

ENVIRONMENT COMMITTEE AGENDA

July 11, 2013 - North Conference Room

21630 11th Avenue South – Des Moines 98198

5:30P – 6:50P

1. Approve minutes 4/11/13 meeting
2. SWM Rate Structure Study Update
(Review & discuss Council directed ordinance and staff recommended alternative ordinance – both attached)
3. SWM CIP Project Updates
(Staff to provide update on 2013 CIP Projects. Staff recommends delay bidding for 216th Place & DMMD Pipe Projects for construction in 2014).
4. FEMA Coastal Zone Flood Maps (Preliminary)
(Staff to provide update on the preliminary flood plan maps issued by FEMA on February 1, 2013. The appeal period is expected to start in August. Staff seeking direction from the Committee on participation in a local or regional public meeting.)

ENVIRONMENT COMMITTEE AGENDA

July 11, 2013 - North Conference Room – Attachment A

Item #3 – SWM CIP Project Updates

- 216th Place Pipe Project and DMMD Pipe Projects Ready for bidding; however, the engineer's estimate for the DMMD Project is double the budget due to the need to relocate the alignment to the south bound lane to avoid utility conflicts and potentially destabilizing a known slide area. Staff recommends postponing both projects until 2014.
- Lower Massey Creek Modification Design underway and proceeding as planned.
- 216th Sinkhole About 350 feet of cmp pipe west of the Gateway Project has failed. Steel plate has been placed over sinkhole on north shoulder. Quote from contractor to replace pipe, restore pavement and abandon (fill) existing pipe and sinkhole \$125,000 to \$150,000.
- Barnes Creek/KDM Culvert Replacement Preliminary estimate to replace culvert in excess of \$1M. Alternative analysis needed.
- Detention Pond Safety Improvements (fencing) Scheduled for this summer.

Item #4 – FEMA Coastal Zone Flood Maps (Preliminary)

- Preliminary FEMA maps have been issued
- Public comment period to start in August
- Base flood elevations have been re-determined for the entire Puget Sound shoreline using new modeling methods. Base flood elevations have been added to the shoreline south of Saltwater State Park, including the Redondo beach area.
- Last January storm seems to confirm these base flood elevations.

DRAFT ORDINANCE 13-123

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to surface water management, amending DMMC 11.12.010 to revise the definition of private streets and equivalent billing unit (EBU); amending DMMC 11.12.020 to revise the property classification base rates in Appendix A attached to this ordinance; amending DMMC 11.12.060 to eliminate the 70% discount for private streets but also to exempt service charges for private streets that do not limit public access and were constructed to the street standards at the time of approval of the plat as well as provide surface water management services to private streets meeting those two conditions; amending 11.12.070 to eliminate services to private streets under this section; and amending 11.12.080 for rate adjustments to provide for an adjustment in service charges for non-single family properties that provide water quality and/or water quantity mitigation above that required under the current development standards.

WHEREAS, the City Council of the City of Des Moines first established surface water utility rates and charges in Ordinance No. 860, enacted October 11, 1990, and

WHEREAS, Ordinance No. 860 was amended by Ordinance No. 990, enacted November 19, 1992, to apply a cost of living increase of approximately 3.15 percent, effective in 1993, and

WHEREAS, Ordinance No. 990 was amended by Ordinance No. 1065, enacted November 18, 1993, to apply a cost of operation increase of approximately 2 percent, effective in 1994, and

WHEREAS, Ordinance No. 1065 was amended by Ordinance No. 1173, enacted November 21, 1996, to apply a cost of operation increase of approximately five percent (5%), effective in 1997, and

WHEREAS, Ordinance No. 1173 was amended by Ordinance No. 1220-A, enacted October 29, 1998, to apply a cost of operation adjustment to charges for surface water drainage services to be consistent with the Surface Water Management Financial Forecast, and

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WHEREAS, Ordinance No. 1220-A was amended by Ordinance No. 1246, enacted November 18, 1999, to apply a cost of operation adjustment to charges for surface water drainage services and to add participation charges for new development permits, and

WHEREAS, on October 13, 2005, the City Council of the City of Des Moines considered the findings and recommendations of the Surface Water Management Rate Study presented by John Ghilarducci of Financial Consulting Solutions Group, Inc., and

WHEREAS, Ordinance No. 1368 was enacted on November 13, 2005, to adjust surface water drainage service charges, to amend participation charges for development permits, and to apply an inflation adjustment, and

WHEREAS, Ordinance No. 1437 was enacted on September 25, 2008, to adjust surface water drainage services charges, to revise the annual inflation rate calculation, and to specify an effective date for applying the drainage service charges to new development, and

WHEREAS, Ordinance No. 1441 was enacted on November 13, 2008, imposing a six percent (6%) Surface Water Management Utility Tax, and

WHEREAS, Ordinance No. 1496 was enacted on November 18, 2010, to revise the annual inflation index calculation to a minimum rate increase of zero percent, and

WHEREAS, the City Council finds that surface water management is an essential service of the City of Des Moines, and

WHEREAS, on May 23, 2013, the City Council of the City of Des Moines considered the findings and recommendations of the Surface Water Management Rate Structure Study presented by John Ghilarducci of Financial Consulting Solutions Group, Inc., and the City Council having considered; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. The following Findings and Authority shall apply to this ordinance.

The City has prepared a study for determining an equitable method for calculating the Surface Water Management Service Fees for the rate classes as set forth in Appendix A of this ordinance. The "Rate Structure Study, City of Des Moines", dated July , 2013, complies with RCW by applying three uniform rates for small, medium, and large single-family properties and a measured rate for single-family properties exceeding 7,500 square feet of impervious surface and a measured rate for all multi-family, commercial and non-profit properties. The measured rate charge shall be based on per billing unit per 3,450 square feet of impervious surface area. A copy of the rate study, Appendix B of this ordinance, shall be kept on file with the city clerk and is available to the public for review.

Sec. 2. The following is adopted by reference.

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The "Stormwater Rate Structure Study, City of Des Moines" dated July , 2013, is hereby adopted as set forth in Appendix B, which is attached to the ordinance codified in this chapter and incorporated herein by reference.

Sec. 3. DMMC 11.12.010 and section 1 of Ordinance No. 860 as amended by section 1 of Ordinance No. 1000 as amended by section 2 of Ordinance No. 1211 as amended by section 1 of Ordinance No. 1246 are each amended to read as follows:

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Definitions.

(1) Use of Words and Phrases. As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

(2) "Commercial property" means: (a) all property in the city, private or public, used for a purpose other than single-family, multifamily, or nonprofit uses; and (b) for the purposes

of this chapter, "mixed uses" as defined in the zoning code of the city and nonprofit homes for the aging as that expression is used in chapter 84.36 RCW.

(3) "Development permit charge" means a one time payment made at the time of development or redevelopment of a property to compensate the city for the costs previously incurred by the city in providing the surface water system serving the property at the time of development.

(4) "Developed property" means a property that has been changed from the natural state, resulting in 500 square feet or more of impervious area occurring on the property.

(5) "Development permit" means, for the purposes of this chapter, a required permit leading to a project that will result in 500 square feet or more of new impervious area on previously undeveloped or developed property.

(6) "Disabled person" means a person who has been granted special parking privileges for disabled persons under RCW 46.16.381 as presently constituted or as may be subsequently amended.

(7) "Equivalent billing unit (EBU)" means a measure of the impact of commercial/multifamily properties on the surface water system. It is equal to each 2,4003,450 square feet of impervious area that has been determined to be the average amount of impervious area on single-family properties in the city.

(8) "Impervious surface" or "area" means a hard surface area which either prevents or retards the entry of water into the soil mantle as it entered under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking

lots, storage areas, areas which are paved, graveled or made of packed or oiled earthen materials, or other surfaces which similarly impede the natural infiltration of surface and storm water. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purpose of this chapter.

(9) "Multifamily property" means all property zoned and/or used for purposes of multifamily housing. For the purposes of this chapter, trailer parks are considered multifamily property, and "mixed uses" are not considered multifamily property.

(10) "Nonprofit property" means property upon which a facility exists that is owned and operated by a governmental agency or by an organization that has been granted nonprofit status under the rules of the Internal Revenue Code of the United States.

(11) "Nonprofit residential property" means multifamily residential developments or nonprofit homes for the aging, owned and operated by a governmental agency or by an organization that has been granted nonprofit status under the rules of the Internal Revenue Code of the United States.

(12) "Private streets" means tracts of land, not publicly owned, that are generally open and unrestricted to the public in the same manner as public rights-of-way and that serve residential developments, but shall not include driveways or paved surfaces providing vehicle access within a multifamily or commercial development.

(13) "Rate Structure Study" means the rate study identified in Section 2 of this ordinance.

(14) "Single-family unit" means those properties on which one dwelling unit is established, and that unit is used for dwelling purposes and not commercial activity, except for approved home occupations. "Single-family unit" also means an

individually owned dwelling unit in planned unit developments (hereinafter "PUD" or "PUDs"), except for condominiums therein.

(154) "Surface water system" means the surface water utility system of the city.

Sec. 4. DMMC 11.12.020 and section 2 of Ordinance No. 860 as amended by section 1 of Ordinance No. 927 as amended by section 1 of Ordinance No. 990 as amended by section 1 of Ordinance No. 1065 as amended by section 1 of Ordinance 1083 as amended by section 1 of Ordinance 1173 as amended by section 1 of Ordinance No. 1220-A as amended by section 2 of Ordinance No. 1246 as amended by section 1 of Ordinance No. 1368 as amended by section 1 of Ordinance No. 1437 as amended by section 1 of Ordinance 1496 are each amended to read as follows:

Service charge established for surface water service.

There is established a system of service charges for surface water drainage service against all developed properties in the city.

(1) Monthly surface water utility rates shall be established on the basis of whether the developed property is used for a single-family unit, multifamily units, commercial properties, or nonprofit properties. Rates for all other surface water goods and services shall be established by executive order of the city manager and published at the office of the planning, building, and public works department.

(2) The rates for surface water drainage service shall be as reflected on Appendix "A" attached to the ordinance codified in this section, which is incorporated herein by this reference. The baseline rates contained in Appendix "A" shall take effect January 1, 2009~~14~~. Effective January 1, 2010~~5~~ and January 1st of each succeeding year thereafter, rates for surface water drainage service shall be established by, first, taking the rate service charge for the previous year (this figure is hereinafter referenced as the "base sum"); second, multiplying the base sum by a combination index of the Engineering News Record (ENR)

Construction Cost Index (CCI) for the city of Seattle on March 31st of the current year and the Seattle Consumer Price Index (CPI-Urban Consumers), as measured for the 12-month period ending in June of the previous year as published by the U.S. Bureau of Labor and Statistics. The applicable index shall be calculated for the upcoming year as 30 percent of the ENR CCI for Seattle plus 70 percent of the Seattle CPI; and, third, adding the results to the base sum. Beginning January 1, 2010, and on January 1st of each succeeding year, the rates shall be established by applying updated CCI, CPI, and the end figures in like manner to the rates of the previous year. Beginning January 1, 2011, and on each succeeding year, should the combined CCI/CPI inflation index as calculated above be less than zero, then the base sum shall remain the same as the previous year.

(3) The monthly surface water service charge as applied to new development activity resulting in 500 square feet or more impervious area shall become effective on the date the land was cleared, graded or modified for the development as documented by the public works director. For new subdivisions, the effective date shall be approval date of the plat.

Sec. 5. DMMC 11.12.060 and section 6 of Ordinance No. 860 as amended by section 2 of Ordinance No. 1187 as amended by section 1 of Ordinance No. 1230 are each amended to read as follows:

Service charges and services for private streets.

In recognition of the benefit to the public that have general access to private streets, private streets that meet the definition per this chapter and constructed to standards required for the approval of the plat, shall be exempted from the monthly service charge and shall, upon written agreement of the property owners, receive maintenance services such as street sweeping and catch basin cleaning at no cost. However, the city shall not assume any responsibility for any structural defects or failures of the system, or for the replacement of any of the facilities worn out through normal use. All costs for structural defects, failures, and replacements shall be borne by the

property owners, and all such repairs and replacements shall be made at the expense of the owner and in a timely manner when so directed by the city. Private streets that do not meet the definition per this chapter shall be fully charged the monthly service charge and shall not be eligible to receive services.

The monthly service charge for private streets shall be computed on the same basis as commercial property, ~~except that the number of equivalent billing units derived therefrom shall be multiplied by 0.30 in computing the overall service charge.~~

Where private streets are in single ownership, the owner shall be responsible for all charges. Where private streets are not in single ownership, but subject to a maintenance agreement, residential properties served by the private street shall be billed equally on a pro rata basis.

Sec. 6. DMMC 11.12.070 and section 7 of Ordinance No. 860 are each amended to read as follows:

Services to be provided to commercial, multifamily and nonprofit properties.

In recognition of the impact of these properties on both the quantity of storm water runoff and the quality of storm water runoff to the surface water system, the city shall, upon written agreement with the property owners, provide periodic inspection and maintenance of the drainage systems on all commercial, multifamily, and nonprofit properties ~~and private streets~~, to include catchbasins, pipe, runoff detention/retention facilities, and water quality control facilities. However, the city shall not assume any responsibility for any structural defects or failures of the system, or for the replacement of any of the facilities worn out through normal use. All costs for structural defects, failures, and replacements shall be borne by the property owners, and all such repairs and replacements shall be made at the expense of the owner and in a timely manner when so directed by the city.

Sec. 7. DMMC 11.12.080 and section 8 of Ordinance No. 860 as amended by section 3 of Ordinance No. 1083 as amended

by section 3 of Ordinance No. 1211 are each amended to read as follows:

Rate adjustments.

(1) Any person billed for service charges may file a "Request for Rate Adjustment" with the surface water management division within three years of the date from which the bill was sent. However, filing of such a request does not extend the period for payment of the charge.

(2) Requests for rate adjustment may be granted or approved only when the public works director determines that one or more of the following conditions exists:

(a) ~~The~~ The rate or service charge bill was not calculated in accordance with the terms of this chapter, ~~or the amount charged is in error;~~

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(b) The parcel is not single family residential and includes a constructed or natural on-site storm water mitigation facility that meets all of the following conditions:

(i) The constructed or natural facility provides storm or storm water detention, retention, water quality treatment, and/or conveyance; and,

(ii) The director has determined that the property owner is capable of maintaining and operating the facility; and,

(iii) The facility is maintained by the property owner to the City's design specifications; and,

(iv) The facility is available for inspection by the City; and,

(v) Excess capacity, if not used by the property owner, is accessible and available for other related public purposes; and

(vi) The credit is revocable under conditions where the facility no longer operates at the design level established during the drainage plan review/approval process.

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(3) The property owner shall have the burden of proving that the rate adjustment sought should be granted.

(4) Decisions on requests for rate adjustments shall be made by the director based on information submitted by the applicant and by the division within 30 days of the adjustment request except when additional information is needed. The applicant shall be notified in writing of the director's decision. If an adjustment is granted which reduces the charge for the current year or two prior years, the applicant shall be refunded the amount overpaid in the current and two prior years.

(5) Rate credits granted for on-site mitigation as set forth in DMMC 11.12.080(2) (b) shall not exceed 30% of the unadjusted service charge: 14% of the unadjusted service charge for full water quality mitigation and 16% of the unadjusted service charge for full water quantity mitigation. The percentage of the credit to be granted up to the maximum amount will be the percentage achievement of on-site facilities against current development requirements as determined by the director.

(6) If the director finds that a service charge bill has been undercharged, then either an amended bill shall be issued which reflects the increase in the service charge or the undercharged amount will be added to the next year's bill. This amended bill shall be due and payable under the provisions set forth in DMMC 11.12.020. The director may include in the bill the amount undercharged for two previous billing years in addition to the current bill.

Sec. 8. Severability - Construction.

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Page 11 of 12

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance is deemed to control.

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Ordinance No.
Page 12 of 12

| **Sec. 97. Effective date.** This ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

| **PASSED BY** the City Council of the City of Des Moines this ____th day of ____~~June~~, 2013 and signed in authentication thereof this ____th day of ____~~June~~, 2013.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published:

Effective Date:

Appendix "A"

Draft Ordinance No. 13-123

Effective January 1, 2014, the following baseline rates shall be charged for goods and services provided by the utility for the City of Des Moines:

(1) Single-family Developed Properties.

(a) The monthly service charge for all single-family developed properties with impervious surface area between 500 square feet and 2,800 square feet on the property are charged \$10.73.

(b) The monthly service charge for single-family developed properties with impervious surface area between 2,800 square feet and 4,350 square feet on the property are charged \$14.12.

(c) The monthly service charge for single-family developed properties with impervious surface area between 4,350 square feet and 7,500 square feet on the property are charged \$20.14.

(d) The monthly service charge for single-family properties with impervious surface area greater than 7,500 square feet on the property is computed in accordance with the following formula:

$$\begin{array}{rcl} \text{Monthly Service} & & \$14.12 \times \text{Square Footage of} \\ \text{Charge} = & & \text{Impervious Area} \\ & & \hline & & 3,450 \text{ sq. ft.} \end{array}$$

(2) Multi-family Properties. The monthly service charge for all multi-family properties is based on the impervious surface area on the property in accordance with the following formula:

$$\begin{array}{rcl} \text{Monthly Service} & & \$14.12 \times \text{Square Footage of} \\ \text{Charge} = & & \text{Impervious Area} \\ & & \hline & & 3,450 \text{ sq. ft.} \end{array}$$

(3) Commercial Properties. The monthly service charge for all commercial properties is based on the impervious surface area on the property in accordance with the following formula:

$$\begin{array}{rcl} \text{Monthly Service} & \$14.12 \times \text{Square Footage of} & \\ \text{Charge} = & \text{Impervious Area} & \\ & \hline & 3,450 \text{ sq. ft.} & \end{array}$$

(4) Nonprofit Properties. The monthly service charge for all nonprofit properties is based on the impervious surface area on the property in accordance with the following formula:

$$\begin{array}{rcl} \text{Monthly Service} & \$14.12 \times \text{Square Footage of} & \\ \text{Charge} = & \text{Impervious Area} & \\ & \hline & 3,450 \text{ sq. ft.} & \end{array}$$

DRAFT ORDINANCE 13-123 (Alternate A)

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to surface water management, amending DMMC 11.12.010 to revise the definition of the equivalent billing unit (EBU); amending DMMC 11.12.020 to revise the property classification base rates in Appendix A attached to this ordinance; amending DMMC 11.12.060 to eliminate the 70% discount for private streets; and amending 11.12.080 for rate adjustments to provide for adjustment in service charges for non-single family properties that provide water quality and/or water quantity mitigation above that required under the current development standards.

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WHEREAS, Ordinance No. 860 was amended by Ordinance No. 990, enacted November 19, 1992, to apply a cost of living increase of approximately 3.15 percent, effective in 1993, and

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WHEREAS, Ordinance No. 1065 was amended by Ordinance No. 1173, enacted November 21, 1996, to apply a cost of operation increase of approximately five percent (5%), effective in 1997, and

WHEREAS, Ordinance No. 1173 was amended by Ordinance No. 1220-A, enacted October 29, 1998, to apply a cost of operation adjustment to charges for surface water drainage services to be consistent with the Surface Water Management Financial Forecast, and

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WHEREAS, on October 13, 2005, the City Council of the City of Des Moines considered the findings and recommendations of the Surface Water Management Rate Study presented by John Ghilarducci of Financial Consulting Solutions Group, Inc., and

WHEREAS, Ordinance No. 1368 was enacted on November 13, 2005, to adjust surface water drainage service charges, to amend participation charges for development permits, and to apply an inflation adjustment, and

WHEREAS, Ordinance No. 1437 was enacted on September 25, 2008, to adjust surface water drainage services charges, to revise the annual inflation rate calculation, and to specify an effective date for applying the drainage service charges to new development, and

WHEREAS, Ordinance No. 1441 was enacted on November 13, 2008, imposing a six percent (6%) Surface Water Management Utility Tax, and

WHEREAS, Ordinance No. 1496 was enacted on November 18, 2010, to revise the annual inflation index calculation to a minimum rate increase of zero percent, and

WHEREAS, the City Council finds that surface water management is an essential service of the City of Des Moines, and

WHEREAS, on May 23, 2013, the City Council of the City of Des Moines considered the findings and recommendations of the Surface Water Management Rate Structure Study presented by John Ghilarducci of Financial Consulting Solutions Group, Inc., and the City Council having considered; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. The following Findings and Authority shall apply to this ordinance.

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Sec. 2. The following is adopted by reference.

The "Stormwater Rate Structure Study, City of Des Moines" dated July , 2013, is hereby adopted as set forth in Appendix B, which is attached to the ordinance codified in this chapter and incorporated herein by reference.

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Definitions.

(1) Use of Words and Phrases. As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

(2) "Commercial property" means: (a) all property in the city, private or public, used for a purpose other than single-family, multifamily, or nonprofit uses; and (b) for the purposes of this chapter, "mixed uses" as defined in the zoning code of the city and nonprofit homes for the aging as that expression is used in chapter 84.36 RCW.

(3) "Development permit charge" means a one time payment made at the time of development or redevelopment of a property to compensate the city for the costs previously incurred by the city in providing the surface water system serving the property at the time of development.

(4) "Developed property" means a property that has been changed from the natural state, resulting in 500 square feet or more of impervious area occurring on the property.

(5) "Development permit" means, for the purposes of this chapter, a required permit leading to a project that will result in 500 square feet or more of new impervious area on previously undeveloped or developed property.

(6) "Disabled person" means a person who has been granted special parking privileges for disabled persons under RCW 46.16.381 as presently constituted or as may be subsequently amended.

(7) "Equivalent billing unit (EBU)" means a measure of the impact of commercial/multifamily properties on the surface water system. It is equal to each ~~2,400~~3,450 square feet of impervious area that has been determined to be the average amount of impervious area on single-family properties in the city.

(8) "Impervious surface" or "area" means a hard surface area which either prevents or retards the entry of water into the soil mantle as it entered under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, areas which are paved, graveled or made of packed or oiled earthen materials, or other surfaces which similarly impede the natural infiltration of surface and storm water. Open, uncovered retention/detention facilities shall not

be considered as impervious surfaces for the purpose of this chapter.

(9) "Multifamily property" means all property zoned and/or used for purposes of multifamily housing. For the purposes of this chapter, trailer parks are considered multifamily property, and "mixed uses" are not considered multifamily property.

(10) "Nonprofit property" means property upon which a facility exists that is owned and operated by a governmental agency or by an organization that has been granted nonprofit status under the rules of the Internal Revenue Code of the United States.

(11) "Nonprofit residential property" means multifamily residential developments or nonprofit homes for the aging, owned and operated by a governmental agency or by an organization that has been granted nonprofit status under the rules of the Internal Revenue Code of the United States.

(12) "Private streets" means tracts of land, not publicly owned, that are generally open to the public in the same manner as public rights-of-way and that serve residential developments, but shall not include driveways or paved surfaces providing vehicle access within a multifamily or commercial development.

(13) "Rate Structure Study" means the rate study identified in Section 2 of this ordinance.

(143) "Single-family unit" means those properties on which one dwelling unit is established, and that unit is used for dwelling purposes and not commercial activity, except for approved home occupations. "Single-family unit" also means an individually owned dwelling unit in planned unit developments (hereinafter "PUD" or "PUDs"), except for condominiums therein.

(154) "Surface water system" means the surface water utility system of the city.

Sec. 4. DMMC 11.12.020 and section 2 of Ordinance No. 860 as amended by section 1 of Ordinance No. 927 as amended by section 1 of Ordinance No. 990 as amended by section 1 of Ordinance No. 1065 as amended by section 1 of Ordinance 1083 as amended by section 1 of Ordinance 1173 as amended by section 1 of Ordinance No. 1220-A as amended by section 2 of Ordinance No. 1246 as amended by section 1 of Ordinance No. 1368 as amended by section 1 of Ordinance No. 1437 as amended by section 1 of Ordinance 1496 are each amended to read as follows:

Service charge established for surface water service.

There is established a system of service charges for surface water drainage service against all developed properties in the city.

(1) Monthly surface water utility rates shall be established on the basis of whether the developed property is used for a single-family unit, multifamily units, commercial properties, or nonprofit properties. Rates for all other surface water goods and services shall be established by executive order of the city manager and published at the office of the planning, building, and public works department.

(2) The rates for surface water drainage service shall be as reflected on Appendix "A" attached to the ordinance codified in this section, which is incorporated herein by this reference. The baseline rates contained in Appendix "A" shall take effect January 1, 2009~~14~~. Effective January 1, 2015~~0~~ and January 1st of each succeeding year thereafter, rates for surface water drainage service shall be established by, first, taking the rate service charge for the previous year (this figure is hereinafter referenced as the "base sum"); second, multiplying the base sum by a combination index of the Engineering News Record (ENR) Construction Cost Index (CCI) for the city of Seattle on March 31st of the current year and the Seattle Consumer Price Index (CPI-Urban Consumers), as measured for the 12-month period ending in June of the previous year as published by the U.S. Bureau of Labor and Statistics. The applicable index shall be

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calculated for the upcoming year as 30 percent of the ENR CCI for Seattle plus 70 percent of the Seattle CPI; and, third, adding the results to the base sum. Beginning January 1, 2010, and on January 1st of each succeeding year, the rates shall be established by applying updated CCI, CPI, and the end figures in like manner to the rates of the previous year. Beginning January 1, 2011, and on each succeeding year, should the combined CCI/CPI inflation index as calculated above be less than zero, then the base sum shall remain the same as the previous year.

(3) The monthly surface water service charge as applied to new development activity resulting in 500 square feet or more impervious area shall become effective on the date the land was cleared, graded or modified for the development as documented by the public works director. For new subdivisions, the effective date shall be approval date of the plat.

Sec. 5. DMMC 11.12.060 and section 6 of Ordinance No. 860 as amended by section 2 of Ordinance No. 1187 as amended by section 1 of Ordinance No. 1230 are each amended to read as follows:

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Service charges for private streets.

The monthly service charge for private streets shall be computed on the same basis as commercial property, ~~except that the number of equivalent billing units derived therefrom shall be multiplied by 0.30 in computing the overall service charge. Where private streets are in single ownership, the owner shall be responsible for all charges.~~ Where private streets are not in single ownership, but subject to a maintenance agreement, residential properties served by the private street shall be billed equally on a pro rata basis.

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Sec. 6. DMMC 11.12.080 and section 8 of Ordinance No. 860 as amended by section 3 of Ordinance No. 1083 as amended by section 3 of Ordinance No. 1211 are each amended to read as follows:

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Rate adjustments.

(1) Any person billed for service charges may file a "Request for Rate Adjustment" with the surface water management division within three years of the date from which the bill was sent. However, filing of such a request does not extend the period for payment of the charge.

(2) Requests for rate adjustment may be granted or approved only when the public works director determines that one or more of the following conditions exist:

(a) The rate or service charge bill was not calculated in accordance with the terms of this chapter or the amount charged is in error;

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(b) The parcel is not single family residential and includes a constructed or natural on-site storm water mitigation facility that meets all of the following conditions:

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(i) The constructed or natural facility provides storm or storm water detention, retention, water quality treatment, and/or conveyance; and,

(ii) The director has determined that the property owner is capable of maintaining and operating the facility; and,

(iii) The facility is maintained by the property owner to the City's design specifications; and,

(iv) The facility is available for inspection by the City; and,

(v) Excess capacity, if not used by the property owner, is accessible and available for other related public purposes; and

(vi) The credit is revocable under conditions where the facility no longer operates at the design level established during the drainage plan review/approval process.

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(3) The property owner shall have the burden of proving that the rate adjustment sought should be granted.

(4) Decisions on requests for rate adjustments shall be made by the director based on information submitted by the applicant and by the division within 30 days of the adjustment request except when additional information is needed. The applicant shall be notified in writing of the director's decision. If an adjustment is granted which reduces the charge for the current year or two prior years, the applicant shall be refunded the amount overpaid in the current and two prior years.

(5) Rate credits granted for on-site mitigation as set forth in DMMC 11.12.080(2) (b) shall not exceed 30% of the unadjusted service charge: 14% of the unadjusted service charge for full water quality mitigation and 16% of the unadjusted service charge for full water quantity mitigation. The percentage of the credit to be granted up to the maximum amount will be the percentage achievement of on-site facilities against current development requirements as determined by the director.

(6) If the director finds that a service charge bill has been undercharged, then either an amended bill shall be issued which reflects the increase in the service charge or the undercharged amount will be added to the next year's bill. This amended bill shall be due and payable under the provisions set forth in DMMC 11.12.020. The director may include in the bill the amount undercharged for two previous billing years in addition to the current bill.

Sec. 7. Severability - Construction.

Page 10 of 11

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance is deemed to control.

///

Ordinance No.
Page 11 of 11

| **Sec. 86. Effective date.** This ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

| **PASSED BY** the City Council of the City of Des Moines this ____th day of ~~June~~____, 2013 and signed in authentication thereof this ____th day of ~~June~~____, 2013.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published:

Effective Date:

Appendix "A"

Draft Ordinance No. 13-123 (Alternate A)

Effective January 1, 2014, the following baseline rates shall be charged for goods and services provided by the utility for the City of Des Moines:

(1) Single-family Developed Properties.

(a) The monthly service charge for all single-family developed properties with impervious surface area between 500 square feet and 2,800 square feet on the property are charged \$10.59.

(b) The monthly service charge for single-family developed properties with impervious surface area between 2,800 square feet and 4,350 square feet on the property are charged \$13.93.

(c) The monthly service charge for single-family developed properties with impervious surface area between 4,350 square feet and 7,500 square feet on the property are charged \$19.87.

(d) The monthly service charge for single-family properties with impervious surface area greater than 7,500 square feet on the property is computed in accordance with the following formula:

$$\begin{array}{rcl} \text{Monthly Service} & & \$13.93 \times \text{Square Footage of} \\ \text{Charge} = & & \text{Impervious Area} \\ & & \hline & & 3,450 \text{ sq. ft.} \end{array}$$

(2) Multi-family Properties. The monthly service charge for all multi-family properties is based on the impervious surface area on the property in accordance with the following formula:

$$\begin{array}{rcl} \text{Monthly Service} & & \$13.93 \times \text{Square Footage of} \\ \text{Charge} = & & \text{Impervious Area} \\ & & \hline & & 3,450 \text{ sq. ft.} \end{array}$$

(3) Commercial Properties. The monthly service charge for all commercial properties is based on the impervious surface area on the property in accordance with the following formula:

$$\begin{array}{rcl} \text{Monthly Service} & \$13.93 \times \text{Square Footage of} & \\ \text{Charge} = & \text{Impervious Area} & \\ & \hline & 3,450 \text{ sq. ft.} \end{array}$$

(4) Nonprofit Properties. The monthly service charge for all nonprofit properties is based on the impervious surface area on the property in accordance with the following formula:

$$\begin{array}{rcl} \text{Monthly Service} & \$13.93 \times \text{Square Footage of} & \\ \text{Charge} = & \text{Impervious Area} & \\ & \hline & 3,450 \text{ sq. ft.} \end{array}$$