

1 ORDINANCE ENACTING TITLE 6, CHAPTER 5, “STORMWATER
2 UTILITY” OF THE
3 CODE OF ORDINANCES
4 CITY OF HARRISONBURG, VIRGINIA
5

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

8 **That Section Title 6, Chapter 5 “Stormwater Utility” be added as follows:**

9 **Sec. 6-5-1. Purpose.**

10 The city council finds that an adequate, sustainable source of revenue for stormwater management
11 activities is necessary to protect the general health, safety, and welfare of residents of the city, and to
12 meet requirements of the city’s Virginia Pollution Discharge Elimination System (VPDES) Municipal
13 Separate Storm Sewer System permit and federal and state regulations to address identified water
14 quality and quantity needs. The city council finds that property with higher amounts of impervious area
15 contributes greater amounts of stormwater and pollutants to the storm sewer system and waters of the
16 Commonwealth and should carry a proportionate burden of the cost of such activities. Therefore, the
17 city council determines it is in the best interest of the public to enact a stormwater utility fee.

18 **Sec. 6-5-2. Authority.**

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

23 **Section. 6-5-3. Definitions.**

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

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

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

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

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

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

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

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

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

- 43 (a) A stormwater utility fee is hereby imposed on every parcel of real property in the city that
44 appears on the real property assessment rolls as of July 1 of each year.
- 45 (b) When new properties or impervious areas are brought into the utility system, such as from new
46 construction, fees will accrue or increase commencing on the next billing cycle as established in
47 Section 6-5-7(a).
- 48 (c) The billing rate per billing unit to be used for calculating the stormwater utility fee shall be
49 \$10.50 per year. City Council may modify the billing rate in the future.
- 50 (d) All stormwater utility fees and other income from the fees shall be deposited into the
51 stormwater fund. The funds deposited shall be used exclusively to provide services and facilities
52 related to the stormwater management program pursuant to the provisions of the Virginia Code
53 §15.2-2114.
- 54 (e) The stormwater utility shall be in effect starting July 1, 2015.
- 55 (f) The stormwater utility shall be under the administration of the director of public works.
- 56 (g) Consistent with Virginia Code §15.2-2114, the stormwater utility fee shall be waived in its
57 entirety for the following:
- 58 1. A federal, state, or local government, or public entity that holds a permit to discharge
59 stormwater from a municipal separate storm sewer system; except that the waiver of
60 charges shall apply only to property covered by any such permit; and
 - 61 2. Public roads and street rights-of-way that are owned and maintained by state or local
62 agencies including property rights-of-way acquired through the acquisitions process.

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

- 64 (a) Unless otherwise specified in this article, the annual stormwater utility fee for all property in the
65 city shall be calculated in the following manner:
- 66 1. Determine the impervious area of each parcel of real property in square feet;
 - 67 2. Divide the property's impervious area by the billing unit;

68 3. Round the resulting calculation to the nearest whole number to determine the billing
69 units and multiply by the billing rate established to obtain the annual stormwater utility
70 fee for the property.

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

77 **Sec. 6-5-6. Stormwater Fund.**

78 (a) The stormwater fund is hereby established as a dedicated enterprise fund. The fund shall consist
79 of revenue generated by the stormwater utility fee as well as any other deposits that may be
80 made from time to time by the city council.

81 (b) The stormwater fund shall be dedicated special revenue used only to pay for or recover costs
82 for the following:

- 83 1. The acquisition, as permitted in Virginia Code §15.2-1800, of real and personal property,
84 and interest therein, necessary to construct, operate, and maintain stormwater control
85 facilities;
- 86 2. The cost of administration of the stormwater program;
- 87 3. Planning, design, engineering, construction, and debt retirement for new facilities and
88 enlargement or improvement of existing facilities, whether publicly or privately owned,
89 that serve to control stormwater;
- 90 4. Facility operation and maintenance;
- 91 5. Monitoring of stormwater control devices and ambient water quality; and
- 92 6. Other activities consistent with the state or federal regulations or permits governing
93 stormwater management, including, but not limited to, public education, watershed
94 planning, inspection and enforcement activities, and pollution prevention planning and
95 implementation.

96 **Sec. 6-5-7. Billing, payment, and penalties.**

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

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

103 (c) A delinquent stormwater utility fee shall accrue interest at the legal rate provided in Virginia
104 Code § 6.2-301(A). Such interest shall be applied to late payments overdue for more than thirty
105 (30) days, and shall be calculated for the period commencing on the first day such fee is first
106 due, until the date the fee is paid in full.

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

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

111 (a) The director of public works shall administer a system of credits in accordance with Virginia
112 Code § 15.2-2114.D that provide for partial waivers of charges to any person who installs,
113 operates, and maintains an approved stormwater best management practice that achieves a
114 permanent reduction in stormwater flow or pollutant loadings. The credit policy shall also, in
115 accordance with Virginia Code § 15.2-2114.E, provide for full or partial waivers of charges to
116 public or private entities that implement or participate in strategies, techniques or programs
117 that reduce stormwater flow or pollutant loadings, or decrease the cost of maintaining or
118 operating the public storm sewer system and stormwater program.

119 (b) The director of public works will develop written policies to implement the credit system, which
120 shall include a requirement for property owners to provide maintenance verification to the city
121 and enter into a maintenance agreement. No credit will be authorized until the city council
122 approves written policies to implement the system of credits; a copy of the approved policies
123 shall be on file with the public works department.

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

128 **Section 6-5-9. Petitions for adjustments.**

129 (a) Any property owner may request an adjustment of the stormwater utility fee by submitting a
130 request in writing to the director of public works or their designee within thirty (30) days after
131 the date the bill is mailed or issued to the property owner. Grounds for adjustment of the
132 stormwater utility fee are limited to the following:

- 133 1. An error was made regarding the square footage of the impervious area of the
134 property;
- 135 2. The property is exempt under the provisions of 6-5-4(g);
- 136 3. There is a mathematical error in calculating the stormwater utility fee;
- 137 4. The identification of the property owner invoiced is in error; or,
- 138 5. An approved credit was incorrectly applied.

139 (b) The property owner shall complete a petition for adjustment form available on the city's
140 website or supplied by the director of public works.

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

- 145 applicant shall label dimensions of impervious areas and showing the areas
146 believed to be incorrect.
- 147 (e) The requirement for a plan view of the property's impervious area required in subsection (b)
148 above may be waived by the director of public works, if at the sole discretion of the director of
149 public works the error is obvious and is the result of technical error or oversight by the city. In
150 such case, the city shall be responsible for recalculating the impervious area of the property.
- 151 (f) The director or their designee shall make a determination within forty-five (45) days of receipt
152 of a complete submittal for the request for adjustment. In the event that the director or their
153 designee finds that the appeal is deficient or incomplete, the director or their designee shall
154 offer the owner sixty (60) days to supply the missing information. The forty-five (45) day time
155 for a decision will begin at such time as the requested information is provided. If the
156 information requested is not provided to the director within sixty (60) days of the original
157 request, the petition will be deemed withdrawn.
- 158 (g) The director of public works' decision on a stormwater utility fee adjustment petition is a final
159 decision from which the aggrieved party may appeal to the Rockingham County Circuit Court
160 within 30 days of such decision.

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162
163 This ordinance shall be effective on the ____ day of [INSERT MONTH] ____, 2015.

164 ADOPTED and APPROVED this ____ day of _____, 2015.

165 _____
166 MAYOR

167 ATTEST:

168
169
170 _____
171 Clerk of the Council
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