

**AN ORDINANCE AMENDING AND REORDAINING CHAPTER 10
(WATER PROTECTION) OF THE CODE OF THE CITY OF
CHARLOTTESVILLE, TO UPDATE THE CITY’S STORMWATER
UTILITY PROGRAM CONSISTENT WITH SECTION 15.2-2114 OF THE
CODE OF VIRGINIA.**

WHEREAS, the Council of the City of Charlottesville, Virginia (the “Council”) has adopted ordinances for the management of stormwater resulting from land-disturbing activity and impervious surfaces within the City of Charlottesville (the “City”), which ordinances are codified in Chapter 10 of the City Code, known as the city’s Water Protection Ordinance; and

WHEREAS, ordinances establishing a stormwater utility fee for impervious surfaces within the City are codified in Article VI of Chapter 10, and are a critical component of the Water Protection Ordinance and the Council’s efforts to protect local and state waters; and

WHEREAS, Article VI of Chapter 10 is authorized under Section 15.2-2114 of the Code of Virginia, which has been amended by the General Assembly since the City established its stormwater utility program; and

WHEREAS, amendments to Chapter 10, Article VI are desirable in order for the City to implement a stormwater utility program consistent with the authority granted by the Code of Virginia; and

WHEREAS, certain cross-references within Chapter 10, Article VI also need to be amended to correctly refer to Virginia Erosion and Stormwater Management Act (Virginia Code § 62.1-44.15:24 *et seq.* as amended and effective July 1, 2024); and

WHEREAS, on June 17, 2024 the Council held a duly noticed public hearing on the adoption of an ordinance to amend Chapter 10, Article VI consistent with Virginia Code §§ 15.2-1427 and 15.2-2114(B); and

WHEREAS, the Council finds that adoption of this ordinance will support the City’s stormwater management program, is in the best interests of the City and its citizens, and furthers the protection of state waters, stream channels, and other natural resources from the potential harm of unmanaged stormwater.

BE IT ORDAINED by the Council of the City of Charlottesville, Virginia that Chapter 10 (Water Protection) of the Code of the City of Charlottesville is hereby amended and reordained as follows:

Amend Article VI, by amending Sections 10-100, 10-102, 10-103, 10-104, 10-105, and 10-106; all as shown, stated, and ordained below:

Chapter 10 WATER PROTECTION

ARTICLE VI. STORMWATER UTILITY

Sec. 10-100. Authority.

The city is authorized by Virginia Code § 15.2-2114 ~~et seq.~~ to establish a utility and to enact a system of service charges to support a local stormwater management program consistent with ~~the Virginia Stormwater Management Act (Virginia Code § 10.1-603.1 et seq.)~~ Article 2.3 (§ 62.1-44.15:24 *et seq.*) of Chapter 3.1 of Title 62.1 of the Code of Virginia, as amended, or any other state or federal regulation governing stormwater management.

Sec. 10-101. Purpose.

The city council finds...

Sec. 10-102. Definitions.

The following definitions shall apply to this article unless the context clearly indicates otherwise:

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

Director means the director of ~~public works~~utilities or the director's authorized representative.

Impervious area means area covered by hard surfaces such as structures, paving, compacted gravel, concrete, or other human-created features that prevent, restrict, or impede the downward passage of stormwater into the underlying soil.

~~*Impervious area* means area covered by hard surfaces such as structures, paving, compacted gravel, concrete, or other human-caused features that prevent, restrict, or impede the downward passage of stormwater into the underlying soil.~~

Sec. 10-103. Stormwater utility fee.

- (a) A stormwater utility fee is hereby imposed on every parcel of improved real property in the city that appears on the real property assessment rolls as of December 31 of each year. All stormwater utility fees and other income from the fees shall be deposited into the water resources protection fund.
- (b) The rate per billing unit to be used for calculating the stormwater utility fee shall be one dollar twenty cents (\$1.20) per month.
- (c) Except as otherwise provided in this article, the impervious area for a property shall be determined by the city using aerial photography, as-built drawings, final approved site plans, field surveys or other appropriate engineering and mapping analysis tools.
- (d) Notwithstanding subsection (a) above, and consistent with Virginia Code § 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; except that the waiver of charges shall apply only to property covered by any such permit;
 - (2) For so long as there exists a revenue sharing agreement between the City and the County of Albemarle, Virginia, the waiver authorized by this section shall also apply to the property of each such locality, and to property of each locality's school board that is accounted for within that locality's municipal separate storm sewer system program plan, regardless of whether such property is located within the territorial jurisdiction of the other locality;

- (3) 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 acquisitions process; and,
- (4) Unimproved parcels.

Sec. 10-104. Stormwater utility fee calculation.

- (a) It is the intent of city council to set the stormwater utility fee at an amount that will be sufficient to provide for a balanced operating and capital improvement budget for the stormwater utility. Income derived from the utility charges shall be dedicated special revenue and may not exceed the actual costs incurred to operate and maintain the city's stormwater management system and implement the city's stormwater management program.
- (b) Unless otherwise specified in this article, the monthly 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 next highest whole number to determine the number of billing units and multiply by the rate established in section 10-103(b) to obtain the monthly stormwater utility fee for the property.
- (c) The stormwater utility fee applicable to property held by a common interest community association, as defined in Virginia Code § 55-528, shall be charged directly to the association based on the methodology established in subsection (a**b**) above, except that the director may develop alternative methodologies for billing fees associated with property held by a common interest community association, including but not limited to dividing the fee among the lots other than the common area that constitute the common interest community.

Sec. 10-105. Stormwater utility fee credits.

- (a) The city council shall adopt by resolution a system of credits in accordance with Virginia Code § 15.2-2114.D that provide for 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 or other such facility, system, or practice whereby stormwater runoff produced by the property is retained and treated on site in accordance with a stormwater management plan approved pursuant to Chapter 3.1 (62.1-44.2 et seq.) of Title 62.1. 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 department of ~~public works~~utilities 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

department of ~~public works~~utilities. Nothing shall prevent the city council from modifying the adopted system of credits, and such modifications may apply to holders of existing credits.

Sec. 10-106. Water resources protection fund.

- (a) The water resources protection fund is hereby established as a dedicated enterprise fund. The fund shall consist of revenue generated by the stormwater utility fee as well as any other deposits that may be made from time to time by the city council.
- (b) The water resources protection fund shall be dedicated special revenue used only to pay for or recover 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 water resources protection program;
 - (3) Planning, design, engineering, construction, and debt retirement for new facilities and enlargement or improvement of existing facilities, including the enlargement or improvement of dams, levees, floodwalls, and pump stations, whether publicly or privately owned, that serve to control stormwater;
 - (4) Facility operation and maintenance, including the maintenance of dams, levees, floodwalls, and pump stations, whether publicly or privately owned, that serve to control stormwater;
 - (5) Monitoring of stormwater control devices and ambient water quality; ~~and~~
 - (6) Contracts related to stormwater management, including contracts for the financing, construction, operation, or maintenance of stormwater management facilities, regardless of whether such facilities are located on public or private property and, in the case of private property locations, whether the contract is entered into pursuant to a stormwater management private property program adopted in accordance with Virginia Code § 15.2-2114(J) or otherwise; and
 - (67) 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. 10-107. Billing, enforcement, and interest.

- (a) *The stormwater utility fee shall...*

BE IT FURTHER ORDAINED by the Council of the City of Charlottesville, Virginia that this ordinance shall be effective as of July 1, 2024.

	<u>Aye</u>	<u>No</u>
Payne		
Pinkston		
Snook		
Wade		
Puryear		

Approved By Council
July ____, 2024

Kyna Thomas, MMC
Clerk of Council

Suggested Motion: I move that Chapter 10 of the Charlottesville City Code be amended so as to update the City's Stormwater Utility Program in a manner consistent with Section 15.2-2114 of the Code of Virginia.