

## ORDINANCE NO. 5060

AN ORDINANCE to add a new Article C (STORMWATER UTILITY) to Chapter 6 (WATER AND SEWER) of Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES) of the Code of the City of Alexandria, Virginia, 1981, as amended.

### THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 6 of Title 5 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended, by adding thereto a new Article C, Sections 5-6-230 through 5-6-238 to read as follows:

#### ARTICLE C – Stormwater Utility

##### Sec. 5-6-230 – Authority and effective date.

The city is authorized by Virginia Code § 15.2-2114 to establish a utility or enact a system of service charges to support a local stormwater management program consistent with the Virginia Stormwater Management Act (Virginia Code § 62.1-44.15:24 et seq.) or any other state or federal regulation governing stormwater management. This Chapter shall be effective January 1, 2018, with the initial stormwater management fee bill due and payable on or before June 15, 2018 and the second not later than November 15, 2018 in the same manner prescribed in 3-2-182 of this Code, Real Estate Taxes. Notwithstanding, the city manager is authorized to develop policies, procedures and manuals necessary to implement this chapter in accordance with section 5-6-231 and to accept applications for credit in accordance with section 5-6-235.

##### Sec. 5-6-231 – Purpose and organization.

City council finds that an adequate, equitable, and sustainable source of revenue for stormwater management activities is necessary to protect the general health, safety, and welfare of the residents; to meet state and federal stormwater regulations; and to address identified water quality and quantity needs of the city. Further, the city council finds that properties with higher amounts of impervious area contribute greater amounts of stormwater and pollutants to the stormwater management system, and that those owners of such properties should bear a proportionate burden of the costs. Therefore, the city council determines that it is in the best interest of the public to enact a stormwater utility fee based on impervious area that allocates program costs equitably to all property owners. The stormwater utility shall be operated under the direction of the city manager, who shall organize, direct, and manage the utility, including the development of necessary policies, procedures, and manuals as authorized by this chapter.

##### Sec. 5-6-232 – Definitions.

- (1) *Billing Unit*: 2,062 square feet of impervious area.
- (2) *Director*: The Director of Transportation and Environmental Services or the Director's authorized representative.

- (3) *Impervious Area*: A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.
- (4) *Inspection*: An onsite review of compliance with a city permit, the city's stormwater management program, and any applicable design criteria, or an onsite review to obtain information or conduct surveys or investigations necessary in the enforcement of this chapter.
- (5) *Large Single Family Residential Detached Properties*: A single family home whose impervious surface area footprint is greater than 2,800 square feet.
- (6) *Maintenance Agreement or BMP Maintenance Agreement*: A legally recorded document that acts as a property deed restriction, and which provides for the long-term maintenance of stormwater management practices.
- (7) *Owner or Property Owner*: The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.
- (8) *Stormwater Best Management Practice (BMP)*: A schedule of activities, prohibitions of practices, maintenance procedures, and other management practices, including both structural and nonstructural practices, to prevent or reduce the pollution of surface water and groundwater systems.
- (9) *Stormwater Management Facility*: 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.

Sec. 5-6-233 – 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 January 1 of each year. All stormwater utility fees and other income from the fees shall be deposited into the stormwater utility enterprise fund for the sole purpose of funding the activities described in section 5-6-236.
- (b) The stormwater utility shall be in effect starting January 1, 2018.
- (c) The utility fee rate per Billing Unit for calculating the stormwater utility fee shall be set at one hundred forty dollars (\$140) annually. The fee shall be reviewed annually and set by the city council to be effective July 1 each year.
- (d) Except as otherwise provided in this chapter, the impervious surface of a parcel shall be determined by the city, including but not limited to, one or more of the following: aerial photography; as-built drawings; final approved site plans; building permits; field surveys; or other appropriate engineering and mapping analysis tools.
- (e) The stormwater utility shall be under the administration of the Director.
- (f) Notwithstanding subsection (a), and consistent with Code of Virginia, § 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 in accordance with Code of Virginia, § 10.1-603.2 et seq.; 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 acquisition process; and
- (3) Property owned by the city.

Sec. 5-6-234 – Stormwater utility fee calculations.

- (a) Unless otherwise specified in this article, the annual stormwater utility fee for single family residential properties will be a tiered structure based on the type of property as follows:
  - (1) Single family residential detached properties define the billing unit of 2,062 square feet and will be charged 1.0 billing unit;
  - (2) Condominium properties will be billed at a rate of 0.28 billing unit;
  - (3) Townhome properties will be billed at a rate of 0.42 billing unit; and
  - (4) Large Single Family Residential Detached Properties will be billed at a rate of 1.67 billing units.
- (b) Unless otherwise specified in this article, the annual stormwater utility fee for non-residential and multifamily properties will be calculated in the following manner:
  - (1) Determine the Impervious Area of the property in square feet;
  - (2) Divide the Impervious Area of the property by the Billing Unit;
  - (3) Round the resulting calculation to the next highest whole number to determine the number of Billing Units; and
  - (4) Multiply the number of Billing Units determined in subsection (3) by the rate established in subsection 5-6-233 (c) to obtain the stormwater utility fee for the property.

Sec. 5-6-235 – Stormwater utility fee credits.

- (a) The City shall implement a system of credits in accordance with Virginia Code § 15.2-2114(D) that provides 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 transportation and environmental services department 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 transportation and environmental services department. Nothing shall prevent the city council from modifying the adopted system of credits, and such modifications may apply to holders of existing credits.

Sec. 5-6-236 – Stormwater management enterprise fund.

- (a) A stormwater management enterprise fund is hereby established as a dedicated, separate fund for the sole purpose of recovering 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 activities in subsection (a);
- (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. 5-6-237 – Billing, payment, and penalties.

- (a) A stormwater utility fee shall be billed twice annually so that half the annual fee is billed two times per year to the record Owner of each property subject to the fee. Such bills or statements shall be included on and payable with the property's real estate tax bill. For properties that do not receive a real estate tax bill, a separate bill for the stormwater utility fee shall be issued. Any fee not paid in full by the respective due date of the real estate property tax bill, unless petition for adjustment has been made in accordance with section 5-6-238, in which case the due date is 30 calendar days after the date of the final determination of a petition for adjustment, shall be considered delinquent. All payments received shall be applied as follows:
  - (1) Stormwater utility fee;
  - (2) All other taxes and fees.
- (b) A delinquent stormwater utility fee, in accordance with Code of Virginia, § 15.2-2114 (G), shall be subject to a penalty and the legal rate of interest provided in Code of Virginia, § 6.2-301 (A). Such penalties and interest shall be applied to late payments of the stormwater utility fee at the same time and in the same manner as such interest would be applied to a late payment of the real property tax.
- (c) A delinquent stormwater utility fee, along with cumulative penalties and interest, shall constitute a lien on the property 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. 5-6-238 – Petitions for adjustment.

- (a) Any Property Owner subject to the stormwater utility fee may request an adjustment to the fee by submitting a request in writing to the Director within 30 calendar days after the date the bill mailed or otherwise 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 Impervious Area on the non-residential or multi-family property, or the large single family residential detached property;
  - (2) An error was made regarding the type of single family residential property;

- (3) The property is entitled to a full waiver under subsection 5-6-233(f);
  - (4) There is a mathematical error in calculating the stormwater utility fee;
  - (5) The identification of the Property Owner invoiced is in error; or
  - (6) An approved credit was incorrectly applied.
- (b) The Property Owner shall complete a stormwater utility fee adjustment application form in a format approved by the Director.
  - (c) If the application alleges an error in the amount of Impervious Area for a non-residential or multi-family property, or for Large Single Family Residential Detached Property, the city will provide a plan view of the property's impervious area to the applicant. If the Property Owner contends that the amount of Impervious Area is in error, the Owner may:
    - (1) Request a meeting with the Director; and/or
    - (2) Submit an appeal with a revised plan signed and sealed by a professional engineer or professional land surveyor licensed to practice in the Commonwealth of Virginia attesting to the accuracy of the Impervious Area measurements.
  - (d) The requirement for a plan view of the parcel'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 30 calendar days of receipt of a complete submittal for the request for adjustment. In the event that the Director finds that the submittal is deficient or incomplete, the Director will notify the applicant with an offer of 30 calendar days to supply the missing information. The 30 calendar 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 45 calendar days of the original request, the petition will be deemed withdrawn.
  - (f) A decision by the Director on a petition for adjustment is a final decision from which an aggrieved party may appeal to the Circuit Court of Alexandria, Virginia.

Section 2. That this ordinance shall become effective on January 1, 2018.

ALLISON SILBERBERG  
Mayor

Final Passage: May 4, 2017