



# STAFF REPORT

**Report To:** Board of Supervisors

**Meeting Date:** October 5, 2017

**Staff Contact:** Darren Schulz, Public Works Director

**Agenda Title:** For Possible Action: To introduce, on first reading, Bill No. \_\_\_, an ordinance amending Title 12 of the Carson City Municipal Code to increase the rate of storm water service charges levied upon all developed real property located within Carson City; to revise provisions establishing the procedure by which to protest storm water service charges and fees; and to make non-substantive changes to provide technical, grammatical and structural corrections for legal clarity. (David Bruketta, dbruketta@carson.org)

**Staff Summary:** This will be the first reading of an ordinance that proposes to increase the storm water service charge by 30 percent to pay for the debt service on a storm water bond, to revise the protest procedure to require that a person who appeals the determination made by the Director to the Board has to be provided written notification of the date of the appeal at least 10 days before the hearing, and to amend Chapter 12.17 to remove or amend words, term and NRS references that have been modified or no longer exist.

**Agenda Action:** Ordinance - First Reading

**Time Requested:** 15 minutes

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## **Proposed Motion**

Move to introduce, on first reading, Bill No. \_\_\_, an ordinance amending Title 12 of the Carson City Municipal Code to increase the rate of storm water service charges levied upon all developed real property located within Carson City; to revise provisions establishing the procedure by which to protest storm water service charges and fees; and to make non-substantive changes to provide technical, grammatical and structural corrections for legal clarity.

## **Board's Strategic Goal**

Sustainable Infrastructure

## **Previous Action**

NA

## **Background/Issues & Analysis**

At the August 3, 2017 Board of Supervisors meeting, staff was directed to begin the process of pursuing a 20-year bond in the amount of \$4,875,000 to support storm water capital expenses and a one-time Storm Water rate increase of 30 percent to support the debt service on the bond and to provide maintenance support.

## **Applicable Statute, Code, Policy, Rule or Regulation**

Carson City Municipal Code Title 12

## **Financial Information**

Is there a fiscal impact?  Yes  No

If yes, account name/number: Storm Drain Fund / 505-3702-437

Is it currently budgeted?  Yes  No

Explanation of Fiscal Impact: The schedule of rates would increase by 30 percent. The proposed increase would generate approximately \$413,517 in additional annual revenue.

**Alternatives**

The Board may modify or decline to adopt the ordinance.

**Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_

Aye/Nay

2) \_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

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(Vote Recorded By)

Summary: An ordinance increasing the rate of storm water service charges levied upon all developed real property located within Carson City.

BILL NO. \_\_

ORDINANCE NO. 2017-\_\_

AN ORDINANCE RELATING TO MUNICIPAL UTILITIES; AMENDING TITLE 12 OF THE CARSON CITY MUNICIPAL CODE TO INCREASE THE RATE OF STORM WATER SERVICE CHARGES LEVIED UPON ALL DEVELOPED REAL PROPERTY LOCATED WITHIN CARSON CITY; TO REVISE PROVISIONS ESTABLISHING THE PROCEDURE BY WHICH TO PROTEST STORM WATER SERVICE CHARGES AND FEES; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.

The Board of Supervisors of Carson City do ordain:

SECTION I:

That Title 12 (Water, Sewerage and Drainage), Chapter 12.17 (Storm Water Service Charges) is hereby amended (**bold, underlined** text is added, ~~stricken~~ text is deleted) by adding thereto a new Section 12.17.035 as follows:

- 1. Except as otherwise provided in this chapter, a permanent exemption will not be granted pursuant to the taxable or nontaxable status or other economic status of any owner of developed real property. An exemption may be granted pursuant to an agreement between Carson City and another party if the agreement requires the other party to assume responsibilities for the performance of both on-site and off-site management relating to storm water quantity and quality, including, without limitation, the acquisition, design, construction, operation and maintenance of programs and facilities and the implementation of measures that equal or exceed the measures of the system which is operated by Carson City.**
- 2. An exemption that is granted pursuant to subsection 1 may be rescinded at any time by Carson City, and an agreement entered into for the purpose of granting any such exemption must include a provision that expressly reserves this rescission authority.**
- 3. As used in this section, “exemption” means the exclusion of any real property from the levying by Carson City of a service charge or any other fee otherwise required by this chapter, or the removal of any such service charge or fee.**

## SECTION II:

That Title 12 (Water, Sewerage and Drainage), Chapter 12.17 (Storm Water Service Charges), Section 12.17.010 (Definitions) is hereby amended (**bold, underlined** text is added, ~~stricken~~ text is deleted) as follows:

### **12.17.010 - Definitions.**

~~[The following words when used herein shall have the following meanings, unless the context clearly indicates otherwise.] As used in this chapter, unless the context requires otherwise, the words and terms defined in this section have the meanings ascribed to them as follows:~~

1. ~~["Board" shall mean the Carson City board of supervisors.~~
2. ~~"City" [shall mean] the consolidated municipality of Carson City, Nevada.~~
- 3.] 2. ~~["Commercial" property shall mean]~~ **Commercial Property" means any developed real property that is located on a particular parcel, the majority of which is zoned[, in the majority, "RO", "GO", "NB", "RC", "GC", "TC", or "DC", all as defined] ~~within a use district designated as Residential Office, General Office, Neighborhood Business, Retail Commercial, General Commercial, Tourist Commercial or Downtown Mixed-Use, as those districts are described in title 18 of [the Carson City Municipal Code]~~ **CCMC.****
- 4.] 3. ~~["Customers" shall mean all persons, properties, and entities]~~ **Customer" means any person or property that is or will be** served by ~~[and/or benefitting]~~ **or does or will benefit** from ~~[the]~~ a utility's acquisition, management, maintenance, extension, and improvement of the stormwater management programs, systems, and facilities and regulation of public and private stormwater systems, facilities, and activities related thereto~~[, and persons, properties, and entities which will ultimately be served or benefitted as a result of the stormwater management program].~~
- 5.] 4. ~~"Developed" [shall mean that]~~ **means a** condition of real property **that has been** altered from its natural state by the addition to or construction on such property other manmade physical improvements such that the hydrology of the property or portion thereof is affected.
- 6.] 5. ~~"Director" [shall mean the development service department director]~~ **means the Director of the Carson City Public Works Department.**
- 7.] 6. ~~["Exemption" shall mean an exception from, or special case removing the application of the storm water service charge from a property. No permanent exemption shall be granted based on taxable or non-taxable status or economic status of the property owner. An exemption may be granted based on agreements between the city and other persons, governmental and non-governmental entities, and organizations]~~

~~whereby the other persons, governmental and non-governmental entities, and organizations perform on-site and/or off-site stormwater quantity and quality management, including acquiring, designing, building, operating, and maintaining systems and facilities, and performing measures and actions which equal or exceed the storm water management program performed by the city. Exemptions may be removed or rescinded at any time by the city.~~

8.] 7. ~~["Manufacturing" property shall mean]~~ **"Manufacturing Property"** means any developed real property that is located on a particular parcel, the majority of which is zoned~~[, in the majority, "LI", "GI", or "AIP", all as defined]~~ within a use district designated as Limited Industrial, General Industrial or Airport Industrial Park, as those districts are described in Title 18 of [the Carson City Municipal Code] CCMC.

9.] 8. ~~["Multi-family" property shall mean]~~ **"Multi-Family Property"** means any developed real property that is located on a particular parcel, the majority of which is zoned~~[, in the majority, "MFD", "MHP" or "MFA", all as defined]~~ within a use district designated as Multi-Family Duplex, Mobilehome Park or Multi-Family Apartments, as those districts are described in Title 18 of [the Carson City Municipal Code] CCMC.

[10.] 9. ~~["Public" property shall mean]~~ **"Public Property"** means any developed real property that is zoned ~~["P", as defined]~~ the use district described as Public in Title 18 of [the Carson City Municipal Code] CCMC.

[11.] 10. "Service charge" ~~[shall mean]~~ means the monthly ~~[fee]~~ rate for storm water service levied by ~~[the city]~~ Carson City upon all developed real property located within the boundaries of ~~[the city]~~ Carson City as authorized by ~~[Section 12.17.050]~~ this chapter.

[12.] 11. ~~["Single family" property shall mean]~~ **"Single Family Property"** means any developed real property that is located on a particular parcel, the majority of which is zoned~~[, in the majority, "SF5A", "SF2A", "SF1A", "SF12", "SF6", "CR", "A", "MH6", "MH12", or "MH1A", all as defined]~~ Single-Family—5 Acre, Single-Family—2 Acre, Single-Family—12,000 square feet, Single-Family—6,000 square feet, as those districts are described in Title 18 of [the Carson City Municipal Code] CCMC.

[13.] 12. "System" ~~[shall mean]~~ means the entire system of storm drainage facilities owned by ~~[the city]~~ Carson City or over which ~~[the city]~~ Carson City has control or right of use for the movement and retention of storm and surface waters, including both naturally occurring and manmade facilities.

[14.] 13. "Undeveloped" ~~[shall mean that]~~ means a condition of real property that is unaltered by the construction or addition to such property by man of impervious ground cover or physical manmade improvements of any kind which change the hydrology of the property from its natural state.

### SECTION III:

That Title 12 (Water, Sewerage and Drainage), Chapter 12.17 (Storm Water Service Charges), Section 12.17.020 (Rate Policy) is hereby amended (**bold, underlined** text is added, ~~stricken~~ text is deleted) as follows:

#### **12.17.020 - Rate policy.**

It ~~[shall]~~ **is hereby declared to** be the policy of ~~[the city]~~ **Carson City** that the rate structure to be applied in establishing the amount of service charges assessed against each parcel of developed real property **located** within the boundaries of ~~[the city shall]~~ **Carson City** **must** be based ~~[upon the amount of]~~ **on the use district for which the** majority of ~~[the zoning classification assigned to]~~ each **such** parcel of property **is zoned**, as **those districts are** defined by Title 18 of ~~[the Carson City Municipal Code]~~ **CCMC**.

### SECTION IV:

That Title 12 (Water, Sewerage and Drainage), Chapter 12.17 (Storm Water Service Charges), Section 12.17.030 (Undeveloped Real Property) is hereby amended (**bold, underlined** text is added, ~~stricken~~ text is deleted) as follows:

#### **12.17.030 - Undeveloped real property.**

~~[Properties remaining in an]~~ **For the purposes of this chapter**, undeveloped ~~[eondition- are]~~ **real property shall be** deemed **as** not ~~[to make]~~ **making** use of ~~[the services of the city]~~ **any storm water service provided by Carson City** or of the ~~[facilities of the]~~ system beyond that **which is** used by such property **existing** in ~~[the]~~ **its** natural state. ~~[Therefore, no]~~ **In accordance with this section and notwithstanding any provision of section 12.17.040, a** service charge ~~[shall be imposed upon]~~ **will not be assessed against any** undeveloped real property **located within the boundaries of Carson City**.

### SECTION V:

That Title 12 (Water, Sewerage and Drainage), Chapter 12.17 (Storm Water Service Charges), Section 12.17.040 (Service Charge Rates) is hereby amended (**bold, underlined** text is added, ~~stricken~~ text is deleted) as follows:

#### **12.17.040 - Service charge rates.**

~~[There is hereby levied upon]~~ **The Carson City Public Works Department shall levy upon and collect a service charge from** all developed real property **located** within the boundaries of ~~[the city]~~ **Carson City in accordance with** the following ~~[service charges which shall be collected from the owners of such properties]~~ **schedule of rates**:

<u>Zoning</u> Classification of Real Property	Monthly Rate
[“Single Family”] <u>Single-Family</u> Property	[\$4.38] <u><b>\$5.69</b></u>
[“Multi Family”] <u>Multi-Family</u> Property	[\$22.56] <u><b>\$29.33</b></u>
[“Public”] <u>Public</u> Property	[\$24.64] <u><b>\$32.03</b></u>
[“Manufacturing”] <u>Manufacturing</u> Property	[\$29.38] <u><b>\$38.19</b></u>
[“Commercial”] <u>Commercial</u> Property	[\$31.51] <u><b>\$40.96</b></u>

## SECTION VI:

That Title 12 (Water, Sewerage and Drainage), Chapter 12.17 (Storm Water Service Charges), Section 12.17.050 (Collection) is hereby amended (**bold, underlined** text is added, ~~text is deleted~~) as follows:

### **12.17.050 - Collection.**

- [1. ~~All service charges and all other fees or charges hereafter established by the city shall be deemed to be levied upon the premises themselves.~~
2. ~~The city shall have a lien for all delinquent and unpaid rates and charges for storm water purposes assessed against all premises to which service was furnished, which lien shall have the superiority established by NRS 318.197 and shall be foreclosed in the manner described in NRS 318.197.~~
3. ~~Storm water service charges shall be deemed to be delinquent if not paid within 21 days following the billing date. A penalty charge of 2.5% shall be imposed on past due bills for each 27 days that the bill is unpaid.]~~

**For the purposes of this chapter, a service charge or any other fee that is levied, assessed or imposed upon or against real property:**

1. **Except as otherwise provided in section 12.17.060, is delinquent if it remains unpaid 21 days after the date on which the service charge or fee is due;**

2. Except as otherwise provided in section 12.17.060, is subject to a late penalty of 2.5% of the total service charge or fee for each period of 27 days after the date on which the charge or fee is due;
3. Shall constitute a perpetual lien on and against the property served;
4. Shall, as a lien, be prior and superior to all other liens, claims and titles in the same manner as a lien created by the board of trustees of a general improvement district under NRS 318.197; and
5. Shall be foreclosed in the same manner as a lien created by the board of trustees of a general improvement district under NRS 318.197.

## SECTION VII:

That Title 12 (Water, Sewerage and Drainage), Chapter 12.17 (Storm Water Service Charges), Section 12.17.060 (Protests to Rates and Charges) is hereby amended (**bold**, underlined text is added, ~~stricken~~ text is deleted) as follows:

### **12.17.060 - Protests to rates and charges.**

1. If ~~[any]~~ the owner ~~[shall be dissatisfied with any]~~ of any developed real property upon which a [storm water] service charge [imposed,] or other fee has been levied disputes the charge or fee, he or she may file a written protest with the ~~[director of the department of development services setting forth his/her objections provided such protest is filed within 15 days of receipt of the bill being protested.]~~ Director. The protest must include a statement clearly explaining the reasons for the protest and be submitted to the Director not later than 15 days after the date on which the owner of the property received the billing statement indicating the charge or fee. For purposes of this subsection, a billing statement shall be deemed to have been received by the owner of a property three days after the date on which the billing statement is mailed by prepaid United States mail to the owner at the most recent address of record with the Carson City Public Works Department.
2. ~~[Upon receipt of any such protest, the director shall, within 15 days, make a determination in writing as to the correctness of the bill. Should the director determine that the bill was incorrect, he/she may cause the corrections to be made.]~~ If a protest is submitted pursuant to subsection 1, the Director must consider the protest and, not later than 15 days after the date on which the protest was submitted, issue to the owner of the real property a written response that includes a determination regarding the accuracy of the disputed service charge or other fee and whether any corrections or modifications will be made.
3. If the ~~[protester is dissatisfied with the director's decision, he/she]~~ owner of the developed real property who submitted a protest pursuant to subsection 1

**disagrees with the determination made by the Director pursuant to subsection 2, the owner may appeal the determination to the board [of supervisors, provided such] . An appeal [is] that is made pursuant to this section must be filed [within] with the Director not later than 10 days [of receipt of the director's decision.] after the date on which the Director issues his or her written response pursuant to subsection 2.**

4. The [board, upon receipt of a protest,] **board** shall fix a time and place for a hearing [of said protest which shall not be later than 30 days after] **upon** receipt of [same and cause the protesters to be notified thereof.] **an appeal that is filed pursuant to subsection 3. The hearing must take place not later than 30 days after the date on which the appeal is filed, and written notice thereof must be provided to the owner of the property who filed the appeal not less than 10 calendar days before the hearing.**
5. [Upon the] **At the time fixed for** hearing, the board may **remove or** adjust [the service] **any disputed** charge **or fee** if [it] **the board** is satisfied with the reasons and basis of the protest. [Action taken on any protest, shall] **Any action of the board must be entered [in] into the minutes of the [board.] hearing.**
6. [The protester shall have 15 days after determination of the protest by the board within which to pay his/her service charge before any penalty or interest shall be attached or imposed.]  
**For the purposes of this section, the delinquency of a service charge or any other fee is tolled upon the filing of a written protest and does not run until such time after the process set forth in this section has been exhausted. Not less than 15 days after the date on which a hearing is held pursuant to subsection 5, any late penalty authorized by this chapter may accrue and attach to a delinquent charge or fee.**

## SECTION VIII:

That Title 12 (Water, Sewerage and Drainage), Chapter 12.17 (Storm Water Service Charges), Section 12.17.070 (Annual Review of Charges and Fees) is hereby amended (**bold, underlined** text is added, ~~stricken~~ text is deleted) as follows:

### **12.17.070 - Annual review of charges and fees.**

The [charges] **rate of any service charge** and **any other** fees established by this [ordinance and] **chapter or** any other [ordinances of the city establishing charges and fees for the storm water utility shall] **provision of CCMC must** be reviewed annually by the [directors of the departments of development services and finance. Subsequent to] **Director or his or her designee. After the completion of every** such **annual** review, the [directors shall] **Director or his or her designee must** present to the board [of supervisors,] a yearly budget for the [storm water utility and] **system, along with any** proposed [amendments to any rates and]

~~charges]~~ **changes to existing rates deemed** necessary ~~[to enable the city]~~ **for Carson City** to pay all costs ~~[to be incurred by the storm water utility.]~~ **associated with the system.**

## SECTION IX:

That no other provisions of Title 12 of the Carson City Municipal Code are affected by this ordinance.

PROPOSED on \_\_\_\_\_, 2017.

PROPOSED BY Supervisor \_\_\_\_\_

PASSED \_\_\_\_\_, 2017.

### VOTE:

#### AYES:

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#### NAYS:

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#### ABSENT:

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ROBERT L. CROWELL, Mayor

### ATTEST:

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SUSAN MERRIWETHER, Clerk-Recorder

This ordinance shall be in force and effect from and after the \_\_\_\_\_ day of the month of \_\_\_\_\_ of the year 2017.