



TO: Albany City Council

VIA: Wes Hare, City Manager
Jeff Blaine, P.E., Public Works Engineering & Community Development Director
Chris Bailey, Public Works Operations Director

FROM: Mark A. Yeager, P.E., Utility Services Manager

DATE: October 5, 2016, for the October 10, 2016, City Council Work Session

SUBJECT: Draft Stormwater Rate Resolution

RELATES TO STRATEGIC PLAN THEME: ● Great Neighborhoods
● Safe City
● An Effective Government

Action Requested:

Staff is seeking Council review of the attached draft stormwater rate resolution.

Discussion:

The City Council has been considering stormwater system needs, regulatory requirements, and funding alternatives for nearly two years. Since January 2015, there have been 11 Council work sessions (including this meeting) with dedicated stormwater discussions. At the October 10, 2016, Work Session, Council will receive a separate memorandum that identifies three stormwater funding options. Two of those options rely on adoption of a resolution that incorporates stormwater service charges.

The purpose of this memorandum is to provide Council with a draft stormwater rate resolution for review, should it be needed based on the selected option. The attached draft resolution, including Exhibit A, is structured to facilitate the Stormwater Ordinance/Resolution option. Minor modifications will be needed should a different option be selected that relies on stormwater service charges.

The attached draft rate resolution and exhibit reflect the June 6, 2016, discussions with Council regarding revenue requirements, basic rate design principles, customer classes, tiered rates for single-family residential customers, and credit programs for non-single family residential customers. In addition, the resolution contains language describing a stormwater bill appeal process, the option to phase in the rollout of the rates to customers, and general utility information regarding billing and account management.

During the work session, staff will review the draft resolution by major section and will be prepared to answer Council questions. Given the suggestions received from public outreach efforts, there will be some key policy questions for the Council to consider and areas where staff is seeking input. As reviewed in the October 10, 2016, Report on Public Outreach memorandum, staff is seeking policy decisions on:

- The maximum value for implementation of credit-eligible activities.
- The scope of credit options for non-single family residential customers.

- Whether or not the costs of providing credits should be shared by all customer classes, or only by those customer classes eligible to apply for the credits.
- Whether or not compacted gravel should be considered an impervious surface for billing purposes.

Other policy questions include:

- Confirmation of the tiered rate structure for single-family residential customers;
- Option to rollout rates by customer class, billing cycle, or other appropriate method; and
- Site-specific drainage / impervious surface charge waivers (discussed below).

All of the policy questions should be viewed in the context of revenue adequacy and the balance of equity with administrative costs.

Site Specific Drainage / Impervious Surface Charge

One of the fundamental principles of rate making is the need to balance equity and simplicity. Striking that balance becomes especially hard if every single property's drainage characteristics need to be evaluated as part of the billing process. Site drainage can be complex and use of the stormwater system can vary based on the amount of rainfall that occurs. Actions taken upstream or downstream of any given property can impact that property either positively or negatively. These issues help explain why establishment of revenue requirements and rate making are done on a citywide basis, rather than site-by-site determinations of cost of service. To do so would create a complex web of differential rates based on what drainage basin a property is in, where it is located within the basin, and what services are required for that specific property.

However, a frequent comment received through public outreach efforts was that properties that do not drain to the public system should not have to pay the impervious surface charge portion of the proposed stormwater service charges. This opinion has also been voiced by individual Councilors during our various meetings. While the concept sounds simple and equitable, there are issues to be considered before making that policy choice.

Albany's Citywide Cost Recovery

For Albany's proposed program, revenue requirements were established on a citywide basis, then split for cost recovery between the base charge (public use impervious areas such as roads, sidewalks, etc., as well as account maintenance) and the impervious surface charge (private use, on-site impervious surfaces). The assumption was made that all customers benefit from the public use impervious areas and account maintenance services, and, therefore, everyone should be required to pay the same base fee.

For recovery of citywide costs allocated to private, on-site impervious surfaces, it was determined that the most equitable and legally defensible way to apportion costs to customers was to base it on the amount of impervious surface on each property. As consideration is given to whether or not to waive the impervious surface charge for a property based on where it drains, it should be recognized at the onset that the impervious surface charge a property pays is only an indication of their share of the citywide cost and the benefit of receiving services, not the exact cost to provide that individual property with a specific sub-set of services. This distinction can be complicated,

but it is important to understand when considering releasing properties of their obligation to share in costs of managing the stormwater system.

Impervious Surface Charge Waiver

Management of stormwater from impervious surfaces, public and private, benefits all properties regardless of where they drain. The City's stormwater program improves and maintains upstream and downstream stormwater facilities that protect all properties during a storm event. The City also establishes stormwater design criteria and regulates development that helps control off-site stormwater problems, and Albany's stormwater program helps reduce stormwater pollutants that degrade our urban stream water quality, thereby benefitting all citizens. The City is also required to comply with the stormwater provisions of the Clean Water Act, a cost that should be shared among all Albany stormwater customers. All of these benefits are received by each property in the City regardless of where its individual runoff contribution goes, and it is the main reason why the City's consultant does not recommend waiving the impervious surface charge for a property based on where it drains. These perspectives are shared by most other communities staff has surveyed; consequently, they don't provide for bill reductions based on where a property drains.

There is a significant amount of complexity surrounding review of drainage patterns and stormwater facilities. If a detailed waiver process for impervious surface charges were desired, standards would need to be developed, staff would need to be trained, and additional staff may be required. It is also important to remember that generous impervious surface waivers will decrease revenues. As a result, rates for all customers would need to increase in order to recover the lost revenue and to fund increased program costs. These impacts are unquantifiable in advance of implementation.

In summary:

- A waiver program would be administratively complex, reduce revenue, and increase program costs;
- Rate structures are not developed based on the exact cost to serve each individual property;
- Most other cities do not allow waivers based on where a property drains; and
- Our consultant has recommended not implementing an impervious surface charge waiver.

For these reasons, staff does not recommend Council include a broadly applicable impervious surface charge waiver program.

Limited Waiver Options

The underlying assumption for initial program implementation is that all developed properties benefit from Albany's management of the stormwater system and will be subject to the impervious surface charge. A waiver program would undermine that assumption. However, staff recognizes that, politically, Council may desire to implement a very limited impervious surface charge waiver to reflect input received from the business community and to increase public acceptance of the program.

Staff evaluated a number of possible impervious surface charge waiver requests that potentially could be received and concluded that only two options are implementable. One scenario Council may want to consider is an impervious surface charge waiver application for properties where

runoff drains entirely to the Calapooia or Willamette Rivers. Unlike other waterways in Albany, these rivers, while a component of the stormwater system, are not managed directly by City staff.

In response to public comments, the other scenario to consider is a waiver application for customers with constructed on-site retention and/or reuse facilities that don't ultimately, either directly or indirectly, enter the stormwater system during anticipatable rain events or floods. This option would only apply to non-single family residential (NSFR) properties, and is not feasible to implement for SFR customers. Conditions typical to SFR development do not support such a program, nor does the City have the capability to review, track, and enforce continued reliance on private infrastructure over time at the SFR level.

If the Council chooses to implement a very limited waiver program, staff envisions that the process would involve payment of an application fee and submission of engineering data that clearly demonstrates that the property qualifies for one of the impervious surface charge waivers.

Budget Impact:

Consideration of the draft rate resolution and related policy options does not directly impact the current fiscal year budget.

MAY:rk

Attachment

- c: Jeni Richardson, P.E., Civil Engineer III (via email)
- Ryan Beathe, Civil Engineer II (via email)
- Kristin Preston, Wastewater Superintendent (via email)

RESOLUTION NO. _____

A RESOLUTION SETTING RATES FOR STORMWATER MANAGEMENT SERVICES

WHEREAS, rain falling onto developed property collects and runs off impervious or saturated surfaces and drains into stormwater inlets, pipes, drainage ditches, and creeks, and ultimately discharges to various local waterways; and

WHEREAS, when not properly managed, stormwater can flood streets, cause property damage, erode streams, and carry pollutants into local waterways, causing harm to habitat and aquatic species; and

WHEREAS, the existing stormwater system assets of piped and open conveyances are valued at more than \$100 million and should be properly maintained; and

WHEREAS, proper operation and maintenance of stormwater systems is essential for public health and safety; and

WHEREAS, local waterways that receive stormwater are valuable community assets and are subject to federal and state water quality regulations; and

WHEREAS, the City of Albany must comply with new stormwater regulatory requirements (National Pollutant Discharge Elimination System, Municipal Separate Storm Sewer System, Phase II permit) that require significant resources; and

WHEREAS, the City Council finds that a dedicated and reliable source of funds is necessary in order to support stormwater services that meet regulatory requirements and proactively manage and maintain the City's stormwater system; and

WHEREAS, the City Council has determined that implementing a stormwater utility and service charge is the most appropriate and equitable means of providing a dedicated and reliable source of funds, and

WHEREAS, the stormwater service charge it is not a tax subject to the property tax limitation of Article XI, Section 11b of the Oregon Constitution; and

WHEREAS, all developed property in the City either uses or benefits from the City's stormwater management program and no developed property is exempt from the stormwater service charge; and

WHEREAS, the City Council has determined that undeveloped properties shall not be charged for stormwater services; and

WHEREAS, the City Council will consider future rate adjustments based on actual and anticipated revenues and expenses.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that the rates and charges for stormwater services as specifically described in Exhibit A (attached hereto) are hereby adopted; and

BE IT FURTHER RESOLVED that the rates established by this resolution shall be effective **March 1, 2017**.

DATED THIS 7th DAY OF DECEMBER 2016.

Mayor

ATTEST:

City Clerk

EXHIBIT A

STORMWATER UTILITY

Stormwater service charges shall apply to all developed properties and are established for two rate classes: single family residential (SFR) and non-single family residential (NSFR). The stormwater service charge has two parts: a base charge and an impervious surface charge.

The base charge recovers costs attributed to customer-related services, such as billing and account maintenance, plus costs attributed to management of stormwater related to general use areas, such as streets and sidewalks in public rights-of-way. All developed property (SRF and NSFR) benefit from the City's efforts to manage stormwater by reducing flooding, keeping streets passable during storm events, and protecting water quality. All customers will pay the same base charge per account.

The impervious surface charge recovers costs attributed to increased stormwater runoff from impervious surface area outside of the public right-of-way. The average amount of total impervious surface on a typical single family residence serves as the base unit for determining a property's billable impervious surface area. In Albany, the average single family residential property has a total of 3,200 square feet of impervious area when all impervious surfaces are included. This typical single family residential amount is defined as one (1) equivalent residential unit or ERU.

The Public Works Director (Director) or his/her designee is responsible for determining the amount of billable impervious surface on a property. In making that determination, the Director may use aerial mapping, building plans, or other available tools. On-site measurement of the amount of impervious surface area on a property is not required to make this determination.

PHASED IMPLEMENTATION

The application of stormwater service charges to customer accounts may be phased in as deemed appropriate by the Director to ensure proper development of data and billing systems resulting in accurate calculation of customer bills. The phased application of the stormwater service charges by customer class, billing cycle, or other appropriate method will be implemented as quickly as possible; however, all customers will receive the first bill no later than twelve (12) months after the effective date of this resolution.

SINGLE FAMILY RESIDENTIAL RATES

Each developed single family residential (SFR) property shall be billed a base charge and an impervious surface charge for one (1) ERU. The impervious surface charge is tiered in recognition of variations in SFR building footprints throughout the City. The building footprint includes the surface area of the main building.

The monthly stormwater bill for a single family residential customer shall be computed as follows:

$$A = (\text{base charge}) + (\text{impervious surface charge} \times B)$$

where: A = monthly bill
B = 1 ERU

and where: base charge and impervious surface charges by tier are included in the rate schedule below.

SFR RATE SCHEDULE

	Tier 1	Tier 2	Tier 3
Single Family Residential Customer	1,350 ¹ or less	Between 1,351 and 3,150 ¹	3,151 ¹ or more
Base Charge	\$ 4.79	\$ 4.79	\$ 4.79
Impervious Surface Charge (\$/ERU)	\$ 1.45	\$ 1.95	\$ 2.45
Total monthly SFR stormwater bill	\$ 6.24	\$ 6.74	\$ 7.24

¹Building footprint only – square feet

NON-SINGLE FAMILY RESIDENTIAL RATES

Non-single family residential (NSFR) properties include commercial or industrial uses, schools, government, duplexes, mobile home parks, multiple-family units or mixed commercial-residential properties, and all other non-single family residential properties.

The monthly stormwater bill for each NSFR property shall include a base charge and an impervious surface charge. The base charge is the same one used for SFR accounts.

The impervious surface charge for NSFR properties is based on the amount of measured impervious area. The Director or his/her designee is responsible for determining the billable impervious surface area on a property.

The impervious surface charge for each NSFR customer is calculated by multiplying the rate per ERU by the number of ERUs for each property or account. The number of ERUs is determined by dividing the total billable impervious area by 3,200 square feet (the area of one ERU) and rounding to the nearest tenth.

The monthly stormwater bill for a non-single family residential customer shall be computed as follows:

$$A = (\text{base charge}) + (\text{impervious surface charge} \times B)$$

where: A = monthly bill

B = the billable impervious area expressed in ERUs

and where: base charge and impervious surface charge rates are included in the rate schedule below.

RATE SCHEDULE

Non-Single Family Residential Customer

Base Charge **\$ 4.79**

Impervious Surface Charge (\$/ERU)¹ **\$ 1.95**

Monthly NSFR stormwater bill² **varies by account**

¹ ERU = Equivalent Residential Unit. One ERU is 3,200 square feet of impervious surface coverage

² The total monthly NSFR stormwater bill cannot be less than the Tier 2 SFR monthly bill

NON-SINGLE FAMILY RESIDENTIAL CREDITS

The NSFR stormwater credit program recognizes that on-site stormwater management improvements that exceed minimum requirements may reduce the City's stormwater management costs.

Credits for the identified programs can be cumulative as long as the aggregate impervious surface charge bill reduction does not exceed 25%. In no case shall the application of credits result in a final NSFR monthly bill that is less than the Tier 2 SFR monthly bill.

To be eligible for a credit, the customer must submit a completed credit application form with all required supporting documentation along with a credit application fee of \$50.00.

On-Site Structural Stormwater Control Credit: NSFR credits may be allowed for an approved, on-site, structural stormwater control that provides detention, reduces runoff volume, or improves stormwater quality. The intent of the credit is to recognize efforts of property owners to better manage stormwater when stormwater controls are not required as part of a proposed development or other regulatory requirement.

To be eligible for a credit, prior approval of design and construction is required. All facilities eligible for credit must also be designed, constructed, and maintained to the City's Engineering Standards and Standard Construction Specifications or as otherwise approved by the Director or his/her designee. The Director may require an engineering report, hydrologic analysis, an operation and maintenance plan, or any other documentation he/she determines necessary to confirm the reported performance of a stormwater facility.

Facilities installed to meet development or other regulatory requirements are not eligible, even if they exceed minimum performance standards. Facilities determined by the Director or his/her designee to be of no benefit to the City's stormwater systems are also not eligible. Final determination of facility eligibility is made at the discretion of the Director.

The credit will be calculated by determining the amount of impervious surface routed to the eligible facility(ies), multiplying that area by 25%, and converting it to an ERU (rounded to the nearest tenth). The dollar value of the credit will be calculated by multiplying the resultant ERU by the impervious surface charge rate. The maximum credit allowed is 25% of the impervious surface charge on the relevant stormwater bill.

At the discretion of the Director or his/her designee, the credit may be terminated if the customer fails to maintain the facility in proper working order, the property changes ownership, the drainage characteristics of the property change, the property is redeveloped, or the property boundaries change.

The City may request periodic site visits and periodic submittals of maintenance inspection reports to verify that the stormwater facilities, for which the customer is receiving a credit, are installed and maintained in good working order. Failure to allow access or to provide requested reports may be cause for termination of the credit received.

Oregon Department of Environmental Quality (DEQ) 1200Z Credit: Properties that operate in compliance with an approved 1200-Z permit from the Oregon DEQ are eligible for up to a 25% impervious surface charge credit for that portion of the property covered by the 1200Z permit. The property owner may be required to provide documentation or allow inspection by City staff in order to demonstrate, to the Director's or his/her designee's satisfaction, compliance with the 1200-Z permit. Final determination of credit eligibility is made at the discretion of the Director.

Education Credit: Albany is required to implement a public education and outreach program. An informed and knowledgeable community is crucial to the success of a stormwater management program since it helps to ensure greater support and greater compliance. Directing educational programs toward specific groups of appropriate school-age children can help to inform and educate our community.

A credit program for education services may be available for certain schools. To be eligible for this credit, the applicant school would provide access to students within the target grade level of the City's Public Education and Outreach Program for City or City-sponsored presentations. In order to be eligible for a credit, both the applicant school and the City must agree to program terms, and the Director or his/her designee shall determine credit eligibility.

The credit for this program is up to 25% of the impervious surface charge on the stormwater bill for the educational facility providing access to students.

Other Credits: The Director may consider requests for stormwater credit for other facilities or programs provided that the customer can demonstrate that those programs or facilities exceed minimum regulatory requirements and that they reduce the City's stormwater management costs.

APPEALS

Customers with questions about their stormwater bill will be provided informal opportunities to ask questions about their bill and the City will work to help the customer understand how the bill is calculated for their property. If, after the bill calculation has been explained and is understood, the customer disagrees with certain aspects of the bill, the customer may formally appeal the bill.

Initial Appeal: Any customer who disagrees that their property should be charged a stormwater bill or disagrees with the calculation of the stormwater service charges for his or her property may apply to the Director for reconsideration of the stormwater service charge. The formal appeal requires payment of a \$25.00 appeal fee, must state the grounds for reconsideration, and must be filed in writing with the Director no later than thirty (30) days after date of the billing. The Director shall review the request to determine whether an error was made in the calculation of the service charge. If an error has been made in the calculation, the Director may approve a change to the service charge. If the appeal is denied, the reason(s) for denial will be reduced to writing and provided to the customer.

Appeal to City Manager: An appeal of the Director's decision may be brought before the City Manager within thirty (30) days of the date of the Director's decision on the initial appeal. The request must state the grounds for reconsideration of the Director's decision and must be filed in writing with the City Manager. If the City Manager determines that an error has been made in the calculation, the City Manager may approve a change to the service charge. If the appeal is denied, the reason(s) for denial will be reduced to writing and provided to the customer. The decision of the City Manager shall be final.

Credit From Appeal: If an appeal of charges is successful, the revised service charge shall be applied to the account beginning with the bill that was the subject of the initial appeal, a credit will be applied to the account, and the \$25.00 appeal fee will be refunded. The revised service charge will be reflected in future billings for the property until the physical characteristics of the property change, or until the rate resolution is changed.

GENERAL UTILITY INFORMATION

Billing Accounts: In cases where multiple utility accounts exist on one parcel, e.g., commercial retail mall, multi-family apartment units, etc., the City will work with the property owner to either bill one of the accounts for stormwater services for the full parcel, or a new account may be created in the property owner's name and that account will be billed for the stormwater services for the parcel. If a non-single family residential customer has two or more parcels associated with a single business operation, e.g., a commercial building and an adjacent parking lot, those parcels may be consolidated into one bill for stormwater billing purposes.

Monthly Bills: Bills will be rendered monthly. Bills for new accounts or closed accounts, or bills that, for any other reason, cover a period of time more or less than the normal billing period, shall be prorated. Stormwater service charges are not subject to vacancy credits and will not be discontinued when properties become vacant. However, under conditions where the City discontinues billing for other utility services, it may, at its discretion, choose to also discontinue billing for stormwater services.

Commencement: The stormwater service charge shall commence upon connection to the City's water or sewer system; or upon completion, occupancy, or use of the improvements, whichever comes first. Areas that are annexed to the City or under contract to annex shall become subject to the stormwater service charge on the date of annexation or the date of the annexation contract, whichever comes first.

Adjustments, back-billing, credits, and refunds: When the utility determines that a customer has been mistakenly charged too much for stormwater services, the utility will apply a credit to the account based on the date the error first occurred, the date the current customer became responsible for the bill, or a period not to exceed six years, whichever is less. If the date cannot be reasonably determined, the utility will estimate the amount of the credit based on a period not to exceed six years.

When the utility determines that a customer has not been charged or has not been charged enough for stormwater services, the utility will back-bill the account based on the date the error first occurred, the date the current customer became responsible for the bill, or a period not to exceed one year, whichever is less. If the date cannot be reasonably determined, the utility will estimate the bill for a period not to exceed one year. Customers who receive such a delayed bill will be offered the opportunity to make arrangements for installment payments.

Unified Billing: The stormwater service charge shall be billed and collected by the City in the same manner and at the same time as water and sewer service charges. Partial payments on the account shall be applied first to the stormwater charge, second to the sewer charge, finally, to the water charge. The customer shall not be allowed to specify a different allocation of payment.

Delinquent Accounts: An account is delinquent ten (10) calendar days after the date of the bill. Delinquent accounts will receive written notice of the delinquency and may be subject to administrative service charges and service discontinuation until the entire bill balance is paid in full. An interest charge may be added to the unpaid balance, at a rate of nine percent per annum.

Collection: Any balances due on delinquent accounts may be recovered by civil action in the name of the City against the property owner, the person, or both. Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating the debt due. Should the City find it necessary to collect any delinquent fees or charges for stormwater services, it shall be entitled to use any means provided by the laws of the State or permitted by the Charter and ordinances of the City. Fees and charges that are delinquent may be subject to interest charges at nine percent per annum. Any interest charge due hereunder which is not paid when due may be recovered in an action at law by the City.

DRAFT