

TOWN OF CEREDO

AN ORDINANCE SETTING FORTH THE RULES,  
REGULATIONS, RATES, AND CHARGES FOR SERVICE  
TO CUSTOMERS OF THE STORMWATER SYSTEM OF  
THE TOWN OF CEREDO.

THE COUNCIL OF THE TOWN OF CEREDO HEREBY ORDAINS: The following rules, regulations, rates, and charges are hereby fixed, determined and established for municipal stormwater services provided to all residential and non-residential customers of the Town of Ceredo's Municipal Stormwater System, commencing upon the effective date as hereinafter provided, and in accordance with the following:

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SECTION 1 - PURPOSE

The purpose and intent of this ordinance is to establish rules, regulations, rates, and charges to protect the health, safety, and general welfare of the citizens of the Town, and protect and enhance the water quality of watercourses and water supplies located in or running through the Town.

SECTION 2 - DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of the terms used herein shall be as follows:

- (a) "Town" is the Town of Ceredo, West Virginia, and its duly elected and appointed officers and employees, including the Ceredo Stormwater Utility, and the Ceredo Sanitary Board.
- (b) "Customer" is any person or entity, of any kind, that is the legal owner of real property containing Impervious area within the Ceredo Stormwater Utility's Service area as defined herein.
- (c) "Flat rate charge" is the charge applicable to any owner of real property containing Impervious area located within the Ceredo Stormwater Utility's Service area.
- (d) "Ceredo Urban Watershed" is all areas within the corporate boundaries of the Town and those areas outside of said corporate boundaries (i) from which stormwater or surface water naturally drains into the Town, and (ii) where the Town provides water and/or sewer service.
- (e) "Impervious area" means any portion of real property covered by buildings, structures, pavement, gravel or other material that significantly inhibits stormwater from penetrating the soil.
- (f) "Multi-unit property" is a residential, non-residential or commercial property of any size that has located upon the property structures capable of housing two or more

residents or tenants, at least one of which having no ownership interest in the property.

- (g) “MS4” means Municipal Separate Storm Sewer System. The Town is a regulated MS4 under the NPDES program.
- (h) “NPDES” means National Pollutant Discharge Elimination System. A permitting program with authority from the Clean Water Act.
- (i) “Non-residential customer” means any owner of property not defined as a Residential customer and includes, but is not limited to, owners of multi-unit, commercial and industrial property and governmental entities that own property within the Ceredo Stormwater Utility’s Service area.
- (j) “Non-stormwater” is all flows to the Stormwater System not defined as a pollutant or stormwater herein or as so determined by the Town. This may include, but is not limited to, cooling water, process water, ground water from a purge well and dechlorinated swimming pool discharge.
- (k) “Pervious area” is all real property that is not impervious.
- (l) “Pollutant” means any liquid or non-liquid material including, but not limited to, dredged soil, solid waste, sewage, garbage, sewage sludge, grease, petroleum products, munitions, chemical waste, detergents, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, dirt, industrial, municipal and agricultural waste, gasses entrained in water, paints, oil and other automotive fluids, soil, rubbish, debris, materials containing fecal coliform, fecal streptococcus, and enterococcus, heavy metals, hazardous wastes, yard waste from commercial landscaping operations, animal waste, materials that result from the process of building, and offensive matter of any kind which, when discharged to water, causes or contributes to water pollution and/or the degradation of water quality.
- (m) “Pollution” is the degradation of the physical, thermal, chemical, biological or radioactive properties of the watercourses and water supplies located in or running through the Town and/or the discharge of any pollutant to the watercourses and water supplies located in or running through the Town which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare or to the beneficial use of the water and/or the water environment.
- (n) “Real property” as used herein is land and fixtures and improvements upon that land, but does not include publicly owned streets or sidewalks.
- (o) “Residential customer” means the owner of real property on which is located one single-family dwelling.

- (p) “Service area” is, initially, all areas within the corporate boundaries or outside the corporate boundaries of the Town and all properties therein adjacent to or near where the Town provides water and/or sewer service.
- (q) “Stormwater” includes atmospheric precipitation, surface runoff water, groundwater discharge and floodwater.
- (r) “Stormwater Management” is the process of collection, conveyance, storage, treatment and/or disposal of stormwater to reasonably manage the magnitude and frequency of runoff to minimize the impact of the runoff upon the water quality of the receiving stream and the other hazards associated with stormwater, including, but not limited to, pollution and flooding.
- (s) “Stormwater System” includes all real property, fixtures and personal property of the Ceredo Stormwater Utility, including, but not limited to, stormwater sewers, drains, ditches, streets, retention/detention structures, floodwalls, dams, and river impoundments, used for collecting, conveying, storing, treating and/or disposal of stormwater and non-stormwater.
- (t) “Water Quality service charge” is a charge for services rendered by the Ceredo Stormwater Utility, including, but not limited to, fees for permit applications, stormwater management plan review, flood protection activities, inspection, and other services.
- (u) “Water Quality service fee” is a flat rate charge or a charge based on square feet of impervious land area.

### SECTION 3 - WATER QUALITY FEES AND SERVICE CHARGES

- (a) Owners of real property with Impervious area located within the Service area shall pay the Water Quality service fee and service charge for the operation, maintenance, improvement of, and necessary additions to, the Stormwater System. Therefore, all owners of real property with Impervious area in the Service area shall be charged for the use of the Stormwater System.
- (b) The Water Quality service fee and service charge are intended to cover costs that include, but are not limited to, the costs of administration, operation, maintenance, improvement of, and necessary additions to the Stormwater System, debt service for any debt obligations secured by the revenues of the Stormwater System and regulatory compliance of the Stormwater System and Stormwater Management Program, all as authorized under the provisions of W. VA. CODE §§ 16-13-1, *et seq.*

### SECTION 4 - PROPERTY AFFECTED

Except as provided herein and/or by regulation, any owners of real property with Impervious area within the Service area shall be subject to the Water Quality service fees and service charges regardless of whether such property is privately or publicly owned.

**SECTION 5 - AUTHORIZED WATER QUALITY SERVICE FEES AND CHARGES**

- (a) The monthly Water Quality service fee authorized herein shall be established as follows:

**Residential**

\$7.00 per month  
or any portion thereof

**Non-Residential**

First 3,000 Impervious Sq. ft.  
\$7.00 per month or any portion thereof

All over 3,000 Impervious Sq. ft.  
\$2.50 per 1,000 Sq. ft. per month  
or any portion thereof

Minimum monthly charge for properties  
less than 3,000 Impervious Sq. ft.  
\$7.00 per month or any portion thereof

The Town Council may, from time to time, by ordinance, change the foregoing rate charges.

Multi-unit property owners are eligible to pay a non-residential service fee based upon the aggregate total square footage of Impervious area owned within the service area. However, said multi-unit property owner will be required to pay a monthly minimum charge on each parcel of real property owned.

For non-residential properties, the Ceredo Stormwater Utility shall in its sole discretion determine the square feet of Impervious area subject to the Water Quality service fee.

- (b) *Returned Check Charge* – A service charge of \$25.00 will be imposed upon any customer, property owner or any other person or entity whose check is returned by the bank for any reason.
- (c) *EFT, Credit Card and Drop Box Payments* – A service charge will be imposed on EFT, Credit Card or Drop Box Payments or any other electronic transactions. The amount shall be equal to the actual charges to the utility from any source.
- (d) *Delayed Payment Penalty* – On all current usage billings not paid in full by the latest pay date, 10% will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.
- (e) The Ceredo Stormwater Utility may assign discount credits to those newly constructed properties employing volumetric flow reduction facilities, and to those existing properties employing volume and/or rate of flow reduction practices. The credits may be made available only with adequate mapping and research by the Ceredo Stormwater Utility, and may be reasonably delayed pending the fulfillment of these prerequisites.

## SECTION 6 - BILLING

The billing for Water quality service fees and charges described herein may be combined with the billing for other services provided by the Town.

## SECTION 7 - COLLECTION

The Ceredo Stormwater Utility may assess interest and penalties upon unpaid and past due Water Quality service fees and service charges, and act as it deems appropriate to enforce collection of unpaid Water Quality service fees and Water Quality charges. Unpaid Water Quality service fees and Water Quality charges shall constitute just cause for disconnection of public water service to the non-paying property. The Ceredo Stormwater Utility shall enter into an agreement with the public water provider to accomplish these purposes, and shall further ensure sufficient notice of disconnection is made in accordance with the rules and regulations of the Public Service Commission of West Virginia. Water service shall be reactivated only upon full payment of the Water Quality service fees and Water Quality charges or other payment arrangements approved by the Ceredo Stormwater Utility. The Ceredo Stormwater Utility may also take appropriate legal action to collect unpaid Water Quality service fees or Water Quality charges, including, but not limited to, placing a lien upon the subject property and/or bringing a civil action in a court of competent jurisdiction to recover unpaid charges and fees.

## SECTION 8 - GENERAL REQUIREMENTS AND PROHIBITIONS

- (a) The Stormwater System shall be used for the collection, conveyance, storage, treatment and disposal of stormwater.
- (b) No person or entity shall place or cause to be placed any substance or material, including any pollutant, into the Stormwater System, unless written approval has been granted by the Ceredo Stormwater Utility or the person or entity maintains a current industrial waste discharge permit authorizing such discharge and such discharge will not cause a pass through violation for the Stormwater System. The Ceredo Stormwater Utility may grant approval to discharge non-stormwater into the Stormwater System for any reason or combination of reasons in its sole discretion.
- (c) Any person or entity engaged in activities which will or may result in any pollutant entering the Stormwater System shall undertake stormwater control practices to reduce such pollutants. Examples of such activities include, but are not limited to, compliant operation of facilities that may be a source of pollutants, such as paved parking lots, gasoline stations, industrial facilities, storage facilities, and private roads/streets.
- (d) No person or entity shall deposit, leave or maintain, or cause to be deposited, left or maintained, any refuse, rubbish, grass clippings, leaves, garbage, grease, petroleum products, or other discarded or abandoned objects, articles or accumulations in or upon any street, alley, sidewalk, storm drain inlet, catch basin, stream, conduit or other drainage structures, parking area, or upon any private or public plot of land so that any discharge therefrom may result in pollution.

- (e) No person or entity shall cause or permit any dumpster, solid waste bin, storage facility, or similar container to leak such that any pollutant is discharged into any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structure, or upon any public or private plot of land in the Service area.
- (f) No person or entity shall use the Stormwater System for discharge from any environmental cleanup that is regulated under federal or state law unless approved by the Stormwater Utility. Approval by the Ceredo Stormwater Utility must be conditioned upon the discharge meeting all criteria for discharge under this Ordinance. Approval conditions may provide for measures appropriate to prevent harm due to possible exfiltration into the ground adjacent to the Stormwater System or failure of any pretreatment system for the discharge.
- (g) Any person or entity who maintains and complies with a Ground Water Protection Plan established pursuant to W. VA. CODE R. §§ 47-58-1, *et seq.* (Groundwater Protection Rule) shall be deemed to be in full compliance with the requirements of this section.

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**SECTION 9 - ILLICIT CONNECTIONS**

It is prohibited to establish, use, maintain or continue illicit connections to the Stormwater System.

**SECTION 10 - STORAGE AREAS**

No person or entity shall store any material including grease, oil or other hazardous substance in a manner that will or may result in such substance entering the Stormwater System causing pollution. No person or entity shall store motor vehicles, machine parts, or other objects or materials in a manner that may leak grease, oil, or other hazardous substance, and/or other pollutant into the Stormwater System. The Ceredo Stormwater Utility may require the installation of a spill containment system to prevent the pollution of the Stormwater System. Spill containment systems may consist of a system of dikes, walls, barriers, berms, or other devices as required. No person or entity shall operate a spill containment system such that it allows incompatible liquids to mix and thereby create a hazardous condition. Any person or entity who maintains and complies with a Ground Water Protection Plan established pursuant to W. VA. CODE R. §§ 47-58-1, *et seq.* (Groundwater Protection Rule) shall be deemed to be in full compliance with the requirements of this section.

**SECTION 11 - DISCHARGE IN VIOLATION OF PERMIT**

Any discharge that would cause a violation of any NPDES permit assigned to the Town and any amendments, revisions or reissuance thereof, either separately considered or when combined with other discharges, is prohibited. Liability for any such discharge, including, but not limited to, the cost of remedial activity, shall be the responsibility of the person(s) or entity(ies) causing or responsible for the discharge, and the Town shall seek to have such person(s) or entity(ies) defend, indemnify and hold harmless the Town in any administrative or judicial enforcement action against the Town relating to such discharge as provided by applicable rules of law.

## SECTION 12 - STORMWATER SYSTEM CONSTRUCTION

- (a) Only parties authorized by the Ceredo Stormwater Utility may perform construction upon the public facilities of the Stormwater System. Public facilities of the Stormwater System which may be constructed by authorized parties shall include, but not be limited to:
  - (1) Those facilities that serve two or more properties, including, but not limited to, Stormwater System facilities that collect and transmit stormwater from and/or across two or more properties; and,
  - (2) All taps or other connections from a private lateral to a facility of the Stormwater System.
- (b) All costs and expenses of the Ceredo Stormwater Utility incidental to the installation of private stormwater facilities, connection of a private facility to the Stormwater System, and installation of public facilities to facilitate and/or convey flows from a specific private facility to the Stormwater System, shall be borne by the owner(s) of the private facility. The amount of, and terms of payment for, these costs and expenses, shall be determined by the Ceredo Stormwater Utility for such facility, in its sole discretion.
- (c) Parties authorized by the Ceredo Stormwater Utility to perform construction of or upon the Stormwater System shall comply with the design and construction standards required by the Ceredo Stormwater Utility. These parties shall allow for inspection of the construction by the Ceredo Stormwater Utility at all times, and construction shall only occur during normal working hours of the Ceredo Stormwater Utility unless otherwise authorized by the Ceredo Stormwater Utility. No facility constructed by an authorized party may be covered or connected to the Stormwater System without specific authorization of the Ceredo Stormwater Utility. This authority shall be granted by the Ceredo Stormwater Utility upon satisfaction of the design and construction standards required by the Ceredo Stormwater Utility for such facility, in its sole discretion.
- (d) All public facilities of the Stormwater System shall, upon authorized completion and acceptance, be property of the Ceredo Stormwater Utility.

## SECTION 13 - STORMWATER TAPS

- (a) The Ceredo Stormwater Utility or a party authorized by the Ceredo Stormwater Utility will furnish and install Stormwater System taps of the size and at the location requested in writing by an applicant upon a form to be provided by the Ceredo Stormwater Utility. The applicant shall pay the full and actual cost of the tap installation.
- (b) The Ceredo Stormwater Utility may deny a tap application when the requested tap is proposed to an inadequate public facility. A public facility shall be considered inadequate when, under expected wet weather conditions, that facility is calculated to be unable to effectively convey stormwater in a manner, and to a location, deemed appropriate by the Ceredo Stormwater Utility.

**SECTION 14 - ENFORCEMENT**

- (a) No person or entity shall construct or maintain any property, residence or business not in compliance with the standards of this Ordinance.
- (b) Authorized Ceredo Stormwater Utility employees bearing proper credentials and identification shall be permitted, after reasonable notice, to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Ordinance.
- (c) No person or entity shall fail to provide any report or other information or perform any duty required by this Ordinance.
- (d) The Ceredo Stormwater Utility is authorized to take appropriate legal action to require compliance with this Ordinance.
- (e) The Ceredo Stormwater Utility is authorized to enforce and collect upon the terms of a payment and performance bond in the event of default of the conditions described therein.
- (f) If, after reasonable notice, a person or entity fails to comply with this Ordinance, the Ceredo Stormwater Utility may cause the work to be done to achieve compliance and shall charge the cost of that work to the person or entity responsible. The responsible person or entity shall pay in full the charged amount within 30 days of the invoice date, or otherwise make arrangements, acceptable to the Ceredo Stormwater Utility, for full payment of the invoiced amount.

**SECTION 15 - CONCEALMENT**

Causing, permitting, aiding, abetting or concealing a violation of any provision of this Ordinance shall constitute a violation of such provision.

**SECTION 16 - ADMINISTRATIVE ENFORCEMENT POWERS**

In addition to the other enforcement powers and remedies established by this Ordinance, the Ceredo Stormwater Utility has the authority to utilize any of the remedies or sanctions authorized by West Virginia law, in its judgment, will effectively protect the Stormwater System and comply with federal and state laws and regulations.

**SECTION 17 - NON-EXCLUSIVITY OF REMEDIES**

Remedies under this Ordinance are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

**SECTION 18 - DISCLAIMER OF LIABILITY**

The degree of protection required by this Ordinance is considered reasonable for regulatory purposes. The standards set forth herein are minimum standards and this Ordinance does not imply that compliance will ensure that there will be no unauthorized discharge of pollutants into the waters of West Virginia or no damage to real or personal property within the Ceredo Urban Watershed. This Ordinance shall not create liability on the part of the Town, any



agent or employee thereof for any damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

SECTION 19 - SEVERABILITY

The provisions of this Ordinance are severable, and if any clause, provision or section hereof shall be held void or unenforceable by any court or regulatory agency of competent jurisdiction, such holding shall not affect the remainder of this Ordinance.

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This ordinance shall be effective upon the date of final adoption, provided, however, if 30% of the qualified voters of the Town, by petition duly signed by them in their own handwriting and filed with the Clerk of the Town, within 45 days after the expiration of the Class II legal advertisement required by W. V. CODE § 8-13-13, protest against the Water Quality Service fees and charges set forth in Section 5 of the Ordinance as enacted or amended, such Water Quality Service fees and charges set forth in Section 5 shall not become effective until such fees and charges are ratified by a majority of the legal votes cast by the qualified voters of the Town at a regular municipal election or special municipal election, as directed by the Town Council. All other provisions of the ordinance will remain effective from final adoption of the Ordinance.

A copy of the Ordinance is available for public inspection at the Clerk's Office, Town Hall, Main and B Street, Ceredo, West Virginia, during regular business hours of 8:00 a.m. – 4:00 p.m., Monday through Friday.

First Reading: June 1, 2015

Second Reading  
and Public Hearing: July 6, 2015

TOWN OF CEREDO, a municipal corporation

Mayor: 

Clerk: 