ORDINANCE NO. 008-13

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, AMENDING PORT ORCHARD MUNICIPAL CODE CHAPTER 13.04 "WATER AND SEWERS" BY INCREASING CERTAIN WATER AND SEWER CHARGES AND FEES IN ACCORDANCE WITH INCREASES IN THE CONSUMER PRICE INDEX AND BY CORRECTING CERTAIN SCRIVENER'S ERRORS

WHEREAS, Section 13.04.065 of the Port Orchard Municipal Code provides that, separate and apart from the City Council's consideration of rate increases, certain water and sewer charges and fees shall be modified to reflect annual changes in the All Urban Consumers Price Index for the Seattle – Tacoma – Bremerton area, unless said charges and fees have been adjusted by the City Council during the previous six month period; and

WHEREAS, the City Council has not modified the sewer and water charges and fees set forth in the body of this ordinance in the past six months; and

WHEREAS, the City's Finance Department has calculated the changes to the sewer and water charges and fees based on the changes to the applicable consumer price index; and

WHEREAS, certain scrivener's errors are also in need of correction; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. Port Orchard Municipal Code Section 13.04.030 is hereby amended to read as follows:

13.04.030 Water capital facility charge- Extension of water.

(1) The water capital facility charge is designed to mitigate the impact of new demands on the existing water system and to require new users to pay their fair share of the value of the water system including, but not limited to, water supply, treatment, transmission, storage and distribution facilities. The water capital facility charge applies to new construction, changes in use, and building modifications which increase the total number of equivalent residential units (ERUs). An ERU is 180 gallons per day for nonresidential connections. Prior to
connecting to the city's water system the property owner shall pay, in addition to other applicable charges, the applicable water capital facility charge.

(a) The water capital facility charge for a residential connection is $4,769.39 per ERU. An ERU for this purpose shall be computed based on the water meter size and shall be calculated according to the average flow factor of a displacement type meter where a three-quarter-inch meter shall have a flow factor equal to one ERU. An ERU for residential connections is one single-family dwelling unit, whether detached or attached and configured as an apartment unit, condominium unit, townhouse unit, or any other configuration.

(b) The water capital facility charge for a nonresidential connection shall be calculated based on meter size as set forth below:

<table>
<thead>
<tr>
<th>Capital Facility Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Meter Size</td>
</tr>
<tr>
<td>-------------</td>
</tr>
<tr>
<td>314&quot;</td>
</tr>
<tr>
<td>1&quot;</td>
</tr>
<tr>
<td>1-1/2&quot;</td>
</tr>
<tr>
<td>2&quot;</td>
</tr>
<tr>
<td>3&quot;</td>
</tr>
<tr>
<td>4&quot;</td>
</tr>
</tbody>
</table>

(c) Per Resolution No. 1666, the City Treasurer is authorized to waive the Connection Fee of the water systems which do not impact the fire flow storage requirements of the City. All other fees, charges and expenses shall be paid as in accordance with this Chapter 13.04. Examples of these connections are irrigation systems, fire protection systems, and relocating service lines which cross private property.

(2) If, after connection of a nonresidential service, the actual water usage has increased or the property use expanded so that there are a greater number of ERUs being used on the property than for which the water capital facility charge was paid, the property owner shall pay to the city an additional water capital facility charge based upon the new or expanded use. The additional water capital facility charge shall be based upon the charge rate in effect at the time the increase in use is requested and/or detected, whichever first occurs.

(3) Water Capital Facility Charge – Exception. The following exception applies to the assessment of the water capital facility charge. All four elements of the below-listed requirements must be present to qualify for the exception:

(a) A nonresidential account paid the water capital facility charge at the time the property connected to the city's water system;

(b) Sometime after the original connection, the property owner decides to construct a new building, change the original use, or modify the original building;

(c) After the building improvements are completed, the total water usage for the nonresidential account will be equal to or less than the usage of the time of the original connection; and
(d) The new construction, change in use, or building modification has not resulted in an additional direct connection to the city's water system or the establishment of an additional water account.

(4) A credit against the water capital facility charge may be applied for those property owners that paid their assessments in full through a local improvement district formed by the city where such local improvement district is formed to finance the construction of any of the improvements that are a basis for calculating the value of the water capital facility charge. The credit shall be equal to that portion of the property owner's principal assessment, not including interest and penalties, which is directly applicable to the construction of the improvements that are a basis for calculating the value of the capital facility charge. The credit shall be applied at the time of payment of the water capital facility charge and shall not be used to reduce any assessments in the local improvement district.

(5) A credit against the water capital facility charge may be applied for those property owners that construct at their own expense any of the improvements that are a basis for calculating the value of the water capital facility charge or for those property owners that pay a latecomer's fee toward those same improvements. The credit shall be the smaller of the following:

(a) That portion of the design and construction costs of the latecomer's agreement that are directly applicable to the construction of the improvements that are a basis for the value of the water capital facility charge; or

(b) That proportionate amount of the water capital facility charge that is attributable to the water facilities either constructed by the property owner or paid through a latecomer's fee.

(6) The above provisions notwithstanding, the amount of any credit shall not exceed the amount of the water capital facility charge for the property to which the credit is being applied.

(7) At the time the water capital facility charge is paid, an inspection fee shall be paid. The inspection fee is $105.99 per meter.

(8) All materials shall comply with the requirements of the city. If the city supplies any materials, the cost of these plus overhead and sales tax shall be paid by the customer or property owner.

(9) If a property owner requests a credit or exemption as described above, the director of public works shall make an administrative determination regarding the applicability and amount of the credit or exemption. The director's decision may be appealed to the hearing examiner.

(10) The exceptions and credits described above shall not apply to any costs of construction incurred or payments made to the city for improvements that are a basis for the value of the capital facility charge and that were made 15 years or more prior to the date the property owner requests the exception or credit.

SECTION 2. Port Orchard Municipal Code Section 13.04.033 is hereby amended to read as follows:
13.04.033 Connection fees.
(1) Connection fees are designed to reimburse the utility for the cost required to connect the new service to the water main. The labor installation fee is a flat fee plus sales tax based on the size of the water meter for service lines less than 25 feet. Installed by city employees:

<table>
<thead>
<tr>
<th>Meter Size</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>3/4&quot;</td>
<td>$1,059.86 + cost of meter + associated materials and sales tax.</td>
</tr>
<tr>
<td></td>
<td>$1,271.84 + cost of meter + associated materials and sales tax.</td>
</tr>
<tr>
<td></td>
<td>$1,589.80 + cost of meter + associated materials and sales tax.</td>
</tr>
<tr>
<td>2&quot;</td>
<td>$2,119.73 + cost of meter + associated materials and sales tax.</td>
</tr>
<tr>
<td>Larger meters</td>
<td>Estimated on a case-by-case basis</td>
</tr>
</tbody>
</table>

(2) If the water service line exceeds 25 feet, or if the proposed construction is unusually difficult, the connection fee will be based on an estimate completed by the city for the required labor and material.

(3) If the service is connected by other than city employees, the inspection fee of $105.99 per meter will be charged. All materials shall comply with the requirements of the city. If the city supplies any materials, the cost of these, plus overhead and sales tax, will be paid by the customer. If the installation is satisfactory, the city shall set the meter if it is one inch or less in size. Larger meters shall be installed by the contractor.

(4) All new construction, residential and commercial, on property which is located within 200 feet of a water main of the city shall be required to extend the water to and across the entire frontage of their property and connect to the city water system prior to the occupancy of the building. No new wells except municipal wells shall be constructed and no expansions of existing wells, except municipal wells, shall be permitted on properties that can be served, within 200 feet of a water main of the city, or are now served by the city water system.

SECTION 3. Port Orchard Municipal Code Section 13.04.035 is hereby amended to read as follows:

13.04.035 Water main fees in lieu of assessment.
(1) Where all or a portion of the premises to be served has not been previously assessed or contributed its share towards the cost of installing a permanent main to serve such premises, or the property does not abut a water main, water service shall be provided upon payment of a water main fee as provided for in this section, in addition to the water capital facility charge set forth in POMC 13.04.030 and the connection fee set forth in POMC 13.04.033.

(2) The water main fee shall be based on the frontage of the property served, as determined by the public works director. Properties situated on corner
lots abutting utility mains on two sides shall have the front footage charge
computed by averaging the two sides. The fee shall be $105.99 per front foot.

(3) Water main fees in lieu of assessment shall be charged on new
accounts unless exempted as explained below:

(a) The property has previously paid its share of a local water main as
part of a water local improvement district and there are records to verify this;

(b) The property has extended the local water main as required by the
city and paid all costs associated with the extension;

(c) The property has paid its equitable share of the cost of a previously
installed local water main pursuant to a latecomer's agreement; or

(d) The agreement for purchase and sale of assets of McCormick
Water Company, Inc., waives the city fee in lieu of assessment for water services.
These are the services within McCormick Woods, Campus Station, Kenmore
Court, and McCormick 620.

(4) If a property owner requests an exemption as described above, the
director of public works shall make an administrative determination regarding
the applicability and amount of the exemption. The director's decision may be
appealed to the hearing examiner.

(5) The exemptions described above in subsections (3)(a) through (c) of
this section shall not apply to any costs of construction incurred or payments
made to the city for improvements that are a basis for the value of the water main
fee in lieu of assessment and that were made 15 years or more prior to the date
the property owner requests the exemption.

SECTION 4. Port Orchard Municipal Code Section 13.04.040 is hereby amended to
read as follows:

13.04.040 Sewer capital facility charge– Extension of sewer.

(1) The sewer capital facility charge is designed to mitigate the impact of
new demands on the existing sewer system and to require new users to pay their
fair share of the value of the sanitary sewer system. The sewer capital facilities
charge applies to new construction, changes in use, and building modifications
that increase the total number of equivalent residential units (ERUs). An ERU is
180 gallons per day for nonresidential connections. An ERU for residential
connections is one single-family dwelling unit, whether detached or attached and
configured as an apartment unit, condominium unit, townhouse unit or any other
configuration. The ERU consumption is based upon metered water consumption
or comparison to similar accounts when metered water consumption data is not
readily available.

(a) Sewer Capital Facility Charge – Exception. The following exception
applies to the assessment of the sewer capital facility charge. All four elements of
the below-listed requirements must be present to qualify for the exception:

(i) A nonresidential account paid the sewer capital facility charge
at the time the property connected to the city's sewer system;
(ii) Sometime after the original connection, the property owner decides to construct a new building, change the original use, or modify the original building;

(iii) After the building improvements are completed, the total sewer usage for the nonresidential account will be equal to or less than the usage of the time of the original connection; and

(iv) The new construction, change in use, or building modification has not resulted in additional direct connection to the city's sewer system or the establishment of an additional sewer account.

(2) The sewer capital facility charge consists of two components: the general facility fee and the wastewater treatment facility fee. The general facility fee is $2,935.82 per ERU. The wastewater treatment facility fee is $3,423.36 per ERU; provided, however, the properties within Divisions 1 through 10, inclusively, of the McCormick Woods Land Company shall have a wastewater treatment fee of $838.62 per ERU.

(3) The sewer capital facility charge shall be paid before connecting to the city sanitary sewer system, or before changing the use, or increasing the total ERU count above the amount for which a sewer capital facility charge has been paid. If work is to be done that requires a sewer capital facility charge, it shall be paid before a permit shall be issued.

(4) If, after connection of a nonresidential service, the actual sewer usage has increased or the property use expanded so that there are a greater number of ERUs being used on the property than for which the sewer capital facility charge was paid, the property owner shall pay to the city an additional sewer capital facility charge based upon the new or expanded use. The additional sewer capital facility charge shall be based upon the charge rate in effect at the time the increased use is requested and/or detected, whichever first occurs.

(5) A credit against the sewer capital facilities charge may be applied for those property owners that paid their assessments in full through a local improvement district formed by the city, where such local improvement district is formed to finance the construction of any of the improvements that are a basis for calculating the value of the sewer capital facilities charge. The credit shall be equal to the amount of the property owner's principal assessment, not including interest and penalties. The credit shall be applied at the time of payment of the sewer capital facilities charge and shall not be used to reduce any assessments in the local improvement district.

(6) A credit against the sewer capital facilities charge may be applied for those property owners that construct at their own expense any of the improvements that are a basis for calculating the value of the sewer capital facilities charge or for those property owners that pay a latecomer's fee toward those same improvements. The credit shall be the smaller of the following:

(a) That portion of the design and construction costs of a latecomer's agreement that is directly applicable to the construction of the improvements that are a basis for the value of the sewer capital facilities charge; or
(b) That proportionate amount of the sewer capital facilities charge that is attributable to the sewer facilities either constructed by the property owner or paid through a latecomer's fee.

(7) The above provisions notwithstanding, the amount of credit shall not exceed the amount of the sewer capital facilities charge for the property to which the credit is being applied.

(8) At the time the sewer capital facilities charge is paid, an inspection fee shall be paid. The inspection fee is $105.99 per lateral connection to the main.

(9) All materials shall comply with the requirements of the city. If the city supplies any materials, the cost of these plus overhead and sales tax will be paid by the customer.

(10) Extension of Sewer to Property Contiguous to the City Shall Annex Exception. Property lying within the urban growth boundary and contiguous to the Port Orchard city limits shall annex to the city as a condition of sewer connection. In the alternative, the city may elect to defer annexation and require the owner to execute a utility extension agreement as described in subsection (11) of this section.

(11) Requirement for Utility Extension Agreement.

(a) Property lying within the urban growth area which is not contiguous to the Port Orchard city limits shall be permitted water and/or sewer connection only upon entering into an appropriate agreement with the city containing a waiver of protest to annexation/limited power of attorney authorizing annexation at such time as the city determines the property should be annexed to the city. Application for extension of utilities is subject to the following provisions:

(i) Application fees as established by the city council shall be paid upon the submittal of a signed utility extension agreement (UEA) requesting water and/or sewer for property outside the city, but located within the urban growth area;

(ii) The applicant will bear the entire cost of water and/or sewer connection pursuant to this chapter, as written or hereafter amended, subject to any provision in effect at the time of connection for latecomer reimbursement;

(iii) The applicant will be subject to all applicable provisions of this chapter, as written or hereafter amended, for extension of city utilities, the payment therefore, and all enforcement provisions therein; and

(iv) The UEA shall not be executed prior to the time formal application is made for approval of the project for which utilities are requested. The term of said agreement shall terminate at the time any project application or approval expires or is revoked for any reason. A new agreement shall also be required for any extension of project application or approvals or when the director of planning determines that a substantial change or addition has been made to the project.

(b) The city may disconnect the utilities for failure of the applicant or his/her successors or assigns, for violation of this chapter, or for violation of the terms and conditions of the UEA.
(c) Following execution, such agreement shall be recorded by the city clerk in the chain of title for such property in the records of the Kitsap County auditor.

SECTION 5. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of constitutionality of any other section, sentence, clause or phrase of this ordinance.

SECTION 6. This ordinance shall be in full force and effect five (5) days after posting and publication as required by law. A summary of this Ordinance may be published in lieu of the entire ordinance, as authorized by State Law

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the City Clerk in authentication of such passage this 26th day of March 2013.

Timothy C. Matthes, Mayor

ATTEST:

Brandy Rinearson, CMC, City Clerk

APPROVED AS TO FORM:

Gregory A. Jacoby, City Attorney

Sponsored by:

Rob Putaansuu, Councilmember
NOTICE OF CITY OF PORT ORCHARD
ORDINANCE

The following is a summary of an Ordinance approved by the Port Orchard City Council at their regular Council meeting held March 26, 2013.

ORDINANCE NO. 008-13

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, AMENDING PORT ORCHARD MUNICIPAL CODE CHAPTER 13.04 "WATER AND SEWERS" BY INCREASING CERTAIN WATER AND SEWER CHARGES AND FEES IN ACCORDANCE WITH INCREASES IN THE CONSUMER PRICE INDEX AND BY CORRECTING CERTAIN SCRIVENER’S ERRORS

Copies of Ordinance No. 008-13 are available for review at the office of the City Clerk of the City of Port Orchard. Upon written request a statement of the full text of the Ordinance will be mailed to any interested person without charge. Thirty days after publication, copies of Ordinance No. 008-13 will be provided at a nominal charge.

City of Port Orchard

Brandy Rinearson
City Clerk

Publish: Port Orchard Independent
April 5, 2013