

DIVISION 3. - STORMWATER MANAGEMENT UTILITY

Sec. 74-291. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative charge. All properties or groups of properties billed by the stormwater management utility will be charged an equal share of the utility's administrative costs on their monthly bill. The utility's administrative costs include, but may not be limited to, salaries for the program director and administrative staff and costs associated with billing.

Beneficiaries of stormwater management utility services include all land in the city which benefits by the acquisition, management, maintenance, extension and improvement of the public stormwater systems and regulation of public and private stormwater systems, facilities and activities related thereto, or which will ultimately benefit by the city's stormwater management program. Such benefits may include but are not limited to the provision of adequate systems and programs to ensure the proper collection, control, conveyance, detention, retention, treatment and release of stormwater runoff, reduction of hazards to property and persons, and improvement of the general health, safety and welfare of the community.

Commercial land use factor (LUF) is a classification that will be used for calculation of the stormwater land use factor for land uses usually associated with the sale of goods and service. This classification is composed of a number of individual types of commercial land use, including business and professional offices. The commercial classification includes the main commercial building and its associated storage areas, driveways, parking lots and landscaped grounds.

Developed land means all property altered from a natural state by grading, paving, compaction, construction of structures, impervious surfaces or drainage works so that stormwater runoff from the property is changed in quantity, quality or point of discharge from that which would occur in the natural condition.

Director means the stormwater management utility director, who shall be the city engineer or his designee.

Dwelling unit means one or more rooms with bathroom and kitchen facilities designed for occupancy by one family, which shall be located on one or more legal lots as defined by the city land development code (chapter 86), and shall include houses, townhouses, condominiums, duplexes and manufactured housing, located on individual lots.

Equivalent stormwater factor (ESF) is a unitless factor relating a parcel's potential to generate stormwater runoff to a base case. This assists with assigning fair and equitable stormwater fees to individual properties throughout the city. The ESF for individual properties is determined by an algorithm presented in section 74-302 which considers factors including:

- (1) Impervious area;
- (2) Pervious area;
- (3) Land use;
- (4) Stormwater treatment; and
- (5) Service provided by the city.

High use residential land use factor (LUF) is a classification that will be used for calculation of stormwater LUF for residential land use categories with greater than five dwelling units per acre.

Impervious surfaces mean those areas which prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development. Common impervious surfaces include but are not limited to rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, paver bricks, stones, swimming pools, and other surfaces.

Industrial land use factor (LUF) is a classification that will be used for calculation of stormwater LUF for land use that includes manufacturing, assembly or processing of products. Included are facilities for administration and research, assembly, storage and warehousing, shipping, parking lots and grounds.

Land use factor (LUF) is a factor used to assess the relative degree of stormwater pollutant concentrations from typical properties with a variety of land uses for the purpose of calculating stormwater fees. Vacant land is used as a baseline with a LUF of 1.0. All other properties within the city are charged a LUF based on the average levels of stormwater pollutants generated from a property within its land use, as defined by the city land development code (chapter 86), as compared to average levels of stormwater pollutants generated from typical vacant land.

Low use residential is a classification that will be used for calculation of LUF for residential land use categories consisting of less than two dwelling units per acre.

Medium use residential is a classification that will be used for calculation of LUF for residential land use categories ranging from two to five dwelling units per acre.

Permitted discharges. Nonstormwater discharges that are allowed to be discharged to the municipal separate storm sewer system are as follows: Water line flushing, landscape irrigation, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources after dechlorination, air conditioning condensate, irrigation water, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash waters, and discharges or flows from emergency firefighting activities. Any of the permitted discharges are only to be made if suitable protection is provided by use of silt fence and/or staked hay bales or such other approved methods to prevent the erosion or carrying of silt or contaminants into the municipal separate storm sewer system.

Pervious means land surfaces which allow the penetration of water into the ground. The infiltration rate for pervious surfaces shall be subject to approval by the city engineer.

Public facilities charge. All privately owned properties will be charged an equal share of the cost to provide stormwater services to publicly owned properties within the city. The public facilities charge will be assessed monthly on a per-unit basis.

Runoff factor means the relationship between pervious and impervious areas of a property. Runoff factor shall be subject to approval by the city engineer.

Service factor is a factor assigned to relate the amount of stormwater service provided to a property by the city to the final stormwater fee for individual properties. Stormwater services provided to properties include but are not limited to operation and maintenance of the stormwater conveyance system; storm sewer construction, replacement and retrofit; enforcement and inspections; regulatory compliance; and public education.

Stormwater means stormwater runoff and surface runoff and drainage.

Treatment factor is a component of the charge to a property whereby a credit is given for on-site facilities or treatment established by a water management district permit.

Unimproved land means land in an unaltered natural state or land which has been modified to such minimal degree as to have a hydrologic condition comparable to land in an unaltered natural state. Unimproved land shall have no pavement, asphalt, or compacted gravel surfaces or structures which create an impervious surface that would prevent infiltration or cause stormwater to collect, concentrate or flow in a manner materially different than that which would occur if the land were in an unaltered natural state.

Vacant land is a classification that will be used for calculation of the stormwater land use factor for inactive land with street accessibility but without structures, such as individual lots scattered throughout the city and undeveloped land (no structures) within urban areas.

(Code 1982, § 15-73; Ord. No. 2006-34, § 4, 8-22-06)

Cross reference— Definitions generally, § 1-2.

Sec. 74-292. - Findings.

- (a) It is appropriate to authorize the formation of an organizational and accounting entity (stormwater management utility) dedicated specifically to the management of stormwater, which includes but is not limited to the following activities: Operation and maintenance of the existing stormwater conveyance system; replacement of existing pipes; construction of new stormwater systems; inspections and enforcement; and regulatory compliance.
- (b) Stormwater management is applicable and needed throughout the corporate limits of the city. While specific service and facility demands may differ from area to area at any given point in time, a stormwater management service area encompassing lands and waterbodies within the corporate limits of the city is consistent with the present and future stormwater management needs of the community. The stormwater management needs generally include, but are not limited to, protecting the public's health, safety, welfare and property. The city's stormwater management services and facilities render and/or result in both service and benefit to all property owners within the city.
- (c) The city presently owns and operates a stormwater management system which has been developed over a number of years. The city's ability to effectively manage stormwater and water resources rests on the future usefulness of that system and its additions and improvements. As a result, a reliable and a stable revenue source is necessary.
- (d) To meet the needs of the city, the stormwater management utility establishes a separate enterprise fund account for stormwater management program revenues, expenditures, assets, liabilities, earnings and obligations, and adopts various stormwater management rates, fees, charges and penalties as necessary to meet the needs of the city.

(Code 1982, § 15-70)

Sec. 74-293. - Stormwater management utility established.

Pursuant to the home rule power of article VIII, section 2(b), Florida Constitution, F.S. ch. 166, as amended, and F.S. § 403.0893, as amended, the city does hereby establish a stormwater management utility. The utility shall be responsible for the city's stormwater management program and system and for all activities and facilities necessary to provide control of stormwater quantity and quality in the city.

(Code 1982, § 15-71)

Sec. 74-294. - Enterprise fund.

There is hereby established a stormwater management utility enterprise fund, which shall be used solely for the independent and separate accounting of all revenues, expenditures, assets and liabilities, earnings and obligations of the stormwater management utility. The revenues and other assets of the stormwater management utility shall be used only for the management, control, use and enhancement of stormwater in the city and administration, construction, acquisition of equipment, management, maintenance, replacement, extension and improvement of the public stormwater systems, and regulation of public and private stormwater systems, facilities and activities related thereto.

(Code 1982, § 15-72)

Sec. 74-295. - Service area; scope of responsibility; service level objective.

The stormwater management utility shall be responsible for stormwater management throughout the city's corporate limits and shall provide for the management of the public stormwater systems and the regulation of stormwater management systems on private property. It shall be the long-term objective of the city to provide a level of stormwater service consistent with the city's comprehensive plan and city ordinances.

(Code 1982, § 15-74)

Sec. 74-296. - Powers and duties of director.

The administration of the stormwater management system is hereby placed in and shall be exercised by the director, who shall have, for the ascertainment, computation and collection of the stormwater fees imposed under this division and for the proper administration and enforcement of this division, the following powers and duties:

- (1) Prepare regulations as needed to implement this division and forward the regulations to the city council for consideration and adoption, and adopt such procedures as are required to implement such regulations or carry out other responsibilities for the effective administration of the system;
- (2) Administer the acquisition, design, construction, maintenance and operation of the system, including capital improvements designated in the stormwater management plan;
- (3) Administer, interpret and enforce this division and all regulations and procedures adopted relating to the design, construction, maintenance, operation and alteration of the system, including but not limited to the quantity, quality and/or velocity of the stormwater conveyed thereby;
- (4) Inspect private systems as necessary to determine the compliance of such systems with this division and any regulations adopted under this division;
- (5) Advise the city council, city manager and other city departments on matters relating to the system;
- (6) Prepare and revise a comprehensive stormwater management plan for adoption by the city council at least every five years;
- (7) Review plans for, approve or deny, inspect and accept extensions to the system;
- (8) Establish and enforce regulations to protect and maintain water quality within the system in compliance with established federal, state and local water quality standards as adopted or hereafter amended;
- (9) Analyze the cost of services and benefits provided and the system and structure of the stormwater management assessments and other fees, charges, fines and revenues of the system annually to ensure an equitable, adequate and stable rate structure and to achieve a stable financial position for the system; and
- (10) Aggressively seek any grant that will fund capital improvements for stormwater management.

(Code 1982, § 15-82)

Sec. 74-297. - Inspection of privately owned systems; jurisdiction of code enforcement board.

- (a) The city engineer or his designee may enter at all reasonable times in or upon any privately owned and maintained stormwater treatment, conveyance or storage system which discharges into the municipal separate storm sewer system, for the purpose of inspection, to verify operation and maintenance of the privately owned system. Owners of systems will permit city employees access to property to perform inspections, will provide all records of lake or pond treatment performed during the past year or since the last inspection, and will certify to the city each year any changes made in the system or that no changes have been made. Upon written notification by the city to the owner of required corrections, the owner will perform corrections within 60 days. The owner(s) of any stormwater management system shall provide annual certification that their system is operating and being maintained in accordance with the original design specifications and in a manner that does not cause or contribute to any violations of the state water quality standards.
- (b) The code enforcement board shall have the authority to levy fines and penalties for violations of this division as provided in chapter 2, article VI.

(Code 1982, § 15-84; Ord. No. 2006-34, § 4, 8-22-06; Ord. No. 2011-01, § 2, 1-25-11)

Sec. 74-298. - Disclaimer of liability.

Floods from stormwater runoff may occasionally occur which exceed the level of service of storm drainage facilities constructed, operated or maintained by funds made available under this division. This division shall not be construed or interpreted to mean that property subject to the stormwater management assessments established in this division will always be free from stormwater flooding or flood damage, or that stormwater systems capable of handling all storm events can be cost-effectively constructed, operated or maintained; nor shall this division create any liability on the part of or cause of action against the city, or any official or employee thereof, for any flood damage that may result from such storms or the runoff thereof; nor does this division purport to reduce the need or the necessity for obtaining flood insurance by individual property owners.

(Code 1982, § 15-83)

Sec. 74-299. - Issuance of bonds.

- (a) The city may, from time to time, issue bonds, notes or other evidences of indebtedness (collectively referred to in this section as "bonds") to finance or refinance the costs of additions, extensions and improvements to the stormwater management system and to pay the costs of issuing such bonds. Such bonds shall be issued pursuant to an ordinance adopted by a majority plus one vote of the city council, which ordinance or supplements thereto shall set forth, among other things, the use and disposition of the proceeds of the bonds, the maturity date of the bonds and the interest rate thereon, or rate of accretion if applicable, the manner and method of payment, the rights and remedies of the holders thereof, the security for repayment and other covenants or conditions as the city council may deem proper. The provisions of the act and general law shall be the only limitations and restrictions regarding the issuance of bonds.
- (b) Unless otherwise provided by resolution, bonds issued to finance or refinance the cost of additions, extensions and improvements to the system shall be payable from and have a lien on the moneys on deposit in the stormwater management enterprise fund. If the city shall issue bonds for the purposes set forth in this division and secures the repayment thereof with moneys other than the moneys derived from the collection of the stormwater management assessments, the city may reimburse the fund from which such moneys were derived, from moneys on deposit in the stormwater management enterprise fund.

(Code 1982, § 15-86)

Sec. 74-300. - General financing and fee policy.

- (a) It shall be the policy of the city that funding for stormwater management be equitably derived through methods which have a relationship to the general demands imposed upon the city's stormwater systems and programs. Stormwater fees for stormwater management shall be fair and reasonable and bear a relationship to the cost of providing services and facilities to properties within the city. The cost of stormwater services and facilities may include administration, service to public facilities, regulatory compliance, program enforcement, operating and capital improvement expenses, and accrual of reserves for future needs. These costs may consider stormwater quality as well as quantity management requirements. Stormwater fees may be used in conjunction with the city's use of other stormwater management funding mechanisms, including but not limited to, plan review and inspection fees, special fees for services, system development charges, and special assessments to accomplish the city's overall objective of equitable funding.
- (b) City staff shall, as a priority, aggressively seek funding through grants, and shall reassess and reduce fees upon receipt of such grants.

(Code 1982, § 15-75)

Sec. 74-301. - Establishment of fee; types of charges; special assessment districts.

- (a) *Establishment of fee; types of charges.* The city council hereby establishes a stormwater management utility fee which shall be billed to properties in the city. The amount of the fee will be calculated

according to the provisions of this division and established in a resolution adopted by the city council. The stormwater management utility fee may include a service charge applied to properties, related generally to the amount and quality of runoff discharged to the public stormwater systems and stormwater receiving waters, an administrative charge for certain costs of service common to all stormwater management utility accounts, a public facilities charge to defray the costs associated with managing stormwater runoff from public facilities, and special charges to persons, entities or properties which require services over and above those commonly provided.

- (1) *Service charge.* The service charge shall be reflective of the cost of providing services and facilities to properly control stormwater runoff quantity and quality. The site-specific stormwater factors used to determine the service charge for individual properties include:
 - a. The size of each property;
 - b. Its intensity of development;
 - c. The type of land use;
 - d. The amount of stormwater treatment; and
 - e. The amount of service provided by the city.
 - (2) *Administrative and public facilities charges.* The administrative and public facilities charges are intended to recover those stormwater management costs of service which are not related to the size or intensity of development of individual properties, which may include, but are not limited to:
 - a. The cost of billing and accounting and administrative and overhead expenses; and
 - b. The cost of managing runoff from public facilities.
 - (3) *Special charges.* Special charges shall be structured to recover the cost of providing stormwater management services to certain persons, entities and properties, which are not commonly required by all stormwater service charge rate payers. Such services may include but are not limited to plan review and inspection, site inspections, water quality monitoring and mitigative activities, and actions to abate conditions on private properties which do not comply with adopted city standards or which interfere with proper stormwater management and have been designated by the director to constitute a public nuisance.
- (b) *Special assessment districts.* A special assessment district may be established by the city council to construct, replace, retrofit, implement, operate and maintain a stormwater conveyance and management system in a particular area, when it is deemed in the best interest of that district and the city to control and treat stormwater runoff, and all or a portion of the associated costs may be assessed to the benefiting property owners.

(Code 1982, § 15-76)

Sec. 74-302. - Calculation of service charge and individual stormwater fee.

- (a) The stormwater management service charge is determined through an algorithm that expresses the quantity and quality of stormwater runoff from an individual property in terms of a unitless factor. The unitless factor used as a baseline for all properties is the equivalent stormwater factor (ESF). The number of ESFs for each property is determined through an algorithm that incorporates the following site-specific factors:
 - (1) Impervious area;
 - (2) Pervious area;
 - (3) The type of land use;
 - (4) The level of stormwater treatment; and
 - (5) The amount of service provided by the city.

The algorithm determines the number of ESFs per property compared to an average single-family home with 3,000 square feet of impervious area and a total lot size of 11,000 square feet. The cost per ESF is based on the annual stormwater management budget divided by the total number of ESFs within the city. The service charge for each property is the number of ESFs for the property multiplied by the city-wide cost per ESF.

- (b) Properties will be billed on the basis of the ESF, and the method of calculating the ESFs for a property shall be as follows:

$$\text{ESF} = (\text{Runoff Factor}) * (\text{Land Use Factor}) * (\text{Treatment Factor}) * (\text{Service Factor})$$

Individual Property Service Charge =

$$\frac{\text{Number of ESFs for the individual property}}{\$/\text{ESF}}$$

Individual Stormwater Fee = Service Charge + Administration Charge + Public Facilities Charge + Special Charge (optional) + Special Assessment District Charge (optional)

(Code 1982, § 15-77)

Sec. 74-303. - Payment of fee; billing; delinquent accounts; lien for unpaid charges.

- (a) *Billing; order of credit of utility payments.* The stormwater management utility fee shall be billed and collected monthly on the city's enterprise fund bill, for properties subject to a stormwater fee. All such bills for stormwater management utility fees shall be rendered monthly by the city finance department and shall be due and payable on the date stated on the bill. Payments received by the city will be credited first to stormwater fees, second to solid waste and recycling charges, third to reclaimed water charges, fourth to sewer charges, and lastly to water charges.
- (b) *Delinquent accounts.* Stormwater management utility accounts shall be delinquent unless payment is received on or before the due date stated on the bill. Notice of any delinquency shall be mailed or delivered to the customer and a late charge equal to ten percent of the bill shall be imposed. Any payment which remains delinquent in excess of 30 days shall begin to accrue interest at the maximum rate allowed by law until paid.
- (c) *Lien for unpaid charges.* Any unpaid stormwater utility fees shall constitute a lien against the related real property, which shall be prior to all other liens except liens for state, county and municipal taxes. Any such lien may be foreclosed or otherwise collected in any manner provided by law. The customer shall be responsible for all attorney's fees and costs incurred by the city in the foreclosure or collection of the lien.
- (d) *Early payments.* Early payments of stormwater fees will not be credited with a discount.

(Code 1982, § 15-79)

Sec. 74-304. - Fee exemptions and credits.

Except as provided in this section, no public or private property shall be exempt from stormwater management utility service charges or receive a credit or offset against such service charges. No exemption or reduction in the stormwater service charge shall be granted based on the age, tax or economic status, race or religion of the property owner or any other condition which is unrelated to the cost of providing stormwater services and facilities. The following exemptions and credits shall be allowed:

- (1) Developed roadways which are available for use in common by the general public for motor vehicle transportation shall be exempted from ESF calculations and stormwater fees. These properties may include public road rights-of-way owned by the city, county, state or federal government, as well as private roads in subdivisions which are maintained by a homeowners'

association. This exemption shall not apply to internal roads, drives and parking lots within publicly and privately owned properties.

- (2) All waters of the state as defined by Florida Statutes shall be exempted from ESF calculations and stormwater fees.
- (3) All publicly owned lands used for offices, maintenance yards, storage facilities, park and recreation facilities, libraries, schools, colleges, universities and public housing shall be included in the city-wide ESF calculations; however, they shall receive a full credit for their stormwater fees. The cost for providing stormwater management services to these properties (based on ESFs) will be shared equally amongst private property owners within the city through the public facilities charge.
- (4) Privately owned and maintained stormwater treatment or storage systems which comply with subsection 74-297(a) may be entitled to a reduction in the stormwater fee, based upon plans of record, a report by the project engineer, and actual water quality treatment capacity as determined by the city engineer after individual review of the private system.

(Code 1982, § 15-80)

Sec. 74-305. - Appeal of fees.

Appeals of stormwater fees may be filed in writing with the director within 60 days of receiving an initial enterprise fund bill with the stormwater fee. The appeal must include a contact name and address, the property address, the subdivision name, a property sketch, the total amount of impervious area, the total lot or parcel size, and the location and size of any on-site or off-site stormwater treatment facilities. The director reserves the right to request a property survey prepared by a registered land surveyor or professional engineer if the information received is determined to be of insufficient quality to make an appropriate determination. Upon receipt of all necessary information, the director will perform a technical review of the appeal, and a written determination will be issued stating whether an adjustment to the property's stormwater fee is appropriate, and, if so, the amount of such adjustment.

(Code 1982, § 15-81)