

MILLCREEK, UTAH
ORDINANCE NO. 20-30

**AN ORDINANCE ENACTING TITLE 17, CHAPTER 30, OF THE MILLCREEK CODE
OF ORDINANCES WITH RESPECT TO THE CREATION AND OPERATION OF A
STORM SEWER UTILITY FEE**

WHEREAS, the Millcreek Council (the “*Council*”) met in a regular session on June 22, 2020, to consider, among other things, enacting Title 17, Chapter 30, of the Millcreek Code of Ordinances with respect to the creation and operation of a storm sewer utility fee; and

WHEREAS, Millcreek (“*City*”) owns and operates a storm water sewer system, which was developed over multiple years by Salt Lake County as the City’s predecessor in interest and currently consists of a network of natural conveyances and manmade structures and conduits that collect and routes storm water runoff; and

WHEREAS, the Council finds that inadequate management of the quantity and quality of storm water runoff causes flooding and property damage, carries concentration of heavy metals, oils, and toxic materials into receiving and ground waters, and degrades the integrity of city streets and transportation systems; and

WHEREAS, the Council finds that such are hazards and pose a significant risk to public health, safety, and welfare; and

WHEREAS, the Council finds that such risks are best managed by a storm sewer system that is effectively repaired, replaced, improved, maintained, operated, regulated, and controlled; and

WHEREAS, the Environmental Protection Agency (“*EPA*”) has established rules setting forth the National Pollutant Discharge Elimination System permit application process and has adopted rules and regulations for storm water discharge; and

WHEREAS, the State of Utah, through its Department of Environmental Quality (“*DEQ*”), has established a Utah Pollutant Discharge Elimination System permit system and has adopted rules and regulations for storm water discharge; and

WHEREAS, the rules and regulations promulgated by the EPA and the DEQ provide that where more than one public entity owns or operates a municipal separate storm water system within a geographical area, such municipalities may join together and be co-applicants for a permit; and

WHEREAS, the City joined with Salt Lake County and other municipalities in the Salt Lake Valley as co-applicants pursuant to the and the Utah Pollutant Discharge Elimination System; and

WHEREAS, on February 26, 2020, the City was issued authorization to discharge

municipal storm water under the Utah Pollutant Discharge Elimination System (“*Permit*”); and

WHEREAS, pursuant to the Permit the City is required, among other things, to have legal authority to (i) control the contribution of pollutants to the storm water system associated with residential, commercial, institutional, and industrial activities; (ii) prohibit illicit discharge to the storm water sewer system; (iii) control discharges to the storm drain system of spills, dumping, or disposal of materials other than storm water; and (iv) means to enforce compliance with the conditions and ordinances; and

WHEREAS, the Council finds that implementing a storm sewer utility fee will help achieve compliance with the requirements of the Permit; and

WHEREAS, the Council finds that implementing a storm sewer utility fee will enable ongoing maintenance, operations, regulation, enforcement, and improvement of the storm sewer system; and

WHEREAS, based on the representations made to the City and the Council by consulting engineers Bowen Collins & Associates (“*Bowen Collins*”), the Council finds that the owners of impervious surfaces contribute to, makes use of, or benefit from the City’s storm sewer system and should proportionately contribute to the funding of the City’s program to maintain, operate, regulate, enforce, and improve the City storm water program; and

WHEREAS, Bowen Collins have evaluated methods to fund the City storm water program sewer system and have recommended storm drain utility fee; and

WHEREAS, the Council hereby finds that the establishment of a storm sewer utility is the most fair, equitable, and nondiscriminatory method to fund the City’s storm water program, including requirements of the Permit and that the establishment of a storm sewer utility fee is in the best interest of the health, safety, and welfare of the citizens.

NOW, THEREFORE, BE IT ORDAINED by the Council that the following be adopted as Title 17, Chapter 30, of the Millcreek Code of Ordinances:

17.30.010 Purpose.

The purpose of this chapter is to protect the health, safety, and welfare of the city and its inhabitants by efficiently operating the storm sewer system, managing and controlling storm water runoff, protecting property, preventing polluted waters from entering the water supply and other receiving waters, and establishing a viable and equitable method of financing the storm water system long-term improvement, operation, and maintenance.

17.30.030 Definitions.

For purposes of this chapter, the following definitions shall apply. Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

"City" means Millcreek, a Utah municipality.

"Class 1: Single Family Residential" means single residential structure designed for a single family that is located on lot that is 11,000 square feet or less.

"Class 2: Single Family Residential" means single residential structure designed for a single family that is located on lot that is more than 11,000 square feet or less.

"Class 3: Commercial / Institutional / Civic / Mixed Use" means all types of properties not defined by Classes 1, 2, 4, and 5, such as commercial and industrial businesses, government buildings, churches, schools, factories, parks, etc.

"Class 4: Multi-Family Residential (Stacked Housing / Condominiums / Apartments)" means residential dwellings that are contiguous with other dwellings but where single families may live on multiple stories, levels, or units and with respect to stacked housing and condominiums the dwellings are separate pieces of real property and with respect to apartment are not separate parcels of real property.

"Class 5: Multi-Family Residential (Townhomes)" means residential dwellings that generally connect to adjoining units but where a single family would occupy an area represented by a 2-dimensional footprint, not stacked on multiple levels, and the dwellings are separate parcels of real property.

"County" means Salt Lake County

"Council" means the Millcreek Council

"Customer" or "Person" means any individual; public or private corporation and its officers; partnership; association; firm; trustee; executor of an estate; the State or its departments, institutions, bureaus, agencies; county; city; political subdivision; or any other governmental or legal entity recognized by law.

"City Engineer" means the Millcreek City Engineer or Engineer's designee.

"Equivalent Residential Unit (ERU)" means a unit equal to the square footage of impervious surface area. This is based on an average single-family residential parcel, which has an impervious surface area of 4,000 square feet.

"Millcreek Storm Water Fee Policy Manual" or "Policy Manual" means policies and procedures for the administration of the user fees maintained by the City and is hereby adopted in their entirety by this reference.

"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 and discharge directly into the City's storm sewer system. 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.

"Mitigation" means on-site facilities or practices which reduce stormwater quantity or improve stormwater quality.

"Parcel" means the smallest, separately segregated unit of land having an owner. A parcel has boundaries and surface area and is documented with a property number by the county.

"Developed Parcel" means any parcel whose surface has been altered by grading, filling, or construction of any improvement.

"National Pollutant Discharge Elimination System (NPDES) Stormwater Regulations" means the provisions of the Federal Clean Water Act establishing specific permit requirements for the control of stormwater discharge.

"Single-Family Residential Parcel" means any parcel of land containing a single-family dwelling unit.

"Standard Plans for Public Works Manual" means the Millcreek Standard Plans Design Manual maintained by the City and is hereby adopted in their entirety by this reference.

"Stormwater" means water produced by storms, surface drainage, snow and ice melt, and other water handled by the storm sewer drainage system.

"Storm Sewer Facilities" means any facility, improvement, development, or property made for controlling stormwater quantity and quality.

"Storm Sewer Drainage System" means all man-made storm sewer facilities and conveyances, and natural stormwater systems owned or maintained by the City that store, control, treat, and/or convey stormwater.

"Stormwater Utility" or "Utility" means the utility created by this Ordinance, which operates, maintains, regulates, and improves storm sewer facilities and programs within Millcreek.

"User Fee" means the fee charged to use the Storm Drainage System and is imposed by this chapter.

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

17.30.050 Storm sewer utility.

A. Creation. There is hereby created and established a storm sewer utility operated by the city that includes a user fee rate structure.

B. Enterprise Fund. There is hereby established a storm sewer utility enterprise fund to handle all income, expenses, and other financial transactions related to the storm sewer utility. All fees collected with respect to the storm sewer utility shall be deposited in the storm sewer utility enterprise fund. Money in the storm sewer utility enterprise fund shall not be commingled with other city funds and may be transferred to other city funds as allowed by the Uniform Fiscal Procedures Act for Utah Cities.

C. Facilities and Assets. The city shall determine which storm drain facility assets will be transferred to the storm drain utility. Until such transfer, the utility shall operate, maintain, and improve all existing storm drain facilities.

D. Administration. The storm sewer utility shall be administered by the City Engineer.

17.30.070 Storm sewer utility user fee

A. Imposed. All owners of impervious surfaces within the city which contribute runoff water to the storm sewer system or any others who otherwise use or benefit from the storm sewer system or the storm water utility will be responsible for paying the storm water utility user fee as set forth in this chapter.

B. Amount of User Fee. The user fee shall be based on the number of equivalent residential units (ERU's) on the customer's property. An ERU is the average amount of

impervious surfaces in a single-family residential parcel and is based on a statistical analysis of homes within the city. One ERU equals 4,000 square feet of impervious surface area.

C. Calculation. Class 1: Single Family Residential dwelling consisting of 11,000 square feet or less that contribute approximately the same amount of storm water runoff; therefore, each Class 1 Single Family Residential dwelling shall pay a base rate equal to 0.9 ERUs.

Class 2: Single Family Residential dwelling consisting of more than 11,000 square feet that contribute approximately the same amount of storm water runoff; therefore, each Class 2 Single Family Residential dwelling shall pay a base rate equal to 1.6 ERUs.

Class 3: Commercial/Institutional/Civic/Mixed Use contributes varied amounts of storm water runoff; therefore, each Class 3: Commercial/Institutional/Civic/Mixed Use property (except undeveloped properties) shall pay a multiple of this base rate, expressed in ERU's, according to the measured impervious area on the property. The resulting ERU's are calculated by dividing the total square feet of impervious area of the property by 4,000.

Class 4: Multi-Family Residential (Stacked Housing/Condominium/Apartments) contributes approximately the same amount of storm water runoff; therefore, each Class 4 Multi-Family Residential (Stacked Housing/Condominium/Apartments) dwelling shall pay a base rate equal to 0.4 ERUs.

Class 5: Multi-Family Residential (Townhomes and Duplexes) contributes approximately the same amount of storm water runoff; therefore, each Class 3 Multi-Family Residential (Townhomes and Duplexes) dwelling shall pay a base rate equal to 0.8 ERU.

D. User Fee per ERU. The user fee charge imposed hereby shall be as set forth in the consolidated fee schedule.

E. Credits. The City Engineer or his designee may grant a fee credit as set forth below. The credit shall be available for customers that (i) own and maintain a detention facility in accordance with City standards and as set forth in the Policy Manual, (ii) own and maintain a retention facility in accordance with City standards and as set forth in the Policy Manual, (iii) conduct personnel training as set forth in the Policy Manual, or (iv) demonstrate a financial hardship or who have a family member in active military service as set forth in the Policy Manual.

F. Policies. The city hereby adopts the Millcreek Storm Water Fee Policy Manual to assist in applying, administering, and interpreting the user fee, the user fee credit, and other provisions related to the storm sewer utility.

G. Appeals. Any person or entity who is aggrieved by the provision of this chapter, request for a credit, or the application and calculation of the user fee charge to their property may appeal to the City as set forth in the Policy Manual.

H. Billing and Collection. The City shall contract with Rocky Mountain Power to include the user fee on the monthly electric utility bill for all residences and commercial properties that are billed for electric service. The City shall bill the user fee to all other residential units or commercial property that are not billed by Rocky Mountain Power for electric service.

17.30.110 Severability. If any portion of this chapter is determined to be, or is rendered,

illegal, invalid, or superseded by other lawful authority, including any state or federal, legislative, regulatory, or administrative authority having jurisdiction thereof, or determined to be unconstitutional, illegal, or invalid by any court of competent jurisdiction, such section shall be deemed a separate, distinct, and independent provision, and such determination shall have no effect on the validity of any other section.

This Ordinance assigned Ordinance No. 20-30, shall take effect July 1, 2020, and deposited and recorded in the office of the City Recorder, and accepted as required herein.

PASSED AND APPROVED by the Council this 22nd day of June 2020.

MILLCREEK COUNCIL

By: _____
Jeff Silvestrini, Mayor

ATTEST:

Elyse Sullivan, City Recorder

Roll Call Vote:		
Silvestrini	Yes	No
Marchant	Yes	No
Jackson	Yes	No
Catten	Yes	No
Uipi	Yes	No

CERTIFICATE OF POSTING

I, the duly appointed recorder for Millcreek, hereby certify that:
ORDINANCE 20-30: AN ORDINANCE ENACTING TITLE 17, CHAPTER 30, OF THE MILLCREEK CODE OF ORDINANCES WITH RESPECT TO THE CREATION AND OPERATION OF A STORM SEWER UTILITY FEE
was passed and adopted the 22nd day of June, 2020 and certifies that a summary was published in the Deseret News and Salt Lake Tribune the day of , 2020.

Elyse Sullivan, City Recorder