ORDINANCE AMENDING AND RE-ENACTING SECTIONS 6-5-3, 6-5-5, 6-5-7, 6-5-9

OF THE

HARRISONBURG CITY CODE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA:

Sec. 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.

Director means the City of Harrisonburg director of public works or his/her designee

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 fifty (250) square feet of impervious area.

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

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. 6-5-7. - Billing, payment, and penalties.

(a) The stormwater utility fee shall be billed so that half the annual fee is billed two (2) 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 utility fee~~charges~~.

(c) A delinquent stormwater utility fee shall accrue interest at the ~~legal~~ rate of ten (10) percent per annum and shall begin to accrue as of the first day of the month after the unpaid stormwater utility fee is due, which shall be either January 1 or July 1.~~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. 6-5-9. - 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 [section] 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.

(c) 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.

(d) The stormwater program coordinator ~~director or their designee~~ shall make a determination within thirty (30) ~~forty-five (45)~~ days of receipt of a complete submittal for the request for adjustment. In the event that the ~~director~~ stormwater program coordinator~~or their designee~~ finds that the ~~appeal~~petition is deficient or incomplete, the stormwater program coordinator~~director or their designee~~ shall offer the owner ~~sixty (60)~~ thirty (30) days to supply the missing information. The ~~forty-five~~thirty (30)

~~(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 thirty((30) ~~sixty (60)~~ days of the notification of incompleteness, ~~original request,~~ the petition will be deemed withdrawn.

(e)

If the petitioner is not satisfied with the stormwater program coordinator's decision, the petitioner may submit a written request for review by the Stormwater Advisory Committee (SWAC) within thirty (30) day of receipt of the decision of the stormwater program coordinator. SWAC will make a recommendation to the director of public works regarding the petition.

(f)

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 thirty (30) days of such decision.

This ordinance shall be effective on the 1 day of ~~August~~ July, 2016

ADOPTED AND APPROVED this 23 day of August, 2016.

MAYOR

ATTEST:

City Clerk