

ORDINANCE NO. 15, SERIES OF 2005

AN ORDINANCE AMENDING CHAPTER 13.10 OF THE MUNICIPAL CODE TO PROVIDE FOR THE CALCULATION, IMPLEMENTATION, BILLING AND COLLECTION OF STORMWATER MANAGEMENT FEES AND ESTABLISHING AN INITIAL MONTHLY BASE RATE TO BE USED IN THE CALCULATION OF SUCH FEES.

WHEREAS, on October 18, 2004 the Council of Cañon City adopted Ordinance No. 22, Series of 2004, creating a Stormwater Utility Enterprise and a Stormwater Utility Fund; and

WHEREAS, said Ordinance No. 22 did not provide for the actual calculation and assessment of Stormwater Management Fees against developed property to fund the stormwater management programs and facilities of the Stormwater Utility Enterprise, but did contemplate the subsequent adoption of this ordinance for that purpose; and

WHEREAS, the imposition of Stormwater Management Fees is necessary to finance the City's stormwater management programs, to fulfill and implement some of the requirements of federal and state mandated programs required under the City's MS4 permit and to maintain existing stormwater facilities and systems; and

WHEREAS, the Council of Cañon City in response to recommendations from the City's Stormwater Advisory Committee (comprised of interested and dedicated citizens, elected officials and municipal staff) committed to establish a schedule of Stormwater Management Fees that would fund annual revenue requirements of the City's Stormwater Utility Enterprise and spread the cost of meeting such requirements among all developed properties within the City on a fair and equitable basis on terms that will take into account the degree to which each parcel of property within the City contributes to stormwater runoff; and

WHEREAS, proposals regarding the establishment of rates and fees for these purposes were formulated, proposed, studied, shared with the public, weighed and considered throughout the course of a process that culminated with the preparation and delivery of a Stormwater Program Funding Report prepared by the City's consultant, URS Corporation, dated January, 2005, copies of which are on file in the offices of the City Engineer and City Clerk and, by this reference, incorporated herein; and

WHEREAS, having considered such report and other relevant information, the Public Works Committee of City Council has recommended that Stormwater Management Fees be assessed, effective December 1, 2005, against all developed properties in the City; that such fees be based upon the monthly base rate hereinafter adopted; and that the methods for calculating, billing and collecting such fees shall be those set forth in this ordinance.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE COUNCIL OF CAÑON CITY, as follows:

Section 1. Section 13.10.030 of the Cañon City Municipal Code is amended to read as follows:

13.10.030 Definitions.

For purposes of this Chapter, the following words shall have the following meanings, unless the context clearly indicates otherwise:

A. "Base Rate" means the monthly base rate per square foot of impervious surface area that is used to calculate Stormwater Management Fee charges for individual properties. The base rate shall be calculated as provided in Section 13.10.065.

B. "Base Unit" means one square foot.

C. "Combined Utility Statement" means any single billing statement used by the City to periodically bill property owners for: (1) water service charges pursuant to Chapter 13.08; and (2) Stormwater Management Fees pursuant to this Chapter.

D. "Developed Property" means real property, which has been altered from its natural state by the addition of any improvements such as buildings, structures, parking lots, driveways or other impervious area.

E. "Director" means the City Administrator or the City Administrator's Designee.

F. "Fiscal Year" means January 1 of a calendar year to December 31 of the same calendar year.

G. "Grant" means a cash payment of public funds or contribution of money made directly to the stormwater utility enterprise by a state or local governmental entity, or district, which is not required to be repaid. "Grant" does not include public funds paid or advanced to the stormwater utility enterprise in consideration for the provision of any goods, services, facilities, rights or interest by the stormwater utility enterprise to a state or local governmental entity, or district, nor does "grant" include refunds made in the current or next fiscal year, gifts, any payments directly or indirectly from federal funds or earnings on federal funds whether or not the state or local governmental entity, or district acts as a conduit for such payments, collections for another governmental entity, and any other payments or revenue excluded from the definition of "grant" under the Colorado constitution or law.

H. "Impervious Surface Area" means the number of square feet of horizontal surface covered by buildings and other impervious surfaces. All building measurements shall be made between exterior faces of walls, foundations, columns or other means of support or enclosure.

I. "Impervious Surface" means a surface area which is compacted or 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, compacted, or other surface which impedes the natural infiltration of surface water.

J. "Improvement" means any works of man or manmade change to real property including but not limited to buildings or other similar structures, streets, parking lots, driveways, patio areas, roofs, sidewalks, storage areas, paving and compacted surfaces.

K. "Property Owner" means the property owner of record of any lot or parcel against which Stormwater Management Fees may be levied, as listed in the records of the Cañon City Water Department, or if not so listed, as listed in the records of the Park Center Water District, if available. If a property owner's identity is neither listed nor available in such water department or district records, the records of the Fremont County Treasurer shall be used to identify the property owner. A property owner includes any individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, or personal representative.

L. "Revenue Bonds" means bonds, notes or other obligations lawfully, issued or otherwise contracted for, payable from the revenues derived or to be derived from the functions, services, benefits, or facilities of the stormwater utility enterprise or from other available funds of the stormwater utility enterprise.

M. "Revenue Requirement" means the "Operating Revenue" projected for stormwater management programs of the Stormwater Utility Enterprise, as set forth in the City's annual budgets for the Stormwater Utility Fund.

N. "Runoff" means that part of snowfall, rainfall or other stormwater which is not absorbed, transpired, evaporated, or left in surface depressions and which then flows controlled or uncontrolled into a watercourse or body of water.

O. "Stormwater Facilities" means any one or more of the various devices used in the collection, disposition, or treatment of storm, flood or surface drainage waters, including manmade structures and natural watercourses for the conveyance of runoff, such as: conduits and appurtenant features, canals, ditches, streams, gulches, gullies, flumes, culverts, streets, curbs, gutters, detention areas, pumping stations, pipes and related equipment and appurtenances; all extensions, improvements, remodeling, additions and alterations thereof and any and all rights or interest in such stormwater facilities.

P. "Stormwater Management" means the planning, design, construction, regulation, improvement, repair, maintenance, and operation of stormwater facilities and the stormwater system, and also includes the establishment and operation of programs relating to water, flood plains, flood control, grading, erosion, tree conservation, and sediment control including, but not necessarily limited to, programs required by federal, state or local law, rule, regulation or permit.

Q. "Stormwater Management Fee" or "Fee" means the monthly service charge payable by property owners that is established under Section 13.10.050 and assessed against lots, parcels or pieces of developed property to fund stormwater management programs in the City.

R. "Stormwater Management Programs" means and includes all programs established, operated, maintained and/or participated in by the City for purposes of stormwater

management, including specifically any programs required by federal, state or local law, rule, regulation or permit.

S. "Stormwater System" means the system or network of stormwater facilities located in whole or in part within the City, including but not limited to inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities and other components, as well as all natural waterways.

T. "Undeveloped Property" means any property which has no impervious surface area and, for purposes of this Chapter, shall also mean all public streets owned or maintained by the City or State of Colorado and all City parks.

U. "Water" means any storm water, surface water, snow melt or ground water.

Section 2. Chapter 13.10 is hereby amended by the addition of new Sections 13.10.050, 13.10.060, 13.10.065, 13.10.090 and 13.10.095, to read as follows:

13.10.050 Stormwater Management Fee.

Beginning on December 1, 2005, a monthly Stormwater Management Fee shall be imposed upon all lots and parcels of developed property in the City to fund the City's stormwater management programs.

13.10.060 Classification of Property for Purposes of Determination of the Stormwater Utility Fee and Calculation of Stormwater Management Fees.

A. For purposes of determining the Stormwater Management Fee, all properties in the City are classified into one of the two following classes:

1. Developed property; or
2. Undeveloped property.

B. Developed Property. As to each lot or parcel of developed property, the monthly Stormwater Management Fee will be calculated by multiplying the amount of impervious surface area of such property (expressed in square feet) times the base rate.

C. No Fee for Undeveloped Property. Undeveloped property shall not be charged a Stormwater Management Fee.

13.10.065 Base Rate.

A. The City Council, by ordinance, shall establish and from time to time modify the monthly base rate to be used in calculating the Stormwater Management Fee for individual properties. The base rate shall be established at an amount intended to reasonably ensure the availability of funds needed to cover the costs of stormwater management programs in the City

in accordance with the operating revenue requirement for these programs, as reflected in the City's annual budgets for the Stormwater Utility Fund.

B. The base rate shall be calculated by: (1) dividing the Revenue Requirement for stormwater management programs of the City for the applicable fiscal year by the aggregate of impervious surface area on developed property within the City existing at the time the base rate is calculated; and (2) by dividing the quotient thereof by twelve (12).

C. City Council shall re-calculate the base rate no less often than once annually. Such re-calculation shall be conducted no later than sixty (60) days following the adoption of each annual budget.

13.10.090 Billing and collection of Stormwater Management Fees – Combined Utility Statement.

A. Stormwater Management Fees shall be determined on a monthly basis as a monthly charge, but shall be billed to the owners of the affected property according to the provisions of this section.

B. Combined Utility Statements.

1. In all situations where a property within the City is both connected to the City's water distribution system and assessed Stormwater Management Fees, the City shall bill for water charges and Stormwater Management Fees on a single "Combined Utility Statement" that will show water service charges, if any, and Stormwater Management Fees for the applicable billing period or cycle.
2. When billed on a Combined Utility Statement, Stormwater Management Fees will be due and payable on the same date as water service charges for the same property are due and payable. Such due date shall be shown on the Combined Utility Statement.
3. In situations where water charges for the same property are billed and payable quarterly, Stormwater Management Fees respecting such property also will be billed and payable quarterly. The amount thereof shall be calculated by multiplying the monthly Stormwater Management Fee times three (3).
4. In situations where water charges with respect to a property are billed and payable monthly, the monthly Stormwater Management Fee for the same property shall be billed and payable monthly.
5. Payments from owners of properties who receive a Combined Utility Statement (reflecting both Stormwater Management Fees and water service charges) will first be applied to satisfy all outstanding Stormwater

Management Fees and then to reduce or satisfy, as the case may be, outstanding charges for water service.

6. Delinquencies Regarding Charges on Combined Utility Statements.

- a. As to any property with respect to which an unpaid Stormwater Management Fee billed on a Combined Utility Statement becomes delinquent, the Director of Finance shall have the authority to order water service to be shut off, provided that notice to the owner or occupant of such property shall first be given in the same manner as is provided for in Section 13.08.150 with respect to unpaid water charges.
- b. If water service is turned off pursuant to the authority granted in this subparagraph, water service shall not be restored until all past due Stormwater Management Fees, water charges, penalties and interest, including turn off and turn on fees, have been paid in full. This remedy shall be in addition to, and not in lieu of, any other remedy available to the City with respect to the collection of unpaid Stormwater Management Fees and/or water charges.
- c. Delinquent Stormwater Management Fee's shall be added to unpaid water charges, if any, for purposes of calculating late charges and/or penalties associated with any delinquent balance owing with respect to charges on a Combined Utility Statement.

C. The procedures set forth in paragraphs 1, 2, 3, 4 and 5 of this subsection shall apply in situations where the City does not provide water service to a developed lot or parcel located within the City.

1. Stormwater Management Fees will be billed to the owner of each such lot or parcel on a quarterly basis.
2. Payment of each Stormwater Management Fee billed pursuant to this subsection C shall be due thirty (30) days following the date of each billing statement.
3. The due date for payment of the fee shall be reflected on each billing statement.
4. Stormwater Management Fees shall be considered delinquent if not paid on or before their due date.
5. A delinquent charge of \$5.00, or one and one-half percent of the unpaid fee, per month, whichever is greater, shall be assessed upon fees not paid

in full on or before 5:00 p.m. on the due date for such payment, as shown on the statement.

D. The obligation to pay Stormwater Management Fees shall not be affected by the failure of the owner to receive a bill or statement for such fees, provided that such statements are actually mailed to the property owner at the address of the affected property or at such other mailing address as might be designated by such owner in writing.

E. Any Stormwater Management Fee billed by the City shall constitute a lien against the property against which the Stormwater Management Fee was assessed. Such liens shall attach on the due date of the fee and shall remain until the fee and all other charges related to delinquency in the payment of the fee have been paid in full.

13.10.095 Corrections or modifications of fees – Grounds and documentation

A. Property owners may request corrections, revisions or modifications of the Stormwater Management Fee assessed against their developed property. Such requests must be made in writing and must be based upon one or more of the following grounds:

1. Incorrect classification of the property for purposes of determining the fee;
2. Errors in the square footage of the impervious surface area of the property;
3. Mathematical errors in calculating the fee to be applied to the property; and
4. Errors in the identification of the property owner of a property subject to the fee.

B. The Director shall make a determination with respect to any such request within 30 days following his/her receipt of the property owner's completed written request for correction of the fee.

C. A property owner must comply with all rules and procedures adopted by the City when submitting a request for correction of the Fee and must provide all information necessary for the Director to make a determination on a request for correction of the fee.

D. If a property owner alleges an error under Section 13.10.095(A)(2) and requests a hearing pursuant to Section 13.10.100(C), the request for hearing must include a certification by a registered engineer or professional land surveyor of the impervious surface area of the property before a hearing date will be set. Failure to comply with the provisions of this subsection shall be grounds for denial of the request.

Section 3. Adoption of the initial base rate. The monthly "base rate" to be used to calculate Stormwater Management Fees for individual developed properties in the City (effective December 1, 2005) is hereby established as \$0.0017 per square foot of impervious surface area. This monthly base rate shall be appended to Chapter 13.10 as "Appendix 13.10—A". Such base

rate shall remain effective until City Council, by subsequent ordinance, adopts a different base rate in accordance with the provisions of Section 13.10.065 of the Cañon City Municipal Code.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 5. The City Council finds that this ordinance is necessary for the immediate preservation of the public peace, health and safety of the residents of the City.

William F. Jackson, Mayor

ATTESTATION & CERTIFICATION

11/07/05 – Introduced, Read by title & Passed on first reading
11/11/05 – Published
11/21/05 – Passed & Adopted on second reading
11/30/05 – Effective

Becky Walker, CMC
City of Cañon City, Colorado