

Ordinance 2016-24

AN ORDINANCE AMENDING TITLE 13 AND ADOPTING CHAPTER 6 OF PARK CITY MUNICIPAL CODE

WHEREAS, the City finds and declares that absent effective maintenance, operations, regulation and control, existing stormwater drainage conditions constitute a potential hazard to the health, safety and general welfare of the City; and

WHEREAS, the Federal Clean Water Act requires that stormwater discharges from certain types of facilities be authorized under Stormwater Discharge Permits; and

WHEREAS, the State of Utah was granted primacy in the National Pollutant Discharge Elimination System (NPDES) program by the United States Environmental Protection Agency in 1987; and

WHEREAS, the State of Utah has instructed the City to secure coverage under the Clean Water Act for the City's stormwater system; and

WHEREAS, the City has determined that the most equitable solution to meeting the financial needs of the stormwater system is the creation of an enterprise account; and

WHEREAS, this enterprise account shall assess duly adopted fees in accordance with the ordinances herein amended and adopted.

NOW, THEREFORE BE IT ORDAINED by the City Council of Park City, Utah as follows:

Title 13 is hereby retitled "Water and Stormwater Code"

Chapters 2-5 reserved for future use.

Title 13 Chapter 6 STORMWATER UTILITY

Sections:

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13-6-1 PURPOSE.

The City finds and declares that absent effective maintenance, operation, regulation and control, existing Stormwater drainage conditions in all areas within the City constitute a potential hazard to the health, safety and general welfare of the City. The City Council further finds that natural and manmade Stormwater facilities and conveyances constitute a Stormwater system and that effective improvement, regulation, treatment, and control of Stormwater through formation by the City of a Stormwater utility requires the transfer of all Stormwater facilities and conveyances to a separate enterprise account.

13-6-2 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply:

“City” means Park City, a municipal corporation of the state of Utah.

“Public Utilities Director” means the Park City Public Utilities Director or his or her designee.

“County” means Summit County or Wasatch County.

“Commercial Property” means land that is not Single-Family Residential Property, Multi-Family Residential Property, or Undeveloped parcel.

“Customer” or “Person” means any individual; public or private corporation and its officers; partnership; association; firm; trustee; executor or administrators of an estate.

“Equivalent surface unit (ESU)” means a defined unit equal to 2,000 square feet of Impervious surface area.

“Impervious surface” means a parcel’s hard surface area that causes water to run off its surface in quantities or speeds greater than under natural conditions. Some examples of Impervious surfaces are rooftops, concrete or asphalt paving, walkways, patios, driveways, parking lots or storage areas, and gravel that has been subject to surface traffic, including compacted gravel surfaces.

“Multi-Family Residential Property” means land containing more than one single-family dwelling unit. When served by Park City Water these are multiple single-family dwellings served by a single meter or one large meter, with a small meter bypass. Any use other than residential or irrigation shall result in classification as a Commercial meter.

“Single-Family Residential Property” means land containing a single-family dwelling unit. When served by Park City water these are served by a single meter.

“Stormwater system” means a conveyance or system of conveyances (including roads with drainage systems, catch basins, curbs, gutters, ditches, natural or man-made channels, ground water drain systems, or storm drains) pursuant to Utah Administrative Code R317-8-1.6(4), (7), & (14), or designated under Utah Administrative Code R317-8-3.9(1)(a) et seq. that is owned or operated by the City, which has jurisdiction over disposal of wastes, Stormwater, or other wastes; that is designed or used for collecting or conveying Stormwater.

“Stormwater” means stormwater runoff, snowmelt runoff, and surface runoff and drainage.

“Stormwater utility” or “utility” means the utility created by this chapter, which operates, maintains, regulates, and improves Stormwater systems and programs within the City.

“Undeveloped parcel” means any parcel that has not been altered by grading, filling, or construction.

13-6-3 STORMWATER UTILITY CREATED.

There is hereby created and established a Stormwater utility and service charge structure. The utility will have regulatory authority and responsibility for planning, design, construction, maintenance, administration and operation of all City Stormwater systems, conveyances, and facilities.

13-6-4 MAINTENANCE OF CITY STORMWATER SYSTEM AND ASSETS.

The utility shall operate, maintain, and improve all existing City Stormwater systems used for the conveyance of Stormwater, through, under or over lands or watercourses, beginning at a point where the Stormwaters first enter the Stormwater system of the City and ending in each instance at a point where the Stormwater exits the system. Stormwater facilities do not include government-owned streets or those Stormwater facilities operated and maintained by, or for, a County or the State of Utah.

13-6-5 UTILITY ADMINISTRATION.

The Stormwater utility shall be administered by the Public Utilities Director.

13-6-6 SERVICE CHARGE IMPOSED.

All Persons otherwise responsible for Impervious surfaces within the City which contribute runoff to the Stormwater system or who otherwise use or benefit from the

Stormwater utility of the City will be responsible for paying the Stormwater utility fees as set forth in the Park City Fee Schedule.

13-6-7 SYSTEM OF RATES AND CHARGES.

(1) Service Fees Imposed. The City shall impose Stormwater drainage fee rates and charges within the City except City-owned or operated facilities, public streets, a County or the State of Utah. The charges shall fund the administration, planning, design, construction, stream water quality programming, operation, maintenance, and repair of existing and future Stormwater facilities.

(2) Methods of Determining Contribution of Stormwater and Property Classifications.

Impervious surfaces serve as the basis of the Stormwater service fee. Impervious surfaces reduce infiltration and increase surface runoff, thereby increasing the amount and rapidity of Stormwater. 2,000 square feet of Impervious surface is herein defined as an ESU. Private roads shall be considered in a property's ESU calculation. If Commercial Property and Multi-Family Property both benefit from the same roof, sidewalks, parking area, or other impervious area, the roof may be assigned to the Multi-Family area, and the sidewalks and parking area may be assigned to the Commercial Property. If multiple customers benefit from the same impervious area those owners may request the City bill that impervious area to a mutually agreed upon customer.

(a) Single-Family Residential Property. Single-Family Residential Properties shall be billed a set number of ESU(s) based on where the home is located on a map provided in the City's Fee Schedule or based on an individual assessment of the property.

(b) Multi-Family Residential Property. Multi-Family Residential Property shall be billed one ESU per unit.

(c) Commercial Properties. Commercial Properties shall be billed by reviewing aerial imagery to determine the Impervious surface and then rounding the Impervious surface up to a whole ESU.

(d) Undeveloped Parcels. Undeveloped parcels shall have no charges assessed.

(3) Method of Determining Service Fee Rates. The charge for an ESU shall be set forth in the City Fee Schedule.

13-6-8 BILLING AND COLLECTION.

(1) Utility Enterprise Fund. This chapter creates the Stormwater utility fund. All revenues received from Stormwater utility fees shall be placed in the enterprise fund as a designated fund, to be left separate and apart from all other City funds. The collection,

accounting, and expenditure of all Stormwater utility funds shall be in accordance with the Utah Uniform Fiscal Procedures Act.

(2) Billing. The City shall bill, or cause to be billed, property owners or other party if authorized by the owner for Stormwater utility services. If a party authorized by the owner fails to stay current, the responsibility for any fees and charges shall revert to the owner. Fees and charges shall be considered delinquent if not paid as determined by the procedures established by the City and shall be a debt to the City, which shall be subject to recovery in a civil action.

(3) The City shall send a monthly or bi-monthly billing. Payment is due within fifteen (15) days from receipt of the bill, or by the end of the month when the bill is mailed whichever is later. Interest shall be assessed against all accounts which are more than thirty (30) days past due at the rate of one and a half percent (1½%) per month, which is an annual rate of eighteen percent (18%). An account is due and payable upon mailing of the monthly statement, and interest will be assessed if the bill, or any portion of the bill, remains unpaid thirty (30) days from mailing. Interest will be charged only against the unpaid balance, and not against any partial payment, or against the current billing cycle charges.

(4) Unified Bill. All service charges, costs, fees, and penalties for water and Stormwater utility services by the City shall be billed for and collected on a single, unified bill. A partial payment shall first be credited to any penalties, interest and fees, and may then be applied to past due stormwater billings, followed by past due water billings.

13-6-9 ADJUSTMENT.

(1) Any Customer who disagrees with ESU determination, as provided in this chapter, for his or her property may apply to the Public Utilities Director for a recalculation. The request must be received on a form provided by the City and must be filed in writing with the Public Utilities Director no later than 30 days after receipt of the most recent billing. The Public Utilities Director or designee shall review the request and basis for user charges consistent with this chapter, and may approve an adjustment to the fee.

(a) Single-Family Residential Property. Single-Family Residential Properties may request an individual review of their property. A written request shall result in reviewing aerial imagery of the requested property. The actual Impervious surface area will be calculated, and the result will be rounded up to nearest whole ESU.

(b) Multi-Family Residential Property. Multi-Family Residential Properties may request an individual review of their property. A written request shall result in reviewing aerial imagery of the requested property. The actual Impervious surface area will be calculated, and the result will be rounded up to the nearest whole ESU.

(c) Commercial Properties. Commercial Properties may request a copy of their individual ESU determination, and may provide comment on the accuracy of said determination. Adjustments may be made in consultation with the Public Utilities Director. Commercial Properties shall be billed by rounding up the Impervious surface area to the nearest whole ESU.

(d) Undeveloped Parcels. Undeveloped parcels shall have no charges assessed.

(2) Administrative Relief. The Public Utilities Director may provide administrative relief from any fees and charges following application to the City and in cases of hardship or unusual circumstances.

(3) Application of Adjustment. If an adjustment is made, credit shall be applied to all charges from the time of the request, except that any request for an adjustment made prior to June 30, 2017 may be applied retroactively to all billing since July 1, 2016.

13-6-10 APPEAL TO ADMINISTRATIVE LAW JUDGE.

An appeal of a Public Utilities Director's decision may be brought before a City provided administrative law judge within 30 days of the Public Utilities Director's decision. The review shall be made on the basis of whether the Public Utilities Director's decision was arbitrary and capricious. The decision of the administrative law judge shall be final and conclusive.

If an appeal of charges is successful, credit shall be applied to all charges from the time of the request unless equity should require a greater period of time, and shall be reflected on a future billing after the appeal is decided in favor of the appellant, in whole or in part.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect on July 1, 2016.

PASSED AND ADOPTED this 2nd day of June, 2016

PARK CITY MUNICIPAL CORPORATION



Jack Thomas, MAYOR



ATTEST:

Michelle Kellogg
Michelle Kellogg, City Recorder

APPROVED AS TO FORM:

Mark Harrington
Mark Harrington, City Attorney