowner qualifies for an exemption under RCW 84.36.381(5)(a);

(2) All parcels for which a homeowner qualifies for an exemption under RCW 84.36.381(5)(b)(i); and/or

(3) All parcels for which a homeowner qualifies for an exemption under RCW 84.36.381(5)(b)(ii).

Verification of eligibility under 84.36.381 must be provided to the director by October 15th of any year in order to be eligible for the credit in the following billing year. Credits shall not be retroactive to the current or preceding years.

(C) 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 storm and surface water. Pursuant to RCW 36.89.085, 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 for a credit towards, or waiver from, their stormwater fee. 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 until such time as a discount or waiver is granted by the director.

(D) Credit for rainwater harvesting systems. Upon review and approval by the director, owners of new or newly constructed commercial/industrial 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. Customers desiring this credit shall apply to the director and shall submit engineering design and operational information as deemed necessary by the director to make their evaluation and decision. Rainwater harvesting and beneficial reuse of the runoff is found by County Commissioners to both reduce the burden imposed upon the system by the building by reducing runoff and to also have other beneficial water quality effects such as reduced consumption of potable water.

(E) Credit for grazing lands or fallow agricultural lands in natural condition. The County Commissioners find that agriculturally class forest or shrub-steppe lands used for grazing, or fallow agricultural lands that are determined by the director to be in a natural state, generally have no improvements built on them, generate only light traffic, utilize no chemicals or irrigation, and provide beneficial ecological functions, may impose only a light burden upon the system. As such, owners of such parcels that are 100 acres or larger may submit information to the director and apply for a credit of up to 50% on their stormwater charges. The level of credit shall be based upon the condition of the lands and any waterways. Owners of such lands shall pay the full stormwater charge until such time as the director grants a credit.

(F) Waiver of Utility Fees for Certain Property. The director 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.

(1) Fees shall be waived for County road and street rights-of-way so long as the County road fund shall continue to contribute to the proper operation, maintenance, repair, improvement, and construction of the road drainage system, and shall reimburse the utility for services performed on their behalf;

(2) Fees shall be waived for state of Washington highway rights-of-way, so long as 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.

(3) Fees shall be waived for vacant undeveloped parcels. The County Commissioners find that such parcels generally have no improvements built on them, generate little to no traffic, utilize no chemicals, 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 vacant or undeveloped is being used otherwise may result in loss of this waiver.

(4) Fees shall be waived for municipal, county, state and federal parks, national forests, state forests, fishing areas, wildlife reserves, public trails and bike paths so long as their owners cooperate with the utility in the provision of educational services and water quality control efforts. Fees shall be waived to the degree that such property owners offset the costs of the utility to manage the burdens imposed by such parcels. 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.

12.09.160 Property exempt from fees.

Trust lands within the boundary of the Yakama Nation, incorporated cities, and zoned private timberlands are exempt from utility stormwater charges.

12.09.170 Property owners to pay fees.

The owner of each non-exempt and non-waived parcel shall pay the utility fees and charges as provided in this ordinance. Property owners seeking credits or waivers shall pay the full fee until such time that the credit or waiver is granted by the director, after which reduced fees will be applied.

12.09.180 Billing procedures and penalties for late payment.

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.

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 as set forth in subsection 3 below. The lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. The director may excuse delinquencies of less than thirty (30) days.

Pursuant to RCW 36.89.090, the County shall have 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 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.

12.09.190 Appeals of fees.

If an owner of a parcel subject to this ordinance, or other responsible party, believes the storm and surface water service charge is incorrect, the owner may appeal to the director, requesting a refund, credit, waiver, or

exemption and providing such information as the director may require. The director may make an adjustment to the charges consistent with professional engineering judgment and with the general policies contained above. Decisions of the director regarding rate adjustments and appeals shall be final after thirty (30) days of the date the decision was mailed, unless the applicant submits in writing to the director a notice of appeal setting forth a brief statement of the grounds for appeal and requesting a hearing before the Board of County Commissioners. The decision of the County Commissioners shall be final.

12.09.200 Severability.

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

Section 2. This ordinance shall be effective regardless of whether or not the City of Yakima and/or the City of Union Gap passes a storm drainage and surface water management utility.

Section 3. This ordinance shall go into effect within Yakima County on January 1, 2005.

PASSED BY THE COUNTY COMMISSIONERS at a regular meeting and signed and approved this _____ day of _____, 2004.

James Lewis, Chair

ATTEST:

County Clerk

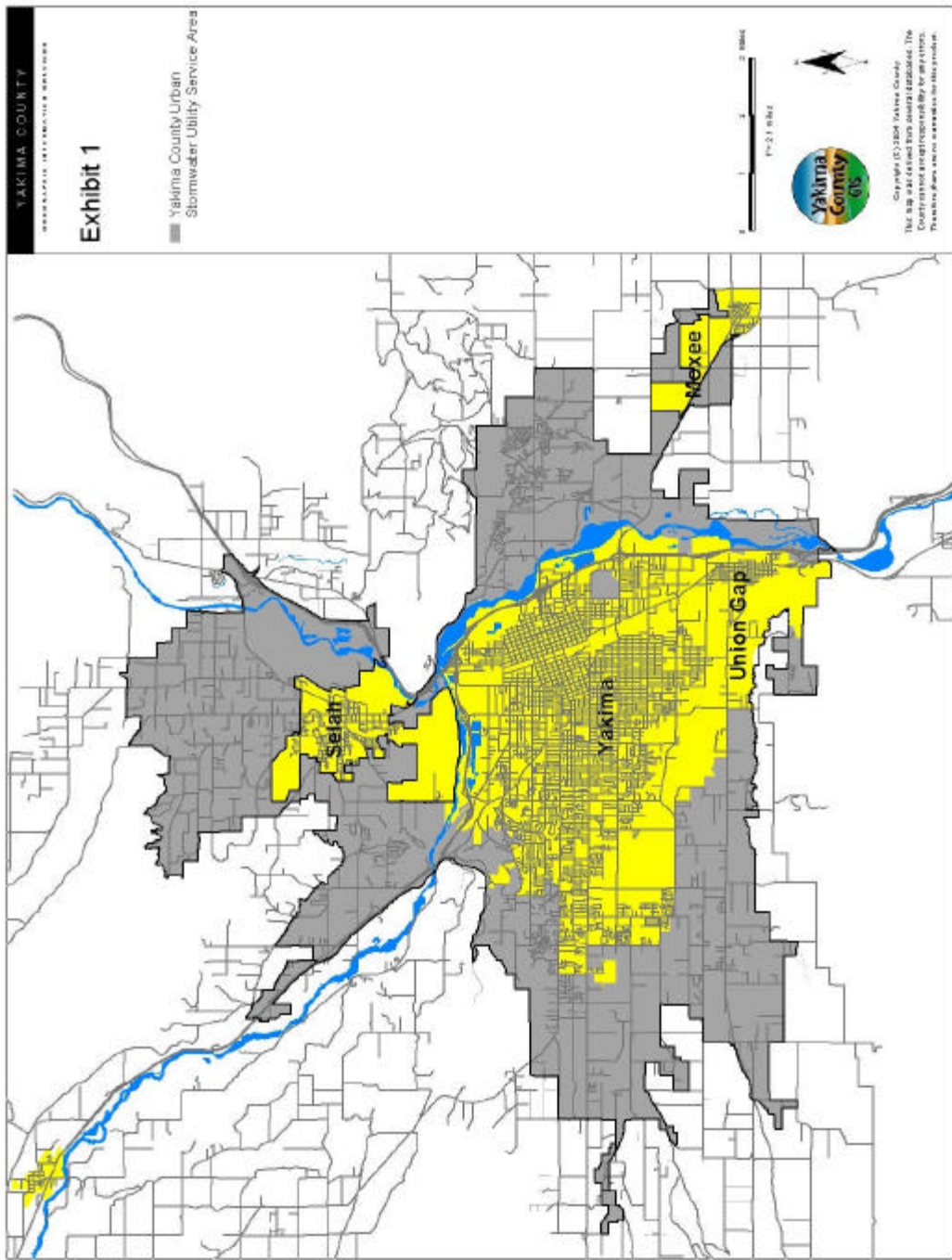
Publication Date: _____

Effective Date: _____

APPROVED AS TO FORM:

Prosecuting Attorney

Yakima County Exhibit 1 – Boundary Map of County Urban Utility Service Area



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17132613400	18120631414	18130923002	18131934417	18133333438	18142342404	18143031006	19131541419	19131743012	19132322431
17132613402	18120631415	18130924001	18131934418	181333334002	18142342405	18143031007	19131541420	19131743013	19132322432
17132613403	18120631416	18130924002	18131934419	181333334003	18142342406	18143031010	19131541421	19131743014	19132322433
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BE IT ORDAINED BY THE CITY OF YAKIMA:

Section 1. Chapter 7.80 entitled “Storm Drainage and Surface Water Management Utility” is hereby enacted as a new chapter to Title 7 of the City of Yakima Municipal Code, which new chapter and various sections thereof, shall read as follows:

**“Chapter 7.80
STORM DRAINAGE AND SURFACE WATER MANAGEMENT UTILITY**

Sections:

- 7.80.010** Legislative findings and policy.
- 7.80.020** Creation of storm drainage and surface water management utility.
- 7.80.030** Definitions.
- 7.80.040** Funding of storm drainage and surface water management utility.
- 7.80.050** Stormwater funds
- 7.80.060** Operating budget.
- 7.80.070** Reserve account.
- 7.80.080** Stormwater user’s fees established.
- 7.80.090** Equivalent residential unit (ERU).
- 7.80.100** Property classifications for stormwater user’s fee.
- 7.80.110** Base rate.
- 7.80.120** Adjustment to stormwater user’s fees.
- 7.80.130** Property owners to pay charges.
- 7.80.140** Billing procedures and penalties for late payment.
- 7.80.150** Appeals of fees.
- 7.80.160** Severability.
- 7.80.170** Effective date of service charge.

7.80.010 Legislative findings and policy.

The City Council finds, determines and declares that the streams, rivers, lakes, waterways, groundwater, and functionally related natural and manmade stormwater control facilities constitute a stormwater control facility.

The City Council finds, determines and declares 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 incorporated city limits. 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. Federal and state laws mandate that operation of such systems requires the City of Yakima to implement regional water quality protection activities and programs to reduce and control the potential to pollute surface waters and groundwaters by storm drainage originating on both public and private properties.

The City Council finds, determines and declares 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 City Council finds, determines and declares 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 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 City storm drainage and surface water management utility shall 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 City.

The City Council finds, determines and declares that to fund the costs of storm drainage and surface water management in the City, it is necessary to adopt service charges for stormwater users, with rates varying according to the services furnished, the burdens imposed or benefits received; and the character, use and stormwater runoff characteristics of the land.

7.80.020 Creation of storm drainage and surface water management utility.

Pursuant to RCW 35.67.010 - .020 and RCW 35.92.020, there is hereby created a City storm drainage and surface water utility.

The storm drainage and surface water management utility, under the legislative policy, supervision and control of the governing body of the City, shall perform the following activities within the City:

- (1) Administer the acquisition, design, construction, maintenance and operation of the 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;
- (3) Advise the City's governing body and other City departments on matters relating to the utility;
- (4) Prepare and periodically revise, as determined by state and federal law, a comprehensive stormwater management plan for adoption by the City'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) Annually 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 City'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.

7.80.030 Definitions.

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

- (1) "Average single-family residence" means a single-family residence that has between 1,800 and 5,400 square feet of impervious surface area.
- (2) "Base rate" means the stormwater user's fee for an equivalent residential unit (ERU).
- (3) "City" means the city of Yakima, Washington, a municipal corporation created and existing under the laws of the state of Washington.
- (4) "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.
- (5) "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.
- (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) "Engineer" means the duly appointed city engineer for the City of Yakima or his or her designee.
- (9) "Equivalent residential unit" or "ERU" means, and is equal to, 3,600 square feet of impervious groundcover, which constitutes the average impervious surface area contained on single-family residential parcels within the city. An ERU is the unit of impervious groundcover to be used by the utility in calculating service charges for each parcel of property.

(10) "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 in the City.

(11) "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.

(12) "Impervious surface area" means the number of square feet of horizontal surface covered by buildings and other impervious surfaces.

(13) "Large single-family residence" means a single-family residence that has greater than 5,400 square feet of impervious surface area.

(14) "Multiple family dwelling unit" means a building or portion thereof, designed for, or occupied by five (5) or more families living independently in separate dwelling units.

(15) "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.

(16) "Nonresidential parcel" means a parcel of real property 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.

(17) "Small single-family residence" means a single-family residence that has less than 1,800 square feet of impervious surface area.

(18) "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 stormwater and surface water system into a defined surface waterbody, or a constructed infiltration facility.

(19) “Stormwater control facility” means the streams, rivers, ponds, lakes, waterways, groundwater, and functionally related natural and manmade facilities that combined provide stormwater management services within the City.

(20) “Stormwater management fund” or “fund” means the fund created by this ordinance to operate, maintain, and improve the City’s stormwater system.

(21) “Storm drainage and surface water management” means the planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to stormwater.

(22) “Stormwater and surface water system,” “stormwater system” or “system” means all properties, interest, physical and intangible rights of every kind or nature owned, held or operated by the City, 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, sloughs, streams, ponds, lake 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 City within the City limits, and ends where storm or surface waters exit from the stormwater control facility of the City, and in width to the full extent of inundation caused by the largest storm or flood condition.

(23) “Storm drainage and surface water management utility” or “Stormwater Utility” or “Utility” means the storm drainage and surface water management utility created by this ordinance as it may be amended from time to time.

(24) “Waiver” means that determination by the engineer that a utility customer’s property has met the criteria specified in YMC 7.80.120 of this chapter 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.

7.80.040 Funding of 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 and 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.

7.80.050 Stormwater funds.

All revenues generated by, or on behalf of the stormwater utility shall be deposited in the following stormwater utility funds and used in accordance with state law:

- (1) Fund 441 (for operating funds); or
- (2) Fund 442 (for capital funds).

The revenue deposited into these funds shall be used only for the purposes of constructing, acquiring, adding to, maintaining, conducting, operating, managing, regulating, and controlling the stormwater system, 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.

7.80.060 Operating budget.

The City Council shall adopt an operating budget for the stormwater utility each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the established costs for operations and maintenance, capital improvement projects, and debt service.

7.80.070 Reserve account.

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

7.80.080 Stormwater user's fees established.

Except with respect to those parcels that are waived from paying fees as described in YMC 7.80.120 of this chapter, the City shall charge and collect from the owner of each and every developed property in the City a stormwater user's fee, which shall be set in the manner and amount prescribed by this ordinance. The purpose of this fee is to fund the storm drainage and surface water utility.

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

7.80.090 Equivalent residential unit.

(1) Establishment. The equivalent residential unit (ERU) is hereby established for purposes of calculating the stormwater user's fee.

The ERU is the approximate average square footage of impervious surface area on a single-family residential parcel.

(2) Setting the ERU. The ERU shall be set by the City Council from time to time by ordinance or resolution. Until such time that there is a change in conditions requiring an adjustment to the ERU, it is set as 3,600 square feet. This value was determined through the measurements of impervious surface on single-family home residential parcels.

(3) Source of ERU. The City Council shall have the discretion to determine the impervious surface area of developed property through property tax assessor's rolls or site examination, mapping information, aerial photographs, and other reliable information.

7.80.100 Property classification for stormwater user's fee.

As authorized by RCW Chapters 35.67 and 35.92, the City Council finds that variations in the amount of impervious surface area contained on single-family residential parcels result in differences in the cost to serve such parcels and the burdens imposed on the system by such parcels. Therefore, residential customers of the stormwater system shall be divided into three (3) classifications based upon the amount of impervious surfaces of their parcels: average single-family residences; large single-family residences; and small single-family residences.

(1) Customer Classification. For purposes of determining the stormwater user fees, owners of all developed parcels in the city are classified into one of the following classes:

- (a) Average single-family residence;
- (b) Large single-family residence;
- (c) Small single-family residence;
- (d) Duplex, Tri-plex and Four-plex; and
- (e) Non-residential parcel.

(2) Average single-family residence fee. The stormwater fee for an average single-family residence shall equal the base rate.

(3) Large single-family residence fee. The stormwater fee for a large single-family residence shall equal twice the base rate.

(4) Small single-family residence fee. The stormwater fee for a small single-family residence shall equal one-half of the base rate.

(5) Duplex, Tri-plex, and Four-plex fee. The stormwater fee for a duplex, tri-plex and four-plex shall be determined using the same methodology as single-family residences, with the same designation and rate for average, large and small.

(6) Non residential fee. Owners of nonresidential parcels shall pay a stormwater fee equal to the base rate multiplied by the numerical factor obtained by dividing the 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 average single-family residential property.

7.80.110 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 utility. The City Council adopts the annual base rate for the three (3) years shown:

<u>Year</u>	<u>\$/year</u>
2006	18.00
2007	27.00
2008	36.00

In 2008, the ongoing revenue requirements for the stormwater utility shall be reviewed and the annual base rates shall be adjusted or maintained as needed. The frequency of adjustments to base rates thereafter shall be as required to ensure fair and full funding of the program.

Adjustments to stormwater user's fees as detailed in YMC 7.80.120 will automatically be applied to commercial, industrial and institutional parcel classes in 2006. These credits will sunset in one year unless proper documentation is received that verifies that the parcels meet the conditions of the discounts. For example, if a parcel contains its stormwater runoff in a drywell, the drywell must be registered with the Department of Ecology.

Low-income senior and low-income disabled households contained in the 2005 tax records will receive a discount as detailed in YMC 7.80.120.

7.80.120 Adjustments to stormwater user's fees.

Credits allowed under this section shall not be cumulative. Except for the first-year credit that will be given to all commercial, industrial, and institutional parcels, credits or waivers must be granted by the engineer by October 15th of a given year in order for the credit or waiver to be in effect for the following billing year. Credits or waivers are not retroactive to current or prior billings and are only in effect for the next billing year. Credits or waivers may be in effect for multiple future billing years provided that ongoing qualifying criteria are met. The engineer will take such time as necessary to process requests for credits or waivers in an orderly fashion.

As low-income senior and low-income disabled households are recognized by the County assessors office, they will receive a credit. To receive a credit for the next billing year, the County Assessor records must indicate eligibility for low-income senior or low-income disabled household tax relief prior to October 15 of the preceding year.

(A) Credits for qualified stormwater facilities. The City Council recognizes that some parcel owners have constructed or will construct private on-site stormwater quality and quantity mitigation facilities, which when properly operated and maintained will aid the City in controlling the overall effects of stormwater pollution. Parcels or portions of parcels with facilities that meet one of the criteria listed below, to the engineer's satisfaction, shall receive a reduction of 20% from the annual fee charged for that portion of the site draining to such facilities.

(1) Any commercial/industrial/institutional parcel with a properly constructed and maintained stormwater 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 City. Owners of subsurface stormwater infiltration systems shall provide evidence of compliance with the Washington State Underground Injection Control Program in order to receive the credit.

(2) 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 engineer.

The property owner is responsible for providing all documentation necessary to demonstrate compliance with the above requirements. Documentation shall be by a licensed civil 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 practice to ensure proper function and effectiveness of the facility. Commercial/industrial/institutional parcel owners receiving credits shall agree to allow the City to periodically inspect the subject the stormwater facilities. The City may request documentation from facility owners to verify that proper maintenance has been performed. The City may notify owners in writing of maintenance needs or deficiencies. Failure to

maintain the facilities within 30 days after written notice may be cause for termination of the adjustment authorized by this section.

(B) Credit for rainwater harvesting systems. Upon review and approval by the engineer, owners of new or newly constructed commercial/industrial 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. Customers desiring this credit shall apply to the engineer and shall submit engineering design and operational information as deemed necessary by the engineer to make their evaluation and decision. Rainwater harvesting and beneficial reuse of the runoff is found by the City Council to both reduce the burden imposed upon the system by the building by reducing runoff and to also have other beneficial water quality effects such as reduced consumption of potable water.

(C) Credits for low-income senior and low-income disabled households. Low-income seniors 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)(b)(ii) shall receive a 20% credit from the annual fee charged under the YMC 7.80.110 as currently enacted or hereafter amended. Credits shall not be retroactive to the current or preceding years.

(D) Waiver of utility fees for certain property. The engineer 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.

(1) Fees shall be waived for City streets and street rights-of-way, since they act as stormwater conveyance facilities during large floods. The City Streets fund also contributes to the proper operation, maintenance, repair, improvement, and construction of the street drainage system.

(2) Fees shall be waived for state of Washington highway rights-of-way, so long as 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 City.

(3) Fees shall be waived for municipal, county, and state and federal parks, fishing areas, wildlife reserves, public trails and bike paths so long as their owners cooperate with the utility in the provision of educational services and water quality control efforts. Fees shall be waived to the degree that such property owners offset the costs of the utility to manage the burdens imposed by such parcels. 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.

(4) Fees shall be waived for all vacant/undeveloped parcels. The City Council finds that such parcels generally have no improvements built on them, generate little to no traffic, utilize no chemicals, 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 vacant or undeveloped is being used otherwise may result in a loss of this waiver.

7.80.130 Property owners to pay fees.

The owner of each non-exempt parcel shall pay the stormwater user's fee and charges as provided in this chapter. Property owners seeking adjustments or exemptions shall pay the full fee until such time that the adjustment or exemption is granted by the City.

7.80.140 Billing procedures and penalties for late payment.

The charges as herein provided for shall be billed annually, shall be due and payable on or before the 30th day of April, and shall become delinquent thereafter if not paid. The owner of contiguous parcels having a single land use within the categories designated in YMC 7.80.100 may receive a single billing for such parcels.

Collection of delinquencies, interest, penalty, and costs of collection for delinquent utility service charges provided for herein shall be charged interest on the delinquent balance at the rate of five percent (5%) per annum, computed on a monthly basis. In addition to any other remedies permitted by law, the City shall have a lien pursuant to RCW Chapter 35.67, as currently enacted or hereinafter amended, for all delinquent service charges, including interest thereon, against the real property for which the service charges are calculated. Said lien shall have the superiority, and may be foreclosed upon, as described in RCW Chapter 35.67, as currently enacted or hereinafter amended, or other applicable law. The engineer may excuse delinquencies of less than thirty (30) days.

The City treasurer may use the services of a collection agency to collect delinquent service charges in the manner and to the extent provided in RCW 19.16.500 as currently enacted or hereinafter amended. The collection agency fee shall be added to the amount of the delinquent service charge.

Costs associated with the foreclosure of the lien, including but not limited to advertising, title report, and personnel costs, shall be added to the lien upon filing of the foreclosure action. In addition to the costs and disbursements provided by statute, the court may allow the City reasonable attorney's fees.

7.80.150 Appeals of fees.

(A) Appeal to the engineer. If an owner of a parcel subject to this chapter, or other responsible party, believes the stormwater user's fee is incorrect, the owner may appeal the correctness of the fee to the engineer within thirty (30) calendar days of the mailing of the billing for the fee. Such appeal shall be in writing and shall specify the grounds of the appeal and the requested remedy. The engineer may make an adjustment to the charges consistent with the criteria provided in YMC 7.80.100 and YMC 7.80.120. Decisions of the engineer regarding such appeals shall be final unless appealed to the City Council in a timely manner in accordance with subsection (B).

(B) Appeal to the City Council. The decision of the engineer of an appeal filed in accordance with subsection (A) may be appealed to the City Council. Such appeal must be in writing and filed with the City Clerk within thirty (30) calendar days of the date of the decision of the engineer. The written appeal must specify the grounds of the appeal and request a hearing before the City Council. The City Clerk shall set a time and place for the appeal hearing. At the hearing, the City Council shall make a final determination regarding the appeal based upon the criteria provided in YMC 7.80.100 and YMC 7.80.120.

7.80.160 Severability.

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

7.80.170 Effective Date of Service Charge.

The stormwater fee shall go into effect within the City of Yakima on January 1, 2006.

Section 2. This ordinance shall be effective regardless of whether or not Yakima County and/or the City of Union Gap passes a storm drainage and surface water management utility.

Section 3. This ordinance shall be in full force and effect 30 days after its passage, approval, and publication by law and by the City Charter.

PASSED BY THE YAKIMA CITY COUNCIL, signed and approved this _____ day of _____, 2004.

Paul P. George, Mayor

ATTEST:

City Clerk

Publication Date: _____

Effective Date: _____

BE IT ORDAINED BY THE CITY OF UNION GAP AS FOLLOWS:

Section 1. Chapter 12.10 entitled “Storm Drainage and Surface Water Management Utility” is hereby enacted as a new chapter to Title 12 of the City of Union Gap Municipal Code, which new chapter and various sections thereof, shall read as follows:

**“Chapter 12.10
STORM DRAINAGE AND SURFACE WATER MANAGEMENT UTILITY**

Sections:

- 12.10.010** Legislative findings and policy.
- 12.10.020** Creation of storm drainage and surface water management utility.
- 12.10.030** Definitions.
- 12.10.040** Funding of storm drainage and surface water management utility.
- 12.10.050** Stormwater funds
- 12.10.060** Operating budget.
- 12.10.070** Reserve account.
- 12.10.080** Stormwater user’s fees established.
- 12.10.090** Equivalent residential unit (ERU).
- 12.10.100** Property classifications for stormwater user’s fee.
- 12.10.110** Base rate.
- 12.10.120** Adjustment to stormwater user’s fees.
- 12.10.130** Property owners to pay charges.
- 12.10.140** Billing procedures and penalties for late payment.
- 12.10.150** Appeals of fees.
- 12.10.160** Severability.
- 12.10.170** Effective date of service charge.

12.10.010 Legislative findings and policy.

The City Council finds, determines and declares that the streams, rivers, lakes, waterways, groundwater, and functionally related natural and manmade stormwater control facilities constitute a stormwater control facility.

The City Council finds, determines and declares 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 incorporated city limits. 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. Federal and state laws mandate that operation of such systems requires the City of Union Gap to implement regional water quality protection activities and programs to reduce and control the potential to pollute surface waters and groundwaters by storm drainage originating on both public and private properties.

The City Council finds, determines and declares 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 City Council finds, determines and declares 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 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 City storm drainage and surface water management utility shall 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 City.

The City Council finds, determines and declares that to fund the costs of storm drainage and surface water management in the City, it is necessary to adopt service charges for stormwater users, with rates varying according to the services furnished, the burdens imposed or benefits received; and the character, use and stormwater runoff characteristics of the land.

12.10.020 Creation of storm drainage and surface water management utility.

Pursuant to RCW 35.67.010 - .020 and RCW 35.92.020, there is hereby created a City storm drainage and surface water utility.

The storm drainage and surface water management utility, under the legislative policy, supervision and control of the governing body of the City, shall perform the following activities within the City:

- (1) Administer the acquisition, design, construction, maintenance and operation of the 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;
- (3) Advise the City's governing body and other City departments on matters relating to the utility;
- (4) Prepare and periodically revise, as determined by state and federal law, a comprehensive stormwater management plan for adoption by the City'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) Annually 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 City'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.

12.10.030 Definitions.

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

(1) “Average single-family residence” means a single-family residence that has between 1,800 and 5,400 square feet of impervious surface area.

(2) “Base rate” means the stormwater user’s fee for an equivalent residential unit (ERU).

(3) “City” means the city of Union Gap, Washington, a municipal corporation created and existing under the laws of the state of Washington.

(4) “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.

(5) “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.

(6) “Director” means the duly appointed director of the City’s department of public works or his or her designee.

(7) “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.

(8) “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.

(9) "Equivalent residential unit" or "ERU" means, and is equal to, 3,600 square feet of impervious groundcover, which constitutes the average impervious surface area contained on single-family residential parcels within the city. An ERU is the unit of impervious groundcover to be used by the utility in calculating service charges for each parcel of property.

(10) "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 in the City.

(11) "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.

(12) "Impervious surface area" means the number of square feet of horizontal surface covered by buildings and other impervious surfaces.

(13) "Large single-family residence" means a single-family residence that has greater than 5,400 square feet of impervious surface area.

(14) "Multiple family dwelling unit" means a building or portion thereof, designed for, or occupied by five (5) or more families living independently in separate dwelling units.

(15) "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.

(16) "Nonresidential parcel" means a parcel of real property 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.

(17) "Public works director" means the duly appointed director of the City of Union Gap department of public works.

(18) "Small single-family residence" means a single-family residence that has less than 1,800 square feet of impervious surface area.

(19) "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 stormwater and surface water system into a defined surface waterbody, or a constructed infiltration facility.

(20) "Stormwater control facility" means the streams, rivers, ponds, lakes, waterways, groundwater, and functionally related natural and manmade facilities that combined provide stormwater management services within the City.

(21) "Stormwater management fund" or "fund" means the fund created by this ordinance to operate, maintain, and improve the City's stormwater system.

(22) "Storm drainage and surface water management" means the planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to stormwater.

(23) "Stormwater and surface water system," "stormwater system" or "system" means all properties, interest, physical and intangible rights of every kind or nature owned, held or operated by the City, 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, sloughs, streams, ponds, lake 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 City within the City limits, and ends where storm or surface waters exit from the stormwater control facility of the City, and in width to the full extent of inundation caused by the largest storm or flood condition.

(24) "Storm drainage and surface water management utility" or "Stormwater Utility" or "Utility" means the storm drainage and

surface water management utility created by this ordinance as it may be amended from time to time.

(25) "Waiver" means that determination by the director that a utility customer's property has met the criteria specified in section 12.10.120 of this chapter 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.

12.10.040 Funding of 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 and 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.

12.10.050 Stormwater funds.

All revenues generated by, or on behalf of the stormwater utility shall be deposited in the following stormwater utility funds and used in accordance with state law:

- (1) Fund 441 (for operating funds); or
- (2) Fund 442 (for capital funds).

The revenue deposited into these funds shall be used only for the purposes of constructing, acquiring, adding to, maintaining, conducting, operating, managing, regulating, and controlling the stormwater system, 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.

12.10.060 Operating budget.

The City Council shall adopt an operating budget for the stormwater utility each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the established costs for operations and maintenance, capital improvement projects, and debt service.

12.10.070 Reserve account.

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

12.10.080 Stormwater user's fees established.

Except with respect to those parcels that are waived from paying fees as described in section 7.80.120 of this chapter, the City shall charge and collect from the owner of each and every developed property in the City a stormwater user's fee, which shall be set in the manner and amount prescribed by this ordinance. The purpose of this fee is to fund the storm drainage and surface water utility.

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

12.10.090 Equivalent residential unit.

(1) Establishment. The equivalent residential unit (ERU) is hereby established for purposes of calculating the stormwater user's fee.

The ERU is the approximate average square footage of impervious surface area on a single-family residential parcel.

(2) Setting the ERU. The ERU shall be set by the City Council from time to time by ordinance or resolution. Until such time that there is a change in conditions requiring an adjustment to the ERU, it is set as 3,600 square feet. This value was determined

through the measurements of impervious surface on single-family home residential parcels.

(3) Source of ERU. The City Council shall have the discretion to determine the impervious surface area of developed property through property tax assessor's rolls or site examination, mapping information, aerial photographs, and other reliable information.

12.10.100 Property classification for stormwater user's fee.

As authorized by RCW Chapters 35.67 and 35.92, the City Council finds that variations in the amount of impervious surface area contained on single-family residential parcels result in differences in the cost to serve such parcels and the burdens imposed on the system by such parcels. Therefore, residential customers of the stormwater system shall be divided into three (3) classifications based upon the amount of impervious surfaces of their parcels: average single-family residences; large single-family residences; and small single-family residences.

To reflect the burdens imposed upon the stormwater system, parcels with industrially or commercially related facilities will have fees determined in the same manner as the commercial/industrial class regardless of the land use codes assigned by the County assessor or the zoning.

(1) Customer Classification. For purposes of determining the stormwater user fees, owners of all developed parcels in the city are classified into one of the following classes:

- (a) Average single-family residence;
- (b) Large single-family residence;
- (c) Small single-family residence;
- (d) Duplex, Tri-plex and Four-plex; and
- (e) Commercial/industrial (including government, military, schools, churches, apartment complexes, etc);
- (f) Agricultural.

- (2) Average single-family residence fee. The stormwater fee for an average single-family residence shall equal the base rate.
- (3) Large single-family residence fee. The stormwater fee for a large single-family residence shall equal twice the base rate.
- (4) Small single-family residence fee. The stormwater fee for a small single-family residence shall equal one-half of the base rate.
- (5) Duplex, Tri-plex, and Four-plex fee. The stormwater fee for a duplex, tri-plex and four-plex shall be determined using the same methodology as single-family residences, with the same designation and rate for average, large and small.
- (6) Commercial/industrial. Owners of commercial/industrial class parcels shall pay a stormwater fee equal to the base rate multiplied by the numerical factor obtained by dividing the total impervious surface area of the parcel by one ERU.
- (7) Agricultural parcels. The stormwater management fee for agricultural parcels shall be the base rate multiplied by the number of assigned ERUs as shown below:

Assignment of ERUs to Agricultural Parcels	
Parcel Size-	Urban ERUs
Up to one acre -	0.5 ERU
Greater than 1 acre, up to and including 5 acres-	1 ERU
Greater than 5 acres, up to and including 20 acres-	1.5 ERU
Greater than 20 acres, up to and including 40 acres-	2 ERU
Greater than 40 acres, up to and including 70 acres-	3 ERU
Greater than 70 acres, up to and including 100 acres-	4 ERU
Greater than 100 acres (parcel sizes in acres)-	(parcel size)/(25)

The minimum stormwater fee for developed parcels shall equal one half (1/2) the base rate.

12.10.110 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 utility. The City Council adopts the annual base rate for the three (3) years shown:

<u>Year</u>	<u>\$/year</u>
2005	18.00
2006	27.00
2007	36.00
2008	45.00
2009	54.00

In 2009, the ongoing revenue requirements for the stormwater utility shall be reviewed and the annual base rates shall be adjusted or maintained as needed.

12.10.120 Adjustments to stormwater user’s fees.

Adjustments allowed under this section shall not be cumulative. Credits or waivers must be granted by the director by October 15th of a given year in order for the credit or waiver to be in effect for the following billing year. Credits or waivers are not retroactive to current or prior billings and are only in effect for the next billing year. Credits or waivers may be in effect for multiple future billing years provided that ongoing qualifying criteria are met. The director 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 to the following billing cycle.

(A) Credits for qualified stormwater facilities. The City Council recognizes that some parcel owners have constructed or will construct private on-site stormwater quality and quantity mitigation facilities, which when properly operated and maintained will aid the City in controlling the overall effects of stormwater pollution. Parcels or portions of parcels with facilities that meet one of the criteria listed below, to the director’s satisfaction, shall receive a reduction of 30% from the annual fee charged for that portion of the site draining to such facilities.

(1) Any commercial/industrial/institutional 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 City. Owners of subsurface stormwater infiltration systems shall provide evidence of compliance with the Washington State Underground Injection Control Program in order to receive the credit.

(2) 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.

The property owner is responsible for providing all documentation necessary to demonstrate compliance with the above requirements. Documentation shall be by a licensed civil 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 practice to ensure proper function and effectiveness of the facility. Commercial/industrial/institutional parcel owners receiving credits shall agree to allow the City to periodically inspect the subject the stormwater facilities. The City may request documentation from facility owners to verify that proper maintenance has been performed. The City may notify owners in writing of maintenance needs or deficiencies. Failure to maintain the facilities within 30 days after written notice may be cause for termination of the adjustment authorized by this section.

(B) Credit for rainwater harvesting systems. Upon review and approval by the director, owners of new or newly constructed commercial/industrial 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. Customers desiring this credit shall apply to the director and shall submit engineering design and operational information as deemed necessary by the director to make their evaluation and decision. Rainwater harvesting and beneficial reuse of the runoff is found by the City Council to both reduce the burden imposed upon the system by the building by reducing runoff and to also have other beneficial water quality effects such as reduced consumption of potable water.

(C) Adjustments for Schools participating in stormwater educational programs. The City Council finds 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. The City Council also finds that public and private schools can provide regional benefits to the City'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 City may apply to the director for a credit towards their stormwater fee of up to 30%. The amount of an approved credit shall depend upon the nature and extent of the programs and activities being performed. Schools shall pay the full charge until such time as a discount or waiver is granted by the director.

(D) Waiver of utility fees for certain property. The director 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.

(1) Fees shall be waived for City streets and street rights-of-way, since they act as stormwater conveyance facilities during large floods. The City Streets fund also contributes to the proper operation, maintenance, repair, improvement, and construction of the street drainage system.

(2) Fees shall be waived for state of Washington highway rights-of-way, so long as 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 City.

(3) Fees shall be waived for municipal, county, and state and federal parks, fishing areas, wildlife reserves, public trails and bike paths so long as their owners cooperate with the utility in the provision of educational services and water quality control efforts. Fees shall be waived to the degree that such property owners offset the costs of the utility to manage the burdens imposed by such parcels. 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.

(4) Fees shall be waived for all vacant/undeveloped parcels. The City Council finds that such parcels generally have no improvements built on them, generate little to no traffic, utilize no chemicals, 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 vacant and undeveloped is being used otherwise may result in a loss of this waiver.

12.10.130 Property owners to pay fees.

The owner of each non-exempt parcel shall pay the stormwater user's fee and charges as provided in this chapter. Property owners seeking adjustments or exemptions shall pay the full fee until such time that the adjustment or exemption is granted by the City.

12.10.140 Billing procedures and penalties for late payment.

The charges as herein provided for shall be billed annually, shall be due and payable on or before the 30th day of April, and shall become delinquent thereafter if not paid. The owner of contiguous parcels having a single land use within the categories designated in section 7.80.100 of this chapter may receive a single billing for such parcels.

Collection of delinquencies, interest, penalty, and costs of collection for delinquent utility service charges provided for herein shall be charged interest on the delinquent balance at the rate of five percent (5%) per annum, computed on a monthly basis. In addition to any other remedies permitted by law, the City shall have a lien pursuant to RCW Chapter 35.67, as currently enacted or hereinafter amended, for all delinquent service charges, including interest thereon, against the real property for which the service charges are calculated. Said lien shall have the superiority, and may be foreclosed upon, as described in RCW Chapter 35.67, as currently enacted or hereinafter amended, or other applicable law. The director may excuse delinquencies of less than thirty (30) days.

The City treasurer may use the services of a collection agency to collect delinquent service charges in the manner and to the extent provided in RCW 19.16.500 as currently enacted or hereinafter amended. The collection agency fee shall be added to the amount of the delinquent service charge.

Costs associated with the foreclosure of the lien, including but not limited to advertising, title report, and personnel costs, shall be added to the lien upon filing of the foreclosure action. In addition to the costs and disbursements provided by statute, the court may allow the City reasonable attorney's fees.

12.10.150 Appeals of fees.

(A) Appeal to the director. If an owner of a parcel subject to this chapter, or other responsible party, believes the stormwater user's fee is

incorrect, the owner may appeal the correctness of the fee to the director within thirty (30) calendar days of the mailing of the billing for the fee. Such appeal shall be in writing and shall specify the grounds of the appeal and the requested remedy. The director may make an adjustment to the charges consistent with the criteria provided in YMC 7.80.100 and YMC 7.80.120. Decisions of the director regarding such appeals shall be final unless appealed to the City Council in a timely manner in accordance with subsection (B).

(B) Appeal to the City Council. The decision of the director of an appeal filed in accordance with subsection (A) may be appealed to the City Council. Such appeal must be in writing and filed with the City Clerk within thirty (30) calendar days of the date of the decision of the director. The written appeal must specify the grounds of the appeal and request a hearing before the City Council. The City Clerk shall set a time and place for the appeal hearing. At the hearing, the City Council shall make a final determination regarding the appeal based upon the criteria provided in sections 7.80.100 and 7.80.120 of this chapter.

12.10.160 Severability.

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

12.10.170 Effective Date of Service Charge.

The stormwater fee shall go into effect within the City of Union Gap on January 1, 2005.”

Section 2. This ordinance shall be effective regardless of whether or not Yakima County and/or the City of Yakima passes a storm drainage and surface water management utility.

Section 3. This ordinance shall be in full force and effect ___ days after its passage, approval, and publication by law and by the City Charter.

PASSED BY THE UNION GAP CITY COUNCIL at a regular meeting and signed and approved this _____ day of _____, 2004.

Aubrey Reeves, Mayor

ATTEST:

City Clerk

Publication Date:-----

Effective Date:-----