

# COUNCIL COMMUNICATION

<b>Meeting Date:</b> May 25, 2021	<b>Agenda Item:</b> 10C	<b>Agenda Location:</b> Consent Calendar	<b>Goal(s):</b>	<b>Legal Review:</b> <i>WAT</i>	<input type="checkbox"/> 1 <sup>st</sup> Reading <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading
<b>Subject:</b> An ordinance amending Ordinance 3511 prescribing stormwater rates and charges for the operation and maintenance of the stormwater system for the City.					
<b>Recommended by:</b> Kim Newhart <i>KN</i>				<b>Approved by:</b> Kevin S. Woods <i>KW</i>	
<b>Presenter(s):</b> Kim Newhart, Finance Director				<b>Ordinance previously introduced by:</b> <hr style="width: 100%;"/> <b>Acunto</b>	

**SYNOPSIS:**

This ordinance proposes an amendment to Ordinance 3511 related to the qualification criteria for the Thornton Stormwater Assistance Program (Program). The current criteria to be eligible for assistance is a total household income of 185% of the Federal Poverty Level or less (\$4,039 for a household of four). Staff is proposing the criteria match the Low Income Energy Assistance Program (LEAP) which is set at 60% of the State Median Income (\$5,038 for a household of four).

**RECOMMENDATION:**

Staff recommends Alternative No. 1, change the eligibility criteria for the Program to match LEAP. The Federal Poverty Level is more restrictive than the LEAP income eligibility. Staff believes that because customers are eligible for the Program with proof of LEAP, changing the income limits to match LEAP will eliminate confusion and unnecessary delays for the customer, as well as create administrative efficiencies for the City.

**BUDGET/STAFF IMPLICATIONS:**

Funding for the Program is established through the annual budget appropriation process. The current approved funding for the Program for 2021 is \$340,000, changing the criteria is not projected to exceed the current budget.

**ALTERNATIVES:**

1. Approve the ordinance amending the eligibility criteria for the Program to match LEAP.
2. Do not approve the ordinance and maintain the current Stormwater Assistance Program Qualification Criteria.

**BACKGROUND (ANALYSIS/NEXT STEPS/HISTORY):** (includes previous City Council action)

The Program is intended to provide financial assistance to Thornton Stormwater Utility customers meeting the qualifying criteria. Qualifying customers will be eligible for an annual credit against their utility bill. The customer will need to reapply each year to receive assistance.

The current qualification criteria for the Program is the Customer must provide evidence of the household's approval of LEAP; or approval of Medicaid, Supplemental Nutrition Assistance Program (SNAP), Women, Infants, and Children (WIC), or Temporary Assistance to Needy Families (TANF) for each member of the household; or income qualify at 185% of the Federal Poverty Level or less, considering total household income of all ages 18+ living within the home.

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City Council adopted Ordinance 3511 on November 27, 2018, prescribing stormwater rates and charges for the operation and maintenance of the stormwater and surface water management enterprise for the City.

The Program served 352 Customers in 2019 (36 were declined) and 430 Customers in 2020 (14 were declined).

- The 2021 credit for Stormwater is a \$5 credit per month not to exceed the remaining calendar months left in the year or \$60.

INTRODUCED BY:           Acunto          

AN ORDINANCE AMENDING ORDINANCE 3511 PRESCRIBING STORMWATER RATES AND CHARGES FOR THE OPERATION AND MAINTENANCE OF THE STORMWATER SYSTEM FOR THE CITY.

WHEREAS, the City operates and maintains a municipal stormwater system; and

WHEREAS, Chapter 74 of the City Code requires rates and charges to be established by ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THORNTON, COLORADO, AS FOLLOWS:

Section 1. Definitions.

For purposes of this ordinance, the following definitions shall apply unless the context of the use of the words and phrases clearly require otherwise:

- 1.2 “Accessory Dwelling Unit” or “ADU” means a second dwelling unit that is either located within a single-family detached dwelling or in an attached or detached structure on the same lot as the original dwelling.
- 1.3 “Customer” means the person shown on City records as being responsible for payment on the water and/or sewer and/or solid waste and/or stormwater account.
- 1.4 “Developed” means any man-made change to real property including but not limited to buildings, other structures, streets, or parking lots.
- 1.5 “Director” means the Executive Director of Infrastructure or his/her designee.
- 1.6 “Duplex” or “townhome” means two or more dwelling units sharing a wall or other interconnections.
- 1.7 “Dwelling unit” means one or more rooms designed to accommodate one family and containing only one kitchen plus living, sanitary, and sleeping facilities.
- 1.8 “ERU” means equivalent residential unit. One ERU equals 2900 square feet impervious area.
- 1.9 “Impervious Area” means hard surface area on a land parcel.
- 1.10 “Lot” means a designated area of land established by a plat and to be used, developed or built upon as a unit.

- 1.11 “Manufactured home” means a factory-assembled structure without permanent foundations and designed to be transported on its own wheels, arriving at the site as a complete dwelling unit. Removal of the wheels and placement on a foundation does not change its classification. The term "manufactured home" includes half units that are transported to the site on their own wheels and assembled. It does not include travel trailers, campers, camper buses, motor homes, or modular houses.
- 1.12 “Multifamily Apartment” means a residential structure having three or more dwelling units within such lot whereby the dwelling units are not individually owned.
- 1.13 “Nonresidential” service means service to Developed property other than Residential.
- 1.14 “Owner” means the fee owner of real property identified in the County property records.
- 1.15 “Property” means the real property that is served by the City’s stormwater system.
- 1.16 “Residential” service means service to a single-family residence, a townhome, a duplex, or a manufactured home.
- 1.17 “Single-Family Residence” means any building situated on one lot with a single dwelling, and sharing no common wall, foundation, or other interconnection with another dwelling unit or other structure or use. An Accessory Dwelling Unit shall be exempt from the requirements for a separate and independent water service connection to the main.

Section 2. Stormwater Rates and Charges.

- 2.1 Residential Stormwater Charge. The following monthly charge is established for residential service inside the City.

\$5 per month per Lot

- 2.2 Nonresidential Stormwater Charge. The following monthly charge is established for nonresidential service inside the City based on measured impervious area.

\$5 per month per ERU

The owner of any nonresidential property required to pay a stormwater fee may request an appeal of the measured impervious area. Such appeal may be requested based upon incorrect or updated impervious area and should be addressed to the Director or his/her designee. Such appeal shall be in writing and shall state with specificity and include evidence of the reason or reasons the owner

believes the measured impervious area is not properly calculated. The Director or his/her designee may grant, deny, or grant in part and deny in part any such appeal and shall render a written decision within sixty (60) calendar days following receipt of the appeal.

Section 3. Miscellaneous Billing Charges.

- 3.1 Late Charge. A late charge of \$10.00 shall be added each month to any account on which all charges are not paid by the due date as stated on the monthly bill.
- 3.2 New Account Charge. When a request is made by a customer to change a name on any such account to have stormwater service provided on accounts where the City does not also provide water, sewer, or trash, a new account charge of \$20.00 will be added. Exceptions to this charge include: 1) name changes on an account due to marriage, dissolution of marriage, and inheritance; and 2) changes to the forwarding address of the owner.
- 3.2 Returned Check Charge. An \$18.00 service charge shall apply for returned and dishonored checks received by the City.

Section 4. Unpaid Fees a Lien.

Unpaid fees imposed by this ordinance shall become a continuing and perpetual lien and charge upon each lot or tract of land and shall have priority over all other liens except general taxes. Said unpaid fees may be collected and the lien herein authorized may be enforced in the same manner as water and sewer charges are collected and enforced in Chapter 74 of the Thornton City Code.

Section 5. Adjustments by City Manager.

The City Manager or his/her designee shall have the authority to determine that the public interest is best served by:

- 5.1 Adopting rules and regulations to aid in the administration and interpretation of this Ordinance.
- 5.2 Waiving charges when deemed appropriate.

Section 6. Stormwater Assistance Program.

The Stormwater Assistance Program (Program) is intended to provide short-term assistance to customers meeting qualifying criteria during difficult economic times. The Program is not intended to be permanent nor supersede any other programs or payment arrangements for customers currently offered to customers.

- 6.1 Qualification Criteria. To qualify for this Program, the Customer must provide evidence that the Customer's household income does not exceed 60% of the State Median Income~~185% of the Federal Household Poverty Level~~ or provide evidence that the Customer qualifies for any other assistance program for which the criteria is equal to or more restrictive than 60% of the State Median Income~~185% of the Federal Household Poverty Level~~ for the year in which the Customer seeks assistance. Examples of such other programs include: Low Income Energy Assistance Program and Temporary Assistance for Needy Families. The City may utilize a third-party entity to determine qualification of applicants. The customer will need to reapply each year to receive assistance.
- 6.2 Program Funding. Funding is established by City Council through the annual budget appropriation process.
- 6.3 Assistance. Qualifying Customers will be eligible for an annual credit against their stormwater bill, or in the case where the customer resides in a multifamily master meter community, a one-time payment made payable to the property management company or leasing agent.
- 6.4 Ineligible Customers. Stormwater customers who are also water utility customers who have been assessed a fee for tampering associated with their water meter within the last three years are not eligible for this Program. Customers who provide false information or tamper with the meter shall be removed from the Program.
- 6.5 Other. Customers receiving assistance under this Program will still be subject to all provisions of this ordinance including late fees.

#### Section 7. Severability of Invalid Provision.

If any portion of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining portions of this ordinance. City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared unconstitutional or invalid.

#### Section 8. Saving Clause.

The repeal or amendment of any provision of the Code by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 9. Effective Date.

This ordinance shall take effect upon second and final reading.

INTRODUCED, READ, PASSED on first reading, ordered posted in full, and title ordered published by the City Council of the City of Thornton, Colorado, on May 11, 2021.

PASSED AND ADOPTED on second and final reading on \_\_\_\_\_, 2021.

CITY OF THORNTON, COLORADO

\_\_\_\_\_  
Jan Kulmann, Mayor

ATTEST:

\_\_\_\_\_  
Kristen N. Rosenbaum, City Clerk

THIS ORDINANCE IS ON FILE IN THE CITY CLERK'S OFFICE FOR PUBLIC INSPECTION.

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
William A. Tuthill III, Interim City Attorney

PUBLICATION:

Posted at City Hall, Margaret W. Carpenter Recreation Center, and Thornton Active Adult Center after first and second readings.

Published on the City's official website after first reading on May 12, 2021, and after second and final reading on \_\_\_\_\_, 2021.