# City of Charlottesville - Draft Stormwater Utility Fee Ordinance

January 11, 2013

#### ARTICLE VI. STORMWATER UTILITY

## Sec. 10-100. Authority.

The City is authorized by Virginia Code § 15.2-2114 et seq. to establish a utility and to enact a system of service charges to support a local stormwater management program consistent with the Virginia Stormwater Management Act (Virginia Code § 10.1-603.1 et seq.) or any other state or federal regulation governing stormwater management.

#### Sec. 10-101. Purpose.

The City Council finds that an adequate, sustainable source of revenue for stormwater management activities is necessary to protect the general health, safety, and welfare of the residents of the City. Further, the City Council finds that property with higher amounts of impervious area contributes greater amounts of stormwater and pollutants to the stormwater management system and waters of the commonwealth and should carry a proportionate burden of the cost. Therefore, the City Council determines that it is in the best interest of the public to enact a Stormwater Utility Fee that allocates program costs to all property owners based on impervious area.

#### Sec. 10-102. Definitions.

The following definitions shall apply to this Article unless the context clearly indicates otherwise:

Billing Unit means 1,000 square feet of impervious area.

*Director* means the Director of Public Works or the Director's authorized representative.

Impervious area means area covered by hard surfaces such as structures, paving, compacted gravel, concrete, or other man-made features that prevent, restrict, or impede the downward passage of stormwater into the underlying soil.

*Unimproved parcel* means any parcel regardless of zone or land use that has less than 300 square feet of impervious area.

### Sec. 10-103. Stormwater Utility Fee.

(a) A Stormwater Utility Fee is hereby imposed on every parcel of improved real property in the City that appears on the real property assessment rolls as of

December 31 of each year. All Stormwater Utility Fees and other income from the Fees shall be deposited into the Water Resources Protection Fund.

- (b) The rate per billing unit to be used for calculating the Stormwater Utility Fee shall be \$3.25 per month.
- (c) Except as otherwise provided in this Article, the impervious area for a property shall be determined by the City using aerial photography, as-built drawings, final approved site plans, field surveys or other appropriate engineering and mapping analysis tools.
- (d) Notwithstanding subsection (a) above, and consistent with Virginia Code § 15.2-2114, the Stormwater Utility Fee shall be waived in its entirety for the following:
  - (1) A federal, state, or local government, or public entity, that holds a permit to discharge stormwater from a municipal separate storm sewer system; except that the waiver of charges shall apply only to property covered by any such permit;
  - (2) Public roads and street rights-of-way that are owned and maintained by state or local agencies including property rights-of-way acquired through the acquisitions process; and,
  - (3) Unimproved parcels.

# Sec. 10-104. Stormwater Utility Fee calculation.

- (a) It is the intent of City Council to set the Stormwater Utility Fee at an amount that will be sufficient to provide for a balanced operating and capital improvement budget for the stormwater utility. Income derived from the utility charges shall be dedicated special revenue and may not exceed the actual costs incurred to operate and maintain the City's stormwater management system.
- (b) Unless otherwise specified in this Article, the monthly Stormwater Utility Fee for all property in the City shall be calculated in the following manner:
  - (1) Determine the impervious area of each parcel of real property in square feet.
  - (2) Divide the property's impervious area by the billing unit.
  - (3) Round the resulting calculation to the next highest whole number to determine the number of billing units and multiply by the rate established in Section 10-103 (b) to obtain the monthly Stormwater Utility Fee for the property.

(c) The Stormwater Utility Fee applicable to property held by a common interest community association, as defined in Virginia Code § 55-528, shall be charged directly to the association based on the methodology established in subsection (a) above, except that the Director may develop alternative methodologies for billing fees associated with property held by a common interest community association, including but not limited to dividing the fee among the lots other than the common area that constitute the common interest community.

# Sec. 10-105. Stormwater Utility Fee credits

- (a) The City Council shall adopt by resolution a system of credits in accordance with Virginia Code § 15.2-2114.D that provide for full or partial waivers of charges to any person who installs, operates, and maintains a stormwater management facility that achieves a permanent reduction in stormwater flow or pollutant loadings. The amount of the waiver shall be based in part on the percentage reduction in stormwater flow or pollutant loadings, or both, from pre-installation to post-installation of the facility. The credit policy may also, in accordance with Virginia Code § 15.2-2114.E, provide for full or partial waivers of charges to public or private entities that implement or participate in strategies, techniques, or programs that reduce stormwater flow or pollutant loadings, or decrease the cost of maintaining or operating the public stormwater management system.
- (b) The Department of Public Works will develop written policies to implement the system of credits. No credit will be authorized until the City Council approves written policies to implement the system of credits; a copy of the approved policies shall be on file with the Department of Public Works. Nothing shall prevent the City Council from modifying the adopted system of credits, and such modifications may apply to holders of existing credits.

#### Sec. 10-106. Water Resources Protection Fund.

- (a) The Water Resources Protection Fund is hereby established as a dedicated enterprise fund. The fund shall consist of revenue generated by the Stormwater Utility Fee as well as any other deposits that may be made from time to time by the City Council.
- (b) The Water Resources Protection Fund shall be dedicated special revenue used only to pay for or recover costs for the following:
  - (1) The acquisition, as permitted in Virginia Code § 15.2-1800, of real and personal property, and interest therein, necessary to construct, operate, and maintain stormwater control facilities;
  - (2) The cost of administration of the Water Resources Protection Program;

- (3) Planning, design, engineering, construction, and debt retirement for new facilities and enlargement or improvement of existing facilities, whether publicly or privately owned, that serve to control stormwater;
- (4) Facility operation and maintenance;
- (5) Monitoring of stormwater control devices and ambient water quality; and
- (6) Other activities consistent with the state or federal regulations or permits governing stormwater management, including, but not limited to, public education, watershed planning, inspection and enforcement activities, and pollution prevention planning and implementation.

# Sec. 10-107. Billing, enforcement, and interest.

- (a) The Stormwater Utility Fee shall be billed twice annually to the record owner of each parcel subject to the Fee. All such bills shall be mailed not later than fourteen (14) days prior to the due dates of June fifth and December fifth, as the case may be, unless a petition for adjustment has been made in accordance with City Code § 10-108 below. Any fee not paid in full by the respective due date shall be considered delinquent. The billing for the Stormwater Utility Fee may be combined with other billings and, when combined, the order in which payments will be applied will be as follows:
  - (1) Stormwater Utility Fee
  - (2) All other taxes and fees.
- (b) A delinquent Stormwater Utility Fee, in accordance with Virginia Code § 15.2-2114.G, shall be subject to the legal rate of interest provided in Virginia Code § 6.2-301 (A). Such interest shall be applied to late payments overdue for more than thirty (30) days, and shall be calculated for the period commencing on the first day following the day such Fee is first due, until the date the Fee is paid in full.
- (c) A delinquent Stormwater Utility Fee, along with cumulative interest, shall constitute a lien on the property ranking on a parity with liens for unpaid taxes and shall be collected in the same manner as provided for the collection of unpaid taxes.

#### Sec. 10-108. Petitions for adjustments.

(a) Any property owner may request an adjustment of the Stormwater Utility Fee by submitting a request in writing to the Director within 30 days after the date the bill is mailed or issued to the property owner. Grounds for adjustment of the Stormwater Utility Fee are limited to the following:

- (1) An error was made regarding the square footage of the impervious area of the property;
- (2) The property is exempt under the provisions of Sec. 10-103(d) above;
- (3) There is a mathematical error in calculating the Stormwater Utility Fee;
- (4) The identification of the property owner invoiced is in error; or,
- (5) An approved credit was incorrectly applied.
- (b) The property owner shall complete a Stormwater Utility Fee Adjustment application form supplied by the Director.
- (c) If the application alleges an error in the amount of the impervious area, a plan view of the property's impervious area must be submitted with the application, and shall be prepared at the owner's expense. The plan must meet the following criteria:
  - (1) The plan must show all impervious areas and label their dimensions within the property boundaries, including buildings, patios, driveways, walkways, parking areas, compacted graveled areas, and any other separate impervious structures equal to or greater than 100 square feet; and,
  - (2) The plan must be signed and sealed by a Professional Engineer or Professional Land Surveyor licensed in the Commonwealth of Virginia attesting to the accuracy of the impervious area measurements.
- (d) The requirement for a plan view of the property's impervious area required in subsection (c) above may be waived by the Director, if at the sole discretion of the Director the error is obvious and is the result of a technical error or oversight by the City. In such case, the City shall be responsible for recalculating the impervious area of the property.
- (e) The Director shall make a determination within 45 days of receipt of a complete submittal for the request for adjustment. In the event that the Director finds that the appeal is deficient or incomplete, the Director shall offer the owner 60 days to supply the missing information. The 45 day time for a decision will begin at such time as the requested information is provided. If the information requested is not provided to the Director within 60 days of the original request, the petition will be deemed withdrawn.
- (f) The Director's decision on a Stormwater Utility Fee adjustment petition is a final decision from which an aggrieved party may appeal to the Circuit Court for the City of Charlottesville.

Effective January 1, 2014 with first billing in April/May 2014. The first billing will cover the six month period from January 1, 2014 to June 30, 2014.