ORDINANCE ENACTING TITLE 6, CHAPTER 5, "STORMWATER UTILITY" OF THE

CODE OF ORDINANCES

CITY OF HARRISONBURG, VIRGINIA

Be it ordained by the Council of the City of Harrisonburg, Virginia:

That Section Title 6, Chapter 5 "Stormwater Utility" be added as follows:

Sec. 6-5-1. 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 residents of the city, and to meet requirements of the city's Virginia Pollution Discharge Elimination System (VPDES) Municipal Separate Storm Sewer System permit and federal and state regulations to address identified water quality and quantity needs. The city council finds that property with higher amounts of impervious area contributes greater amounts of stormwater and pollutants to the storm sewer system and waters of the Commonwealth and should carry a proportionate burden of the cost of such activities. Therefore, the city council determines it is in the best interest of the public to enact a stormwater utility fee.

Sec. 6-5-2. Authority.

The city is authorized by Virginia Code §15.2-2114 to establish a utility to enact a system of service charges to support a local stormwater management program consistent with Article 2.3 (§62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 or any other state or federal regulation governing stormwater management.

Section. 6-5-3. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them:

Billing unit means five hundred (500) square feet of impervious area.

Developed property means real property that has been altered from its "natural" state by the addition of any improvements such as buildings, structures and other impervious areas. Improvements are not limited to buildings, patios, driveways, walkways, parking areas, and compacted gravel areas.

Impervious means surface area composed of material that impedes or prevents natural infiltration of water into soil.

Stormwater best management practice means activities, prohibition of practices, maintenance procedures and other management practices, including both structural and non-structural practices, to prevent or reduce pollution of surface waters and groundwater systems.

Stormwater management facility means a structural control measure that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release, or the velocity of flow. A stormwater management facility is a type of stormwater best management practice.

Unimproved parcel means any parcel that has less than two hundred and fifty (250) square feet of impervious area.

Utility fee means any permit or local program fees allowed by State Code.

Sec. 6-5-4. Stormwater utility fee.

(a) A stormwater utility fee is hereby imposed on every parcel of real property in the city that appears on the real property assessment rolls as of July 1 of each year.
(b) When new properties or impervious areas are brought into the utility system, such as from new construction, fees will accrue or increase commencing on the next billing cycle as established in Section 6-5-7(a).
(c) The billing rate per billing unit to be used for calculating the stormwater utility fee shall be $10.50 per year. City Council may modify the billing rate in the future.
(d) All stormwater utility fees and other income from the fees shall be deposited into the stormwater fund. The funds deposited shall be used exclusively to provide services and facilities related to the stormwater management program pursuant to the provisions of the Virginia Code §15.2-2114.
(e) The stormwater utility shall be in effect starting July 1, 2015.
(f) The stormwater utility shall be under the administration of the director of public works.
(g) 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; and
    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.

Sec. 6-5-5. Stormwater utility fee calculations.

(a) Unless otherwise specified in this article, the annual 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 nearest whole number to determine the billing units and multiply by the billing rate established to obtain the annual stormwater utility fee for the property.

(b) The stormwater utility fee is applicable to condominium unit owners and to property held by a common interest community association, as defined in Virginia Code §55-528. The common area within the common interest community shall be evenly divided among the individually owned parcels, or as per an alternative methodology, as determined by the director of public works, including but not limited to directly charging the association based on the methodology described in subsection (a) above.

Sec. 6-5-6. Stormwater Fund.

(a) The stormwater 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 stormwater 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 stormwater 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. 6-5-7. Billing, payment, and penalties.

(a) The stormwater utility fee shall be billed so that half the fee is billed two times per year to the record owner of each parcel subject to the fee. Such bills or statements shall be included on and payable with the parcel's real estate tax bill. For properties that do not receive a real estate tax bill, a separate bill for stormwater services shall be issued. Any fee not paid in full by the respective due date shall be considered delinquent.

(b) All payments received shall be first credited to property tax and then to stormwater charges.

(c) A delinquent stormwater utility fee shall accrue interest at the legal rate 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 such fee is first due, until the date the fee is paid in full.

(d) Any delinquent stormwater utilities fee, together with all interest due, shall constitute a lien on the property on which assessed ranking on parity with liens for unpaid taxes and shall be collected in the same manner as provided for the collection of unpaid taxes.

Sec. 6-5-8. Stormwater utility fee credits.

(a) The director of public works shall administer a system of credits in accordance with Virginia Code § 15.2-2114.D that provide for partial waivers of charges to any person who installs, operates, and maintains an approved stormwater best management practice that achieves a permanent reduction in stormwater flow or pollutant loadings. The credit policy shall 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 storm sewer system and stormwater program.

(b) The director of public works will develop written policies to implement the credit system, which shall include a requirement for property owners to provide maintenance verification to the city and enter into a maintenance agreement. 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 public works department.

(c) City Council may modify the adopted system of credits to apply to future stormwater best management practices. Previously granted credits shall be grandfathered so that existing credits cannot be modified as long as the property owner continues to provide maintenance verification and meets the requirements of the maintenance agreement.

Section 6-5-9. 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 of public works or their designee within thirty (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 6-5-4(g);
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 petition for adjustment form available on the city's website or supplied by the director of public works.

1. If the applicant alleges an error in the amount of the impervious area, the applicant shall provide a plot, plan, or map showing all impervious areas within the property's boundaries, including buildings, patios, driveways, walkways, parking areas, compacted gravel areas, and any other separate impervious structures. The

applicant shall label dimensions of impervious areas and showing the areas believed to be incorrect.

(e) The requirement for a plan view of the property's impervious area required in subsection (b) above may be waived by the director of public works, if at the sole discretion of the director of public works the error is obvious and is the result of technical error or oversight by the city. In such case, the city shall be responsible for recalculating the impervious area of the property.

(f) The director or their designee shall make a determination within forty-five (45) days of receipt of a complete submittal for the request for adjustment. In the event that the director or their designee finds that the appeal is deficient or incomplete, the director or their designee shall offer the owner sixty (60) days to supply the missing information. The forty-five (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 sixty (60) days of the original request, the petition will be deemed withdrawn.

(g) The director of public works' decision on a stormwater utility fee adjustment petition is a final decision from which the aggrieved party may appeal to the Rockingham County Circuit Court within 30 days of such decision.

This ordinance shall be effective on the 1 day of July, 2015.

ADOPTED and APPROVED this 10 day of March, 2015.

MAYOR

ATTEST:

CITY CLERK