



Legislation Details (With Text)

File #: 16-6326 **Name:** Ordinance on Stormwater Utility
Type: Ordinance **Status:** Agenda Ready
File created: 3/22/2017 **In control:** City Council Legislative Meeting
On agenda: 4/4/2017 **Final action:**
Title: Introduction and First Reading. Consideration of Passage on First Reading of an Ordinance to Implement the Stormwater Utility Fee as Included in the FY 2018 Proposed Budget. [ROLL-CALL VOTE]

Sponsors:

Indexes:

Code sections:

Attachments: 1. 16-6326_Ordinance_Cover.pdf, 2. 16-6326_Ordinance.pdf, 3. 16-6326_Presentation to Council_Consideration of SWU Ordinance_4-4-17_draft, 4. 16-6326_After Items

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

City of Alexandria, Virginia

MEMORANDUM

DATE: MARCH 29, 2017
TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL
FROM: MARK B. JINKS, CITY MANAGER /s/

DOCKET TITLE:

Introduction and First Reading. Consideration of Passage on First Reading of an Ordinance to Implement the Stormwater Utility Fee as Included in the FY 2018 Proposed Budget. [ROLL-CALL VOTE]

ISSUE: Creation of a Stormwater Utility to fund capital and operating costs of new state and federal environment mandates.

RECOMMENDATION: That City Council pass the proposed Stormwater Utility ordinance on first reading on April 4, and set the ordinance for public hearing on April 22, and second reading and final passage on May 4.

BACKGROUND: The City Council directed staff in February 2016 to develop the framework of a Stormwater Utility (SWU) to provide a dedicated funding source to more equitably distribute the increasing costs of recent state and federal Chesapeake Bay protection mandates that require the implementation of costly infrastructure associated with stormwater management, as enforced through the City's Municipal Separate

Storm Sewer System (MS4) permit. It is projected that the City will need to invest \$62.1 million in stormwater capital projects over the next ten years. Council also directed staff to implement the Stormwater Utility Public Outreach Framework of directly engaging stakeholder groups to discuss the proposed SWU framework.

In 2009, the City convened an ad hoc committee to consider a dedicated funding source to address stormwater management program costs associated with increased incidents of flooding. The committee recommended the City Council implement a stormwater utility to fund these needs. Council ultimately chose to set aside ½ cent of the Real Estate tax rate to a dedicated Stormwater Fund starting FY 2010. Starting July 2013, recent state and federal pollution reduction mandates associated with the Chesapeake Bay Total Maximum Daily Load (TMDL) require that the City fund the installation of costly stormwater infrastructure to meet pollution reduction targets enforced through the City's MS4 permit. Increasing operating and capital costs associated with the mandates exceed the ½ cent dedication, demanding increasing contributions from the General Fund. Creation of the proposed SWU would more equitably apportion the cost obligation and provide a dedicated funding source for the City's Stormwater Management Program, thus alleviating the need for General Fund support for these funding responsibilities.

City staff engaged a private consultant and convened regular internal stakeholder meetings beginning March 2016 to develop the proposed SWU framework. In August and September 2016, staff briefed members of the City Council on the proposed framework. Subsequently in September, staff distributed a media release and held a media briefing to present the draft SWU framework. Staff directly engaged stakeholders via face-to-face meetings, social media, eNews, emails, a dedicated webpage and other media techniques to engage the public and gather feedback on the proposed framework.

During this time of continued intense public engagement, staff continued to hold meetings with civic associations, commissions, committees, land owners, and partnerships. Staff held two public meetings to present the proposed framework for the general public and to present focused information for non-profits, private schools and religious institutions. Staff presented an update of the SWU framework and reported on the public outreach effort at Council's November budget retreat. Through this continued collaborative process and careful consideration to create an equitable funding source that minimized administrative costs, staff refined the proposed SWU framework for Council consideration.

Staff will continue to directly engage stakeholders through various forms of media. The attached Stormwater Utility ordinance outlines the proposed framework, while the following provides a brief discussion of the proposed utility framework.

DISCUSSION: Increasing state and federal stormwater mandates require additional funding for compliance. Currently, the City funds stormwater program activities through ½ cent real estate dedication that is substantially supplemented by increasing General Fund contributions. Through this structure, a property's assessed value effectively dictates the proportion of funding required from individual residential and non-residential property owners. The implementation of a stormwater utility would distribute the funding requirement more equitably by associating the funding level in general to the amount of impervious surface area on the property. Since this is a utility, it would also be applicable to non-profits and faith-based properties that currently are not paying real estate taxes. Given that the amount of a property's impervious surface area is directly related to the generation of stormwater runoff, the proposed stormwater utility framework more equitably apportions the obligation by linking the fee to the amount of onsite impervious area. Also, this affords a property owner the opportunity to reduce the fee amount - or receive a fee credit - by reducing onsite impervious area, or by reducing the effect of the impervious area by implementing structural and non-structural stormwater controls.

Fee Structure

In developing the fee structure for the utility, staff considered various fee structures used by other communities in Virginia and throughout the nation. In an effort to maximize equity and minimize the administrative program costs, staff recommends basing the fee on property type for residential property and the amount of onsite impervious area for non-residential properties. This creates a fixed-fee tiered approach for single family residential properties, while the fee would be calculated for non-residential properties. The newly established fee will be effective January 1, 2018. The proposed fee for the second half of FY 2018 would be billed according to the following table:

Property Type	Annual Fee	Bi-Annual Fee
Condominium	\$39.20	\$19.60
Townhomes	\$58.80	\$29.40
Detached Homes	\$140.00	\$70.00
Large Detached Homes ¹	\$233.80	\$116.90
Non-Residential Properties ²	\$140.00	\$70.00

1. Greater than 2,800 square feet of onsite impervious area
2. Per every 2,062 square feet of actual onsite impervious area

Billing

The SWU fee would be billed two times a year at the bi-annual rate by including it as a line item on the real estate bill that is sent out twice a year. The utility would be effective January 1, 2018, with the first bills going out May 2018, and the fee being due the same time that real estate taxes are due for each successive billing cycle. Consideration for fee reduction through the credit program would require an annual application that would apply equally to both bills during the fiscal year, pending review and approval of the application.

Credit Program

Staff is recommending that a credit program be implemented in two phases. The purpose of this is to allow for the methodology and execution of Phase 1 to be fully implemented and tested, while allowing more time for the development and subsequent implementation of the more complicated components in Phase 2 of the credit program.

Phase 1 of the credit program would coincide with the utility's effective date, with the opportunity to apply once annually to reduce the first bill in May 2018 and the subsequent bill in October 2018 by dividing the credit amount over the two bills. Phase 1 would include mandatory full waivers from paying the fee for certain properties (i.e., city-owned properties, other entities holding an MS4 permit, etc.), eligible partial fee reductions for properties with structural stormwater facilities that reduce pollutant flows and/or stormwater loads for residential and non-residential/multifamily properties mandated through the development review process, and eligible partial fee reductions for non-structural volunteer practices for non-residential/multifamily properties. The Phase 1 Credit Manual that will fully elaborate on these practices, include a full description of the possible fee reductions, and define the application process, will be developed by fall 2017.

Phase 2 of the credit program would be implemented after the SWU program has been established and gone through a period of assessment and any needed modifications. This will allow the City time to fully implement the billing process and work through the initial year when the volume of customer service calls are likely to be greatest, and allow for additional public input and more time to develop the more complex definitions and approaches for Phase 2 practices. Additionally, it will allow time to engage single family residential property owners to develop a preferred menu of single family credit options, as well as provide time to engage non-residential property owners to develop the City's approach for implementing stormwater management practices

on private property using a type of ‘public-private partnership’ (P3) approach. The Phase 2 Credit Manual that will fully elaborate on these practices, include a full description of the possible fee reductions, and define the application process, will be developed by summer 2018.

Petitions for Adjustment (Appeals)

Staff is recommending a process that allows the property owner to request an adjustment to the fee by submitting a request for review. Grounds for the adjustment are limited to: an error made in calculating onsite impervious area for non-residential or multifamily, or large single family residential homes; an error made in the type of single family property (i.e., townhome versus single family home); that the property should have been granted a full waiver; an error in mathematically calculating the fee; an error in the identification of the property owner; or an error in the application of an approved credit. The property owner must complete and application in a format to be later developed and approved by the Director of Transportation and Environmental Services (the “Director”).

If the application asserts an error in calculating a property’s impervious area, the City will provide a plan view of the property’s impervious area footprint to the applicant. If the plan view matches the impervious used to calculate the fee, but the applicant still believes the impervious area is incorrect, the parcel owner may: request a meeting with the Director; and/or submit an appeal with a revised plan that is signed and sealed by a professional engineer or professional land surveyor attesting to the accuracy of the impervious area measurements. The requirement for a plan view may be waived by the Director, if the Director determines the error is obvious and is a result of oversight by the city. In this case, the City will recalculate the impervious area of the property and make the necessary fee adjustments.

The Director shall make a determination on the application within 30 calendar days of receiving a complete application. In the event the application is deemed incomplete, the Director will notify the applicant within 30 calendar days. The 30 calendar days for the Director to make the determination begins at the time that a complete application is received. If the information requested is not provided to the Director within 45 calendar days of the original request, the petition will be deemed withdrawn.

A decision by the Director on a petition for adjustment is a final decision from which an aggrieved party must have an appeals process, which in the City’s case would be the Circuit Court of Alexandria. Staff reviewed this process for other jurisdictions and finds it consistent with the Cities of Charlottesville, Roanoke, and Falls Church. However, the intent of this petition process is to address the matter and rectify it prior to an appeal to the court.

Continued Public Outreach

Staff is updating the existing Stormwater Utility Public Outreach Framework to be implemented if Council decides to adopt the proposed Stormwater Utility ordinance. Staff will continue to engage civic associations, committees, commissions, land owners, and partnerships to educate the public on the process, develop the menu of single family options, and create the framework for implementation of stormwater controls on private property using a P3 approach; in addition to working with the City’s long-standing environmental advocacy group, the Environmental Policy Commission (EPC). Staff will conduct outreach specifically targeting non-profit and faith-based organizations to gain their input on the types of voluntary activities and structural stormwater facility practices that may be implemented to reduce fees for these types of properties.

FISCAL IMPACT: The proposed stormwater utility fee would generate an estimated \$4.2M of revenue for the second half of FY 2018, which would be available to fund necessary City stormwater operating and capital costs. The funding and rate for FY 2019 and beyond would be subject to change, as changes to the City’s stormwater capital and operating needs change to address state and federal environmental requirements change.

Starting in FY 2019 Stormwater utility costs will no longer be supported by the City's General Fund, and will be a self-supporting entirely fee-funded enterprise fund. As such, the debt issued to pay for stormwater utility projects will not count against the City's debt caps.

ATTACHMENTS:

1. Ordinance Cover
2. Ordinance
3. Presentation

STAFF:

Emily A. Baker, P.E., Deputy City Manager
Morgan Routt, Director, Office of Management & Budget
Yon Lambert, AICP, Director, T&ES
William Skrabak, Deputy Director, T&ES