

## ORDINANCE #2145

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### AN ORDINANCE OF THE COUNCIL OF THE CITY OF FERNDALE, WASHINGTON, PROVIDING FOR STORM DRAIN SERVICE AREA CONNECTION FEES FOR GATEWAY MAIN/LABOUNTY, AND CONSOLIDATING STORM DRAINAGE FEES

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**WHEREAS**, the Ferndale Municipal Code, in accordance with RCW 35.92.025, imposes a fee to mitigate impacts of certain divisions and developments on the City stormwater system; and

**WHEREAS**, in accordance with RCW 35.21.210, the Gateway stormwater improvements from the intersection of Main Street and Riverside Drive to the Nooksack River were constructed in 2018 by the City of Ferndale to mitigate stormwater per the requirements of the Department of Ecology Stormwater Management Manual for Western Washington for the proposed Main Street and LaBounty Roundabout, and future development and redevelopment in the Gateway Service Area; and

**WHEREAS**, participation in the Gateway Main/LaBounty Storm Drain Assessment Area is mandatory, unless otherwise approved by the Public Works Director, for lots shown per parcel on City of Ferndale: Main/LaBounty Storm Drain Assessment exhibit (attached hereto and made a part of this Ordinance by this reference) when development and redevelopment meets the threshold for all minimum requirements of the current Stormwater Management Manual for Western Washington; and

**WHEREAS**, if development and redevelopment do not meet the threshold for all minimum requirements, or conveyance to the outfall is not available within reasonable distance of the parcel, the connection fee assessment shall not be mandatory; however, stormwater shall be addressed on-site per applicable stormwater requirements and approved by the City of Ferndale; and

**WHEREAS**, participation in the Gateway Main/LaBounty Storm Drain Assessment Area provides manmade conveyance to a flow-control exempt surface water body and basic treatment receiving water per the Washington State Department of Ecology Stormwater Management Manual for Western Washington, and does not provide enhanced treatment, and/or Operational

and Structural Source Control Best Management Practices which may be required by the Department of Ecology dependent on site use; and

**WHEREAS**, pursuant to RCW 35.92.025, an annual maintenance fee may be implemented for participants in the Gateway Main/LaBounty Storm Drain Assessment Area at a future date and included in the City's Fee Code; and

**WHEREAS**, the City of Ferndale has established and maintains Title 13 Public Services in Ferndale Municipal Code; and

**WHEREAS**, the City of Ferndale desires to consolidate stormwater fee information in Chapters 13.24 and 13.40 for the sake of clarity and consistency; and

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FERNDALE DO ORDAIN AS FOLLOWS:**

**Section 1.** Ferndale Municipal Code 13.24 Sewer Service Charges shall be amended as shown in Exhibit 1.

**Section 2.** Ferndale Municipal Code 13.40 Storm Drainage shall be amended as shown in Exhibit 2.

**Section 3.** A new Section 13.40.140 H. is hereby added to read as follows:


13.40.140 H. - Gateway Main/LaBounty Storm Drain Connection Fee:

1. The Gateway Main/LaBounty Storm Drain Connection Fee shall be the "North Gateway Contribution" shown per parcel on City of Ferndale: Main/LaBounty Storm Drain Assessment exhibit.
2. The Gateway Main/LaBounty Storm Drain Connection Fee will be due upon the approval of a Permitted or Conditional Use on the subject parcel. Within the context of this ordinance, "approval" shall mean the recording of a subdivision, Planned Unit Development or Specific Binding Site Plan, or the issuance of a building permit, whichever occurs first.

3. No development or redevelopment shall exceed "Modeled Post Impervious" column on City of Ferndale: Main/LaBounty Storm Drain Assessment exhibit unless authorized by the Public Works Director to implement onsite mitigation for exceedance per stormwater requirements in effect at the time.
  
4. Should a developer combine or divide two or more parcels, the allowable impervious surfaces for those parcels shall not, in any combination of new lots, exceed that of the original individual lots combined or divided.

**Section 2.** These fees shall be assessed in accordance with RCW 35.92.025 and shall be reflected in the City's most current fee schedule together with the annual storm pond maintenance fee (if adopted at a later date).

**APPROVED AND ADOPTED** by the City Council of the City of Ferndale in regular session this 20<sup>th</sup> day of July, 2020.

  
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Greg Hansen, MAYOR

**ATTEST:**

  
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Susan Durcan, CMC, CITY CLERK

Approved as to form:

  
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Dannon Traxler, CITY ATTORNEY

## Chapter 13.24 SEWER SERVICE CHARGES

Sections:

**13.24.010 Definitions.**

**13.24.020 Rate schedule.**

**13.24.021 Exemption.**

**13.24.025 Sewer rates – Payment – Notice – Hearing – Disconnection.**

**13.24.030 Amount of water – Determination by meter.**

**13.24.040 Amount of water – Deductions.**

**13.24.050 Charges during irrigation season.**

**13.24.060 Conditions for exemption for swimming pool.**

~~**13.24.070 Fee to mitigate impact of certain divisions or developments on storm sewer system.**~~

### **13.24.010 Definitions.**

A. "Chargeable water," for the purposes of this chapter, means the measure of water consumed on the premises from whatever source.

B. "Irrigation season," for the purposes of this chapter, means the period from June 15th through October 15th of each year. (Ord. 722 §§ 2, 3, 1984)

### **13.24.020 Rate schedule.**

All users of the City sewer system shall pay bimonthly charges for sewer service in relation to the amount of chargeable water they discharge into the sewer system. Furthermore, there shall be charged a base fee for purposes of administration and contribution to plant capitalization, all according to such rate schedule as may be adopted by ordinance of the City Council from time to time. (Ord. 1000 § 4, 1993; Ord. 985 § 1, 1992; Ord. 865 § 1, 1988; Ord. 841 § 1, 1988; Ord. 798 § 1, 1986; Ord. 757 § 1, 1985; Ord. 722 § 1, 1984)

### **13.24.021 Exemption.**

There shall be granted an exemption from the sewer service charge, during new construction of a habitable structure, for a period not to exceed three bimonthly billing cycles beginning on that date upon which the first measurable water is subject to charge. During the period of exemption the base fee as provided under FMC 13.24.020 shall continue to apply and the exemption shall terminate upon occupancy of the structure. This exemption shall apply only during the period following the meter reading of mid April and terminating with the meter reading of mid October. (Ord. 1198 § 1, 1998)

### **13.24.025 Sewer rates – Payment – Notice – Hearing – Disconnection.**

A. All charges for sewer service shall be due and payable under the same schedule as set forth in FMC 13.04.100(A) for water service.

B. The process for hearings on objections to amounts owing and for disconnections for nonpayment shall be set forth in FMC 13.04.100.

C. As a remedy for nonpayment of sewer charges, the City may disconnect water service if supplied through the public water system; may contract with a private water service provider or association, if applicable, for water service disconnection pending receipt by the City of payment for sewer charges; or may physically disconnect the sewer service or employ any other remedy legally available to it to secure payment for services rendered. (Ord. 1182 § 2, 1998)

**13.24.030 Amount of water – Determination by meter.**

The amount of water chargeable to sewer is to be ascertained by an installed City meter. In the event that non-City meters are regularly used for measuring water, the Council may authorize the use of information obtained from such meters for the calculation of sewer charges in the same manner as calculations are made using City meter readings. The Council may set such terms and conditions as it deems fair and necessary as a condition of its approval. In the event water is unmetered or meter information is otherwise not available, a flat monthly rate, as set from time to time by ordinance of the City Council, shall be used for billing. An owner of premises may, at his own expense, install and maintain a separate meter for the purpose of measuring water used for residential irrigation. (Ord. 1151 § 1, 1997; Ord. 985 § 2, 1992; Ord. 865 § 2, 1988; Ord. 841 § 2, 1988; Ord. 757 § 2, 1985; Ord. 722 § 4, 1984)

**13.24.040 Amount of water – Deductions.**

Where the use of water is such that a portion does not flow into the sewer system, such as loss by evaporation, nonresidential irrigation and/or sprinkling, or is used in manufacturing or in a manufactured product, after installation and connection to the main line of a meter or other appropriate measuring device approved by the City which will measure the quantity of water so lost or used other than into the sewer system, such water may be deducted from the actual amount used for the purpose of calculating the sewer charge. (Ord. 985 § 3, 1992; Ord. 865 § 3, 1988; Ord. 841 § 3, 1988; Ord. 757 § 3, 1985)

**13.24.050 Charges during irrigation season.**

Sewer charges for single-family residences, duplexes, apartments, mobile homes and parks, and churches shall, during the irrigation season, be computed on the average consumption during the previous non-irrigation season if the user elects not to install a water discharge-measuring device. If an average cannot be computed for any reason, it shall become the current citywide average (currently 1,200 cubic feet). (Ord. 1490 § 1, 2008; Ord. 722 § 6, 1984)

**13.24.060 Conditions for exemption for swimming pool.**

If a user has a swimming pool on his property, he must install an approved measuring device to claim exemption during the irrigation season. (Ord. 722 § 7, 1984)

**13.24.070 Fee to mitigate impact of certain divisions or developments on storm sewer system.**

A.— For the purpose of this chapter, unless otherwise clearly indicated from the context, the following words shall have the meanings set forth in this subsection:

- 1.— “Division of land” means a subdivision, short subdivision, plat or short plat, or binding site plan, as defined in RCW 58.17.020.
- 2.— “Lot” means the same as “tract” or “parcel,” and one term may be substituted for the other without changing the meaning. For purposes of this section, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area. A lot may consist of:
  - a.— A single lot of record;
  - b.— A portion of a lot of record;
  - c.— A combination of complete lot of record, of complete lots of record and portions of lots of record, or of portions of lots of record.
  - d.— A parcel of land described by metes and bounds.
- 3.— “Development” means the improvement of any lot through the construction or placement of any building or structure other than a single-family residence or duplex, or impermeable surface, including the permanent or semi-permanent placement of any stationary machinery or equipment.

B.— 1.— Upon a division of land or upon the development of a lot, tract, parcel, or portion thereof, the owner of the land shall pay a fee of \$0.05 per square foot upon the gross property area being divided, or the gross square footage being developed, including undevelopable portions such as, but not limited to, reserve tracts, stormwater tracts, open space tracts, and critical areas, for the purpose of mitigating the impact or potential impact of such division or development upon the existing storm sewage system of the City.

2.— Unless deferred until a request for final inspection, upon the issuance of a single-family residential building permit, the customer shall pay a fee of \$500.00 for the purpose of mitigating the impact or potential impact of such permit upon the existing storm sewage system of the City.\*

C.— The fee set forth in subsection (B) of this section shall not be in lieu of any requirements to install on-site storm drainage improvements as now or hereafter adopted as City standards.

D.—All fees collected in accordance with this section shall be placed in a fund designated the City storm drainage improvement fund, created by this section, and shall be used for the construction and/or upgrading of the City's storm drainage system at such time and in such manner as determined by the City Council.

E.—Vanderyacht Regional Storm Pond Connection Fee.

- 1.—The Vanderyacht regional stormwater pond connection fee shall be \$48,683 per acre foot for development when, in compliance with prior developer's agreements, they are not to be charged for conveyance costs.
- 2.—The Vanderyacht regional stormwater pond connection fee shall be \$48,683 per acre foot for detention and treatment and \$54,359 per acre foot for conveyance for all other development that is not subject to a prior developer's agreement.
- 3.—Capacity shall be tracked by the City of Ferndale Public Works Stormwater Department.

F.—Neubauer Regional Storm Pond Connection Fee.

- 1.—The Neubauer regional stormwater pond connection fee shall be \$59,830 per acre foot for detention and treatment.
- 2.—Capacity shall be tracked by the City of Ferndale Public Works Stormwater Department.

G.—SW Stormwater Management Facility Connection Fee.

- 1.—The SW stormwater management facility connection fee shall be as calculated in "Adjusted Costs" column shown per parcel on City of Ferndale Southwest Stormwater Management Facility Connection Fee Summary.
- 2.—The SW stormwater management facility connection fee will be due upon the approval of a permitted or conditional use on the subject parcel. Within the context of this subsection (G), "approval" shall mean the recording of a subdivision, planned unit development or specific binding site plan, or the issuance of a building permit, whichever occurs first.
- 3.—No development or redevelopment shall exceed "Modeled Post Impervious" column on City of Ferndale Southwest Stormwater Management Facility Connection Fee Summary unless authorized by the Public Works Director to implement on-site infiltration best management practices for the impervious exceedance only.
- 4.—Should a developer combine two or more parcels, the allowable impervious surfaces for these combined shall not, in any combination of new lots, exceed that of the original individual lots combined. (Ord. 2074 § 1 (Att. A), 2018; Ord. 1916 § 5, 2015; Ord. 1822 § 1,

2014; Ord. 1698 § 1, 2012; Ord. 1620 § 1, 2010; Ord. 1570 §§ 1, 2, 2010; Ord. 1565 § 1, 2010; Ord. 1315 §§ 1, 2, 2003; Ord. 1311 §§ 1, 2, 2003; Ord. 660 §§ 1 – 4, 1982)

\* Code reviser's note: Ord. 1916 establishes a permanent impact fee deferment on option on residential construction consistent with RCW 82.02.050 and SB5023.

## Chapter 13.40 STORM DRAINAGE

Sections:

- 13.40.010 **Generally.**
- 13.40.020 **Purpose.**
- 13.40.025 **Definitions.**
- 13.40.030 **Billing mechanism.**
- 13.40.040 **Notification of utility ownership.**
- 13.40.050 **Responsibility of owner for billing.**
- 13.40.060 **Rates – Customer classifications.**
- 13.40.070 **Rates – Methodology – ERU.**
- 13.40.080 **Rates – Fee calculation.**
- 13.40.085 **Fee calculation for Class 3 and Class 4 customers.**
- 13.40.090 **Delinquent charges.**
- 13.40.100 **Nonpayment and disconnection.**
- 13.40.110 **Applicability of fees.**
- 13.40.120 *Repealed.*
- 13.40.130 **City utility tax.**
- 13.40.140 Fee to mitigate impact of certain divisions or developments on storm sewer system.**

### **13.40.010 Generally.**

The rules and regulations set forth in this chapter shall be used and established for the regulation, operation, and rate setting of the storm and flood control operations of the City. (Ord. 1743 § 1, 2012; Ord. 1640 § 1, 2011; Ord. 1612 § 1, 2010; Ord. 1551 § 1, 2009; Ord. 1518 § 1, 2009; Ord. 1457 § 1, 2008; Ord. 1389 § 1, 2006)

### **13.40.020 Purpose.**

The purpose of the funds derived from the storm drainage utility is to pay for all or part of the construction, reconstruction, repair, enlargement, improvement, acquisition, maintenance, operation, and administration of the storm drainage system of Ferndale. All revenues derived from the storm drainage



utility shall be deposited into the storm and flood control fund for use therein. (Ord. 1743 § 1, 2012; Ord. 1640 § 1, 2011; Ord. 1612 § 1, 2010; Ord. 1551 § 1, 2009; Ord. 1518 § 1, 2009; Ord. 1457 § 1, 2008; Ord. 1389 § 1, 2006)

**13.40.025 Definitions.**

“Equivalent residential unit (ERU)” shall mean the basic unit for the computation of storm drainage fees. The baseline ERU is hereby established to be 10,000 square feet.

“Impervious surface” shall mean any part of any developed parcel of land that has been modified by the action of persons to reduce the land’s natural ability to absorb and hold rainfall. This includes any hard surface area which either prevents or retards the entry of water into the soil mantle as it entered under natural conditions pre-existent 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 pre-existent to development.

By way of example, common impervious surfaces areas include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel road, or any cleared, graded, paved, graveled, or compacted surface or packed earthen materials, or areas covered by structures or other surfaces which similarly impede the natural infiltration of surface water into the soil mantle.

“Parcel” shall mean the smallest separately segregated lot, unit or plot of land having an identified owner, boundaries, and surface area which is documented for property tax purposes and given a tax lot number by the Whatcom County Assessor. (Ord. 1743 § 1, 2012; Ord. 1640 § 1, 2011; Ord. 1612 § 1, 2010; Ord. 1551 § 1, 2009; Ord. 1518 § 1, 2009; Ord. 1457 § 1, 2008; Ord. 1390 § 1, 2006)

**13.40.030 Billing mechanism.**

It is the intention of the City to include the storm drainage fees as a component of the utility (water/sewer) billings currently conducted for our customers. (Ord. 1743 § 1, 2012; Ord. 1640 § 1, 2011; Ord. 1612 § 1, 2010; Ord. 1551 § 1, 2009; Ord. 1518 § 1, 2009; Ord. 1457 § 1, 2008; Ord. 1389 § 1, 2006)

**13.40.040 Notification of utility ownership.**

It shall be the responsibility of the property owner to notify the City within 10 calendar days of the date of assumption of ownership, together with the name and correct mailing address of the owner for utility billing purposes. Subsequent changes in correct mailing address of the owner shall also be reported within 15 calendar days. (Ord. 1743 § 1, 2012; Ord. 1640 § 1, 2011; Ord. 1612 § 1, 2010; Ord. 1551 § 1, 2009; Ord. 1518 § 1, 2009; Ord. 1457 § 1, 2008; Ord. 1389 § 1, 2006)

**13.40.050 Responsibility of owner for billing.**

It shall be the responsibility of the owner to inform the City as to the correct name and mailing address for utility billing purposes. The property owner shall have the option of receiving the billing himself or having the billing mailed to a renter or lessee. In all cases, the billings shall accrue to the property and any unpaid amounts due to the City as the result of changes in renters or lessees shall be the responsibility of the owner. (Ord. 1743 § 1, 2012; Ord. 1640 § 1, 2011; Ord. 1612 § 1, 2010; Ord. 1551 § 1, 2009; Ord. 1518 § 1, 2009; Ord. 1457 § 1, 2008; Ord. 1389 § 1, 2006)

**13.40.060 Rates – Customer classifications.**

The following customer classifications are established for storm drainage purposes. It is the intention to include all utility customers within the storm drainage fees. Should there be a customer whose use does not fit into one of the following classifications, they shall be classified in the most appropriate classification as solely determined by the City's Public Works Director.

Class 1 Customers – includes all single-family residential units and all multifamily and condominium units with one or two units (up to duplex).

Class 2 Customers – includes all multifamily units and condominiums with three or more units.

Class 3 Customers – includes all commercial and industrial customers, excluding home occupation businesses.

Class 4 Customers – includes all public-use customers (schools, hospitals, churches, government buildings, etc.).

Class 5 Customers – includes all mixed use structures. (Ord. 1743 § 1, 2012; Ord. 1640 § 1, 2011; Ord. 1612 § 1, 2010; Ord. 1551 § 1, 2009; Ord. 1518 § 1, 2009; Ord. 1457 § 1, 2008; Ord. 1389 § 1, 2006)

**13.40.070 Rates – Methodology – ERU.**

A baseline standard equivalent residential unit (ERU) storm drainage bi-monthly fee is imposed for billings mailed February 28, 2020, and the rate changes for each subsequent year will be effective with bills mailed approximately February 28, 2021, and February 28, 2022 (see rates in FMC [13.40.080](#)). This baseline fee is based on the assumption that the average single-family lot equals approximately 10,000 square feet.

Modifications to this baseline fee shall be effective as follows:

	Rates Effective with Bills Mailed Approximately February 28, 2020	Rates Effective with Bills Mailed Approximately February 28, 2021	Rates Effective with Bills Mailed Approximately February 28, 2022
Baseline Fee	\$33.11	\$34.76	\$36.50

A nine percent utility tax is included in rates.

An annual CPI adjustment for bi-monthly rates shall occur with the first bill in 2023 annually as follows:

All rates increase (no decreases) by 100 percent of the Seattle CPI-W change from December to December of the previous year.

The fees for other customers' classifications shall use this 10,000-square-foot ERU baseline as the basis for the calculation of the fee. (Ord. 2122 § 1, 2019; Ord. 1922 § 1, 2015; Ord. 1833 § 1, 2014; Ord. 1743 § 1, 2012; Ord. 1640 § 1, 2011; Ord. 1612 § 1, 2010; Ord. 1551 § 1, 2009; Ord. 1518 § 1, 2009; Ord. 1457 § 1, 2008; Ord. 1389 § 1, 2006)

**13.40.080 Rates – Fee calculation.**

The following ERU-derived fees shall apply. The derived ERU-based fees shall be calculated out to two decimal points and in no case shall the ERU-based fee be less than the baseline ERU fee pursuant to FMC 13.40.070.

Rates:

Class 1 Customers – includes all single-family residential units and all multifamily and condominium units with one or two units (up to duplex). The Class 1 fee equals the baseline ERU fee pursuant to FMC 13.40.070.

Class 2 Customers – includes all multifamily units and condominiums with three or more units. The Class 2 fee equals 50 percent of the Class 1 fees on a per-unit basis.

Class 3 Customers – includes all commercial and industrial customers. The Class 3 fee is calculated based on one of two options as follows:

Option 1: the baseline ERU fee, pursuant to FMC 13.40.070, per two months for every 10,000 square feet of land area.

Option 2: 200 percent of the baseline ERU fee, pursuant to FMC 13.40.070, per two months for every 10,000 square feet of impervious surface.

Class 4 Customers – includes all public-use customers (schools, hospitals, churches, government buildings, etc.). The Class 4 fee is calculated based on one of two options as follows:

Option 1: the baseline ERU fee, pursuant to FMC 13.40.070, per two months for every 10,000 square feet of land area.

Option 2: 200 percent of the baseline ERU fee, pursuant to FMC 13.40.070, per two months for every 10,000 square feet of impervious surface.

Class 5 Customers – includes all mixed-use structures. The Class 5 fee equals the baseline ERU fee, pursuant to FMC 13.40.070, per two months per commercial unit for every 10,000 square feet of land area, and the baseline ERU fee, pursuant to FMC 13.40.070, per two months for every residential unit. However, should there be more than two residential units, the fee shall be 50 percent of the Class 1 fees on a per-unit basis. (Ord. 2122 § 1B, 2019; Ord. 1922 § 1, 2015; Ord. 1833 § 1, 2014; Ord. 1743 § 1, 2012; Ord. 1640 § 1, 2011; Ord. 1612 § 1, 2010; Ord. 1551 § 1, 2009; Ord. 1518 § 1, 2009; Ord. 1457 § 1, 2008; Ord. 1390 § 2, 2006; Ord. 1389 § 1, 2006)

**13.40.085 Fee calculation for Class 3 and Class 4 customers.**

As noted in FMC 13.40.080, Class 3 and Class 4 customers have a choice of two billing calculation methodologies – either one based on the total size of the parcel or one that uses only the impervious surface area of the parcel or parcels. The following steps will be used to determine the individual fees for Class 3 and Class 4 customers:

Step 1 – All existing Class 3 and Class 4 customers will be notified, in writing, of their two fee calculation options. New Class 3 and Class 4 customers will be notified of the two fee calculation options at the time of request for utility service.

Step 2 – The fee calculation methodology that utilizes total parcel size shall be the default fee calculation option the City will use unless the City is notified, in writing, of the Class 3 or Class 4 customer's desire to implement a fee calculation option that uses only impervious surface area rather than total parcel area.

Step 3 – Those Class 3 and Class 4 customers who opt for the billing option that utilizes impervious surface area shall be required to submit to the City a detailed drawing of their parcel or parcels showing the total area of the parcel or parcels and the total area of the parcel or parcels that contains impervious surface area together with a calculation of the impervious and nonimpervious surface area.

Step 4 – The City will then verify the impervious surface area calculations and if, in the sole opinion of the City Treasurer, the information submitted by the customer in Step 3 is deemed accurate, the storm drainage fee shall be recalculated.

Step 5 – The revised storm drainage fee shall commence with the utility billing mailed out following the recalculation in Step 4. In no instance shall the storm drainage fee recalculation apply to previously mailed utility billings. (Ord. 1743 § 1, 2012; Ord. 1640 § 1, 2011; Ord. 1612 § 1, 2010; Ord. 1551 § 1, 2009; Ord. 1518 § 1, 2009; Ord. 1457 § 1, 2008; Ord. 1390 § 3, 2006)

**13.40.090 Delinquent charges.**

All storm drainage fees shall be charged against the property and against the owner thereof. If for cause any storm drainage sums owing therefor become delinquent, the water may be shut off, and in no case shall it be turned on to the same property until all deficiencies including penalties shall have been paid in full. No change in ownership or occupancy shall affect the application of this section. (Ord. 1743 § 1, 2012; Ord. 1640 § 1, 2011; Ord. 1612 § 1, 2010; Ord. 1551 § 1, 2009; Ord. 1518 § 1, 2009; Ord. 1457 § 1, 2008; Ord. 1389 § 1, 2006)

**13.40.100 Nonpayment and disconnection.**

All charges for storm drainage shall be due and payable under the same schedule as set forth in FMC 13.04.100(A) for water service.

The process for hearings on objections to amounts owing and set for disconnections for nonpayment shall be as set forth in FMC 13.04.100.

As a remedy for nonpayment of storm drainage charges the City may disconnect water service, may physically disconnect the sewer service, or employ any other remedy legally available to it to secure payment for services rendered. (Ord. 1743 § 1, 2012; Ord. 1640 § 1, 2011; Ord. 1612 § 1, 2010; Ord. 1551 § 1, 2009; Ord. 1518 § 1, 2009; Ord. 1457 § 1, 2008; Ord. 1389 § 1, 2006)

**13.40.110 Applicability of fees.**

The billing of storm drainage fees shall not be applicable to utility customers within the City's urban growth area. (Ord. 1824 § 1, 2014; Ord. 1743 § 1, 2012; Ord. 1640 § 1, 2011; Ord. 1612 § 1, 2010; Ord. 1551 § 1, 2009; Ord. 1518 § 1, 2009; Ord. 1457 § 1, 2008; Ord. 1389 § 1, 2006)

**13.40.120 Applicability to out-of-City residents.**

*Repealed by Ord. 1824.* (Ord. 1743 § 1, 2012; Ord. 1640 § 1, 2011; Ord. 1612 § 1, 2010; Ord. 1551 § 1, 2009; Ord. 1518 § 1, 2009; Ord. 1457 § 1, 2008; Ord. 1389 § 1, 2006)

**13.40.130 City utility tax.**

All fees related to storm drainage shall also be subject to the City's utility tax at such rates as established by the City Council. (Ord. 1743 § 1, 2012; Ord. 1640 § 1, 2011; Ord. 1612 § 1, 2010; Ord. 1551 § 1, 2009; Ord. 1518 § 1, 2009; Ord. 1457 § 1, 2008; Ord. 1389 § 1, 2006)

**13.40.140 Fee to mitigate impact of certain divisions or developments on storm sewer system.**

A. For the purpose of this chapter, unless otherwise clearly indicated from the context, the following words shall have the meanings set forth in this subsection:

1. "Division of land" means a subdivision, short subdivision, plat or short plat, or binding site plan, as defined in RCW 58.17.020.
2. "Lot" means the same as "tract" or "parcel," and one term may be substituted for the other without changing the meaning. For purposes of this section, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area. A lot may consist of:
  - a. A single lot of record;
  - b. A portion of a lot of record;
  - c. A combination of complete lot of record, of complete lots of record and portions of lots of record, or of portions of lots of record;
  - d. A parcel of land described by metes and bounds.
3. "Development" means the improvement of any lot through the construction or placement of any building or structure other than a single-family residence or duplex, or impermeable surface, including the permanent or semi-permanent placement of any stationary machinery or equipment.

B.

1. Upon a division of land or upon the development of a lot, tract, parcel, or portion thereof, the owner of the land shall pay a fee of \$0.05 per square foot upon the gross property area being divided, or the gross square footage being developed, including undevelopable portions such as, but not limited to, reserve tracts, stormwater tracts, open space tracts, and critical areas, for the purpose of mitigating the impact or potential impact of such division or development upon the existing storm sewage system of the City.
2. Unless deferred until a request for final inspection, upon the issuance of a single-family residential building permit, the customer shall pay a fee of \$500.00 for the purpose of mitigating the impact or potential impact of such permit upon the existing storm sewage system of the City.\*

C. The fee set forth in subsection (B) of this section shall not be in lieu of any requirements to install on-site storm drainage improvements as now or hereafter adopted as City standards.

D. All fees collected in accordance with this section shall be placed in a fund designated the City storm drainage improvement fund, created by this section, and shall be used for the construction and/or

upgrading of the City's storm drainage system at such time and in such manner as determined by the City Council.

E. Vanderyacht Regional Storm Pond Connection Fee.

1. The Vanderyacht regional stormwater pond connection fee shall be \$48,683 per acre foot for development when, in compliance with prior developer's agreements, they are not to be charged for conveyance costs.
2. The Vanderyacht regional stormwater pond connection fee shall be \$48,683 per acre foot for detention and treatment and \$54,359 per acre foot for conveyance for all other development that is not subject to a prior developer's agreement.
3. Capacity shall be tracked by the City of Ferndale Public Works Stormwater Department.

F. Neubauer Regional Storm Pond Connection Fee.

1. The Neubauer regional stormwater pond connection fee shall be \$59,830 per acre foot for detention and treatment.
2. Capacity shall be tracked by the City of Ferndale Public Works Stormwater Department.

G. SW Stormwater Management Facility Connection Fee.

1. The SW stormwater management facility connection fee shall be as calculated in "Adjusted Costs" column shown per parcel on City of Ferndale Southwest Stormwater Management Facility Connection Fee Summary.
2. The SW stormwater management facility connection fee will be due upon the approval of a permitted or conditional use on the subject parcel. Within the context of this subsection (G), "approval" shall mean the recording of a subdivision, planned unit development, or specific binding site plan, or the issuance of a building permit, whichever occurs first.
3. No development or redevelopment shall exceed "Modeled Post Impervious" column on City of Ferndale Southwest Stormwater Management Facility Connection Fee Summary unless authorized by the Public Works Director to implement on-site infiltration best management practices for the impervious exceedance only.
4. Should a developer combine two or more parcels, the allowable impervious surfaces for those combined shall not, in any combination of new lots, exceed that of the original individual lots combined. (Ord. 2074 § 1 (Att. A), 2018; Ord. 1916 § 5, 2015; Ord. 1822 § 1, 2014; Ord. 1698 § 1, 2012; Ord. 1620 § 1, 2010; Ord. 1570 §§ 1, 2, 2010; Ord. 1565 § 1, 2010; Ord. 1315 §§ 1, 2, 2003; Ord. 1311 §§ 1, 2, 2003; Ord. 660 §§ 1 – 4, 1982

H. - Gateway Main/LaBounty Storm Drain Connection Fee:

1. The Gateway Main/LaBounty Storm Drain Connection Fee shall be the "North Gateway Contribution" column shown per parcel from the City of Ferndale: Main/LaBounty Storm Drain Assessment exhibit.
2. The Gateway Main/LaBounty Storm Drain Connection fee will be due upon the approval of a Permitted or Conditional Use on the subject parcel. Within the context of this ordinance, "approval" shall mean the recording of a subdivision, Planned Unit Development or Specific Binding Site Plan, or the issuance of a building permit, whichever occurs first.
3. No development or redevelopment shall exceed "Modeled Post Impervious" column on City of Ferndale: Main/LaBounty Storm Drain Assessment exhibit unless authorized by the Public Works Director to implement onsite mitigation for exceedance per stormwater requirements in effect at the time of approval.
4. Should a developer combine or divide parcels, the allowable impervious surfaces for those parcels shall not, in any combination of new lots, exceed that of the original individual lots combined or divided.

\* Code reviser's note: Ord. 1916 establishes a permanent impact fee deferment option on residential construction consistent with RCW 82.02.050 and SB5923.