

**ORDINANCE NO. 2010-34**

**AN ORDINANCE** of the City of Bainbridge Island, Washington, relating to the City's storm and surface water utility; amending Section 13.24.089 of the Bainbridge Island Municipal Code (BIMC) to reduce the monthly fee for City-owned right-of-way to conform to prior City budgets; and, ratifying and confirming prior acts.

**THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

Section 1. Findings.

The City Council hereby makes the following legislative findings:

- a. The City has established a storm and surface water utility with jurisdiction over all storm and surface water facilities within the city.
- b. The City has adopted and maintained a fee structure for the storm and surface water utility with the goal that the utility be a fully self-supporting operation. As part of its ongoing analysis of the financial structure of its utilities, the City has examined the budget and fee structure of the storm and surface water utility.
- c. RCW 90.03.525 provides that the storm and surface water utility fee charged by the City for state highway rights-of-way shall be thirty percent (30%) of the general City rate.
- d. Through 2007, the fee for City-owned rights-of-way was established to be at the same level as the fee charged to the State, namely 30 percent of the fee for commercial property within the City.
- e. In November 2007, the City Council considered an alternative rate structure that would increase the fee for City-owned rights-of-way from 30 percent to 100 percent of the commercial fee, with a resulting decrease in the commercial fee.
- f. The City Council, by Ordinance No. 2007-39, increased the fee for city-owned rights-of-way from 30 percent to 100 percent of the commercial fee, and correspondingly lowered the commercial fee by \$2 per parcel per month.
- g. Both the projected cost to the City general fund and the resulting fee structure were based on materially erroneous financial information.
- h. A surface water rate study commissioned by the City in 2006 found that only 25 to 30 percent of comparable cities charge storm and surface water utility fees for roads in their jurisdictions.

- i. RCW 90.03.510 allows cities who impose rates to fund storm water control systems to provide a credit for the value of storm water control facilities or improvements that mitigate the impact of storm water.
- j. City roads and State highways provide infrastructure to convey stormwater, such that reduced rates are warranted.
- k. Despite the erroneous projections, the utility has, based on the fees actually charged and collected, continued to be fully self-supporting through 2010.
- l. The City Council has now been provided with more accurate financial information than was presented during the consideration of Ordinance No. 2007-39, and on this basis has determined that the City Council would not have adopted the erroneous fee schedule.
- m. The City Council has also determined that the impact on the City's current and future delivery of general public services that would result from retroactively applying Ordinance No. 2007-39 would be prohibitively high, is not necessary to the utility's operation and is not in the public interest.
- n. The City Council finds that retroactive application of Ordinance No. 2007-39 is not necessary to make the storm and surface water utility self-supporting for the years 2008-10 or to conform to the City budgets for those years.

Section 2. Municipal Code Amended.

Section 13.24.089 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

13.24.089 Streets and roads charge. The monthly fee for city-owned right-of-way shall be ~~100~~ 30 percent of the fee provided in BIMC 13.24.08.

Section 3. Retroactive Application.

This ordinance is effective retroactive to December 1, 2007.

Section 4. Ratification and Confirmation.

The City Council hereby ratifies and confirms all actions taken in a manner consistent with and prior to the effective date of this ordinance.

PASSED BY THE CITY COUNCIL this 13<sup>th</sup> day of October, 2010.

APPROVED BY THE MAYOR this 13<sup>th</sup> day of October, 2010.



Bob Scales, Mayor

ATTEST/AUTHENTICATE:

  
Rosalind D. Lassoff, City Clerk

FILED WITH THE CITY CLERK:	September 17, 2010
PASSED BY THE CITY COUNCIL:	October 13, 2010
PUBLISHED:	October 22, 2010
EFFECTIVE DATE:	Retroactive to December 1, 2007
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