

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 flood event needs. The city council finds that property with higher amounts of impervious
15 area contributes greater amounts of stormwater and pollutants to the stormwater management system
16 and waters of the Commonwealth and should carry a proportionate burden of the cost of such activities.
17 Therefore, the city council determines that it is in the best interest of the public to enact a stormwater
18 utility fee.

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

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

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

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

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

28 *Developed property* means real property that has been altered from its “natural” state by the
29 addition of any improvements such as buildings, structures and other impervious area.

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

32 *Stormwater management facility* means a control measure that controls stormwater runoff and
33 changes the characteristics of that runoff including, but not limited to, the quantity and quality, the
34 period of release or the velocity of flow.

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

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

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

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

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

- 60 (a) Unless otherwise specified in this article, the annual stormwater utility fee for all property in the
61 city shall be calculated in the following manner:
- 62 1. Determine the impervious area of each parcel of real property in square feet;
 - 63 2. Divide the property's impervious area by the billing unit;
 - 64 3. Round the resulting calculation to the nearest whole number to determine the billing
65 units and multiply by the billing rate established to obtain the annual stormwater utility
66 fee for the property.
- 67 (b) The stormwater utility fee is applicable to condominium unit owners and to property held by a
68 common interest community association, as defined in Virginia Code §55-528. The common
69 area within the common interest community shall be evenly divided among the individually

70 owned parcels, or as per an alternative methodology, as determined by the director of public
71 works, including but not limited to directly charging the association based on the methodology
72 described in subsection (a) above.

73 **Sec. 6-5-6. Stormwater Program Fund.**

- 74 (a) The stormwater program fund is hereby established as a dedicated enterprise fund. The fund
75 shall consist of revenue generated by the stormwater utility fee as well as any other deposits
76 that may be made from time to time by the city council.
- 77 (b) The stormwater program fund shall be dedicated special revenue used only to pay for or recover
78 costs for the following:
- 79 1. The acquisition, as permitted in Virginia Code §15.2-1800, of real and personal property,
80 and interest therein, necessary to construct, operate, and maintain stormwater control
81 facilities;
 - 82 2. The cost of administration of the stormwater program;
 - 83 3. Planning, design, engineering, construction, and debt retirement for new facilities and
84 enlargement or improvement of existing facilities, whether publicly or privately owned,
85 that serve to control stormwater;
 - 86 4. Facility operation and maintenance;
 - 87 5. Monitoring of stormwater control devices and ambient water quality; and
 - 88 6. Other activities consistent with the state or federal regulations or permits governing
89 stormwater management, including, but not limited to, public education, watershed
90 planning, inspection and enforcement activities, and pollution prevention planning and
91 implementation.

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

- 93 (a) The stormwater utility fee shall be billed so that half the fee is billed two times per year to the
94 record owner of each parcel subject to the fee. Such bills or statements shall be included on and
95 payable with the parcel's real estate tax bill. For properties that do not receive a real estate tax
96 bill, a separate bill for stormwater services shall be issued. Any fee not paid in full by the
97 respective due date shall be considered delinquent
- 98 (b) All payments received shall be first credited to stormwater charges, and then to property tax.
- 99 (c) A delinquent stormwater utility fee shall accrue interest at the legal rate provided in Virginia
100 Code § 6.2-301(A). Such interest shall be applied to late payments overdue for more than thirty
101 (30) days, and shall be calculated for the period commencing on the first day such fee is first
102 due, until the date the fee is paid in full.

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

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

- 107 (a) The director of public works shall administer a system of credits in accordance with Virginia
108 Code § 15.2-2114.D that provide for partial waivers of charges to any person who installs,
109 operates, and maintains a stormwater management facility that achieves a permanent
110 reduction in stormwater flow or pollutant loadings. The credit policy shall also, in accordance
111 with Virginia Code § 15.2-2114.E provide for full or partial waivers of charges to public or private
112 entities that implement or participate in strategies, techniques or programs that reduce
113 stormwater flow or pollutant loadings, or decrease the cost of maintaining or operating the
114 public stormwater management system.
- 115 (b) The director of public works will develop written policies to implement the credit system, which
116 shall include a requirement for property owners to provide maintenance verification to the city
117 or enter into a maintenance agreement. No credit will be authorized until the city council
118 approves written policies to implement the system of credits; a copy of the approved policies
119 shall be on file with the public works department.
- 120 (c) City Council may modify the adopted system of credits to apply to future stormwater
121 management facilities. Previously granted credits shall be grandfathered so that existing credits
122 cannot be modified as long as the property owner continues to provide maintenance
123 verification or meets the requirements of the maintenance agreement.

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

- 125 (a) Any property owner may request an adjustment of the stormwater utility fee by submitting a
126 request in writing to the director of public works or their designee within thirty (30) days after
127 the date the bill is mailed or issued to the property owner. Grounds for adjustment of the
128 stormwater utility fee are limited to the following:
- 129 1. An error was made regarding the square footage of the impervious area of the
130 property;
 - 131 2. The property is exempt under the provisions of 6-5-4(8)
 - 132 3. There is a mathematical error in calculating the stormwater utility fee;
 - 133 4. The identification of the property owner invoiced is in error; or,
 - 134 5. An approved credit was incorrectly applied.
- 135
- 136 (b) The property owner shall complete a stormwater utility fee adjustment application form
137 available on the city's website or supplied by the director of public works.
- 138 (c) If the application alleges an error in the amount of the impervious area, a plan view of the
139 property's impervious area will be provided by the city with labeled dimensions of all impervious
140 areas with the properties boundaries, including buildings, patios, driveways, walkways, parking
141 areas, compacted gravel areas, and any other separate impervious structures identified in the
142 city's impervious area database.
- 143 (d) If the applicant is not satisfied with this assessment, the applicant may:
- 144 1. Request a meeting with the director of public works or his designee; and/or
 - 145 2. Submit an appeal with a revised plan signed and sealed by a professional engineer
146 or professional land surveyor licensed in the Commonwealth of Virginia attesting to
147 the accuracy of the impervious area measurements.

- 148 (e) The requirement for a plan view of the property’s impervious area required in subsection (c)
- 149 above may be waived by the director of public works, if at the sole discretion of the director of
- 150 public works the error is obvious and is the result of technical error or oversight by the city. In
- 151 such case, the city shall be responsible for recalculating the impervious area of the property.
- 152 (f) The director or their designee shall make a determination within forty-five (45) days of receipt
- 153 of a complete submittal for the request for adjustment. In the event that the director or their
- 154 designee finds that the appeal is deficient or incomplete, the director or their designee shall
- 155 offer the owner sixty (60) days to supply the missing information. The forty-five (45) day time
- 156 for a decision will begin at such time as the requested information is provided. If the
- 157 information requested is not provided to the director within sixty (60) days of the original
- 158 request, the petition will be deemed withdrawn.
- 159 (g) The director of public works’ decision on a stormwater utility fee adjustment petition is a final
- 160 decision from which the aggrieved party may appeal to the Rockingham County Circuit Court within
- 161 30 days of such decision.
- 162

163 Draft dated: September 12, 2014

164

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

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

167 _____

168 MAYOR

169 ATTEST:

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171

172 _____

173 Clerk of the Council

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