

ORDINANCE NO. 3177

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF COEUR D'ALENE, KOOTENAI COUNTY, IDAHO BY ADOPTING A NEW CHAPTER DESIGNATED AS 13.35; PROVIDING A PURPOSE; ESTABLISHING A STORM WATER UTILITY; PROVIDING DEFINITIONS; AUTHORIZING A UTILITY RATE STRUCTURE; AUTHORIZING CREDITS AGAINST CHARGES; TRANSFERRING INTEREST IN STORM WATER FACILITIES AND ASSETS; PROVIDING FOR ADMINISTRATION OF THE STORM WATER UTILITY; PROVIDING FOR THE RECALCULATION OF FEES; ESTABLISHING UTILITY BILLING AND DELINQUENCY PROCEDURES; ESTABLISHING A STORM WATER ENTERPRISE FUND; PROVIDING FOR ANNUAL REPORTS; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDE FOR PUBLICATION AND AN EFFECTIVE DATE HEREOF.

WHEREAS, the City Council of the City of Coeur d'Alene (the "City") has determined that the City's physical growth and urban development has and will continue to increase the volume of storm water runoff collected in and routed through the City's man-made and natural storm water facilities ("storm water system"); and

WHEREAS, the City Council finds that storm water runoff causes property damage and erosion; carries concentrations of nutrients, heavy metals, oil and toxic materials into receiving waters and ground water; degrades the integrity of City streets and the transportation system; and reduces citizen access to emergency services and poses hazards to both lives and property; and

WHEREAS, the City Council has determined that storm water runoff must be managed in a manner that protects the public health, safety and welfare; and

WHEREAS, the Federal Environmental Protection Agency and the State Department of Environmental Quality are requiring, and Coeur d'Alene has prepared, a storm water permit application and management plan to reduce nonpoint source pollution to Idaho's designated receiving waters of the United States, which specifically identify Lake Coeur d'Alene and the Spokane River, under the authority of the Clean Water Act; and

WHEREAS, based on recommendations from the Citizen's Storm Water Committee, the City Council finds that implementation of enhanced design criteria, regulations, maintenance, improvement, water quality management, public awareness and code enforcement are necessary to ensure adequate storm water quality and quantity control; and

WHEREAS, the City Council finds that establishing a Storm Water Utility provides the funding necessary to enable on-going maintenance, operation, regulation, water quality management and improvement of the system; and

WHEREAS, the City Council finds that all impervious surface within the City's boundaries, contributes runoff to the City's storm water system; that all utility users having impervious surface areas make use of or benefit from the City's maintenance, water quality management, operation and improvement of the storm water system; and that all such Storm Water Utility users should participate in funding of the City's program for maintenance, operation and improvement of the storm water system; and

WHEREAS, professional financial and engineering consultants and the City's Wastewater Division have worked in cooperation with the Citizens Storm water Committee in evaluating methods for storm water management and options for funding the program. Based on this review and evaluation, recommendations from the Citizens Committee to the City Council were made and accepted; and

WHEREAS, The City Council finds that it has authority, through its police power as well as through I.C. 50-1027 et seq., I.C. 50-304, I.C. 50-315, I.C. 50-332 and I.C. 50-33 to establish a Storm Water Utility; and

WHEREAS, after public hearing on the hereinafter provided provisions it is deemed by the Mayor and City Council to be in the best interests of the City of Coeur d'Alene that said amendments be adopted; NOW, THEREFORE,

BE IT ORDAINED, by the Mayor and City Council of the City of Coeur d'Alene:

Section 1

That a new Chapter, designated 13.35, is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

**CHAPTER 13.35  
THE STORM WATER UTILITY ORDINANCE**

Section 2

That a new Section, designated 13.35.010, is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

**13.35.010: Purpose:**

The City finds and declares that absent effective maintenance, operation, water quality management, regulation and control, existing storm water 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 man-made storm water facilities and conveyances, including the City's groundwater system, constitute a storm water system and that effective improvement, regulation, water quality management and control of storm water through formation, by the City, of a Storm Water Utility requires the transfer to the Utility of certain storm water facilities and conveyances and related rights belonging to the City.

### Section 3

That a new Section, designated 13.35.020, is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

#### **13.35.020: Definitions:**

**A. Impervious Surface:** Shall have the same meaning as that given at Municipal Code Section 17.02.070(A).

**B. Persons Responsible:** The owner, agent, occupant, lessee, tenant, contract purchaser, or other person having possession or control of property or the supervision of an improvement on the property.

**C. Utility:** For the purposes of this chapter, all references to "Utility" refer to the Storm Water Utility.

### Section 4

That a new Section, designated 13.35.030, is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

#### **13.35.030: Storm Water Utility Created:**

There is hereby created and established a Storm Water Utility and service charge rate structure. The Utility will have regulatory authority and responsibility for planning, design, construction, maintenance, administration and operation of all City storm water conveyances and facilities.

### Section 5

That a new Section, designated 13.35.040, is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

#### **13.35.040: Utility Administration:**

The Storm Water Utility will be administered by the City in a manner consistent with other City Utilities. The organization structure of the Utility will be approved by resolution of the City Council.

### Section 6

That a new Section, designated 13.35.050, is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

#### **13.35.050: Applicability:**

All persons responsible for properties that have impervious surfaces within the corporate limits of the City of Coeur d'Alene are subject to the fee created by this chapter.

### Section 7

That a new Section, designated 13.35.060, is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

#### **13.35.060: Fee Established:**

Each person or entity subject to the provisions of this Chapter will pay a Storm Water Utility Fee consistent with and in an amount to be set by resolution of the City Council.

### Section 8

That a new Section, designated 13.35.070, is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

#### **13.35.070: Exemptions and Credits:**

The City Council may establish credits to the fee established by this chapter by resolution of the City Council.

### Section 9

That a new Section, designated 13.35.080, is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

#### **13.35.080: Recalculation of Fee:**

A. If a person responsible subject to the fee established by this chapter believes that a particular assigned fee is based on an incorrect calculation of impervious surface, such person responsible may request that the Utility recalculate the fee by requesting such recalculation in writing. The request must identify the basis for disagreement with the assessed fee and be accompanied by relevant supporting documentation. The Utility shall recalculate the fee and notify the person responsible, in writing, no later than 30 calendar days following receipt of the completed written request for recalculation.

## Section 10

That a new Section, designated 13.35.090, is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

### **13.35.090: Billing; Paid Where:**

All billings for service charges assessed under the provisions of this chapter shall be made by, and all payments shall be paid to, the office of the Treasurer of the City. Billings shall be at the discretion of the Treasurer, in the name of either the owner or occupant, or both, of the premises against which the charge or fee is made.

## Section 11

That a new Section, designated 13.35.100, is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

### **13.35.100: Billing; When; Delinquency; Penalty Charge:**

Billings for charges assessed under the provisions of this chapter may be made monthly, bimonthly, quarterly or at such other intervals as may be determined by the Mayor and City Council. Where there is a joint billing of various city utility charges, payment of part of the billing shall not be accepted, and if not paid in full, water service may be discontinued until the entire joint billing is paid in full. User charges are due on the last day of the time period for which the billing is made and become delinquent twenty (20) days thereafter. A delinquency charge of ten percent (10%) may be assessed on any balance remaining unpaid at the time of the next succeeding billing. The charges and fees must be received by the City prior to the due date shown on the invoice or billing statement. All charges and fees not paid within or by the time periods established by the city shall be considered delinquent and such delinquent accounts shall be charged one and one-half percent (1.5%) per month to be added to the balance.

## Section 12

That a new Section, designated 13.35.110, is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

### **13.35.110: Unpaid Fees And Charges; Lien:**

The owner, to the extent permitted by law, and occupant of any such premises subject to the fee created by this chapter shall be jointly and severally liable for all fees and charges assessed by the City. Such charges shall become a lien upon and against the property against which the charge or fee is levied to the extent permitted by the laws of the state and the ordinances of the City and may be collected in any manner permitted or hereafter permitted by law.

### Section 13

That a new Section, designated 13.35.120, is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

#### **13.35.120: Storm Water Enterprise Fund:**

All fees and charges received and collected under authority of this chapter shall be deposited and credited to a special fund to be designated as the Storm Water Enterprise Fund. The accounts of the fund shall show all receipts and expenditures for the maintenance, operation, upkeep and repair and capital outlay of the storm water system, including the payment of bonds issued to finance such capital outlay. When budgeted and appropriated, the funds and credits to the account of the Storm Water Enterprise Fund shall be available for the payment of the requirements for the maintenance, operation, repairs and upkeep and improvements of the storm water system of the City, including the payment of bonds issued therefore.

### Section 14

That a new Section, designated 13.35.130, is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

#### **13.35.130: Facilities and Assets:**

The Storm Water Utility shall operate independently of the City's general fund and shall have the same relationship to the City as other City Utilities. Upon creation of the Utility, the City's storm water facilities and assets, other than streets, shall be transferred to the Utility in accordance with Governmental Accounting Standard's Board (GASB) financial reporting principles.

### Section 15

That a new Section, designated 13.35.140, is hereby added to the Coeur d'Alene Municipal Code, to read as follows:

**13.35.140: Annual Reports:** The Utility shall provide the City Council with an annual report of the activities of the Utility during the preceding year and a projection of the upcoming years priorities.

### Section 16

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Section 17

Neither the adoption of this ordinance nor the repeal of any ordinance shall, in any manner, affect the prosecution for violation of such ordinance committed prior to the effective date of this ordinance or be construed as a waiver of any license or penalty due under any such ordinance or in any manner affect the validity of any action heretofore taken by the City of Coeur d'Alene City Council or the validity of any such action to be taken upon matters pending before the City Council on the effective date of this ordinance.

Section 18

The provisions of this ordinance are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, clause sentence, subsection, word, or part had not been included therein, and if such person or circumstance to which the ordinance or part thereof is held inapplicable had been specifically exempt therefrom.

Section 19

This ordinance shall take effect and be in full force upon its passage, approval and publication in one (1) issue of the Coeur d'Alene Press, a newspaper of general circulation published within the City of Coeur d'Alene and the official newspaper thereof.

APPROVED by the Mayor this 1<sup>st</sup> day of June, 2004.

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Sandi Bloem, Mayor

ATTEST:

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Susan K. Weathers, City Clerk