CHAPTER 4. STORMWATER SERVICES

Sec. 6-4001. Findings.
Sec. 6-4002. Definitions.
Sec. 6-4003. Creation of stormwater management account.
Sec. 6-4004. Stormwater management service charges.
Sec. 6-4005. Credits applicable to stormwater management service charges.
Sec. 6-4006. Billing method, responsible parties.
Sec. 6-4007. Payment provisions; utility termination.
Sec. 6-4008. Appeal.
Sec. 6-4009. Limitation of responsibility.

Sec. 6-4001. FINDINGS.

(a) Stormwater poses a threat to the public health, safety, and welfare because if unmanaged it floods properties, erodes watercourses and channels, and pollutes streams and rivers.

(b) By mapping, planning, constructing, operating, cleaning, regulating and maintaining the natural and constructed*stormwater management system* , the *City* reduces the adverse effects of stormwater and improves the quality of groundwater, streams, rivers, and lakes in and around the *City* .

(c) Providing a stable source of funding for*stormwater services* , as hereafter defined, can best be accomplished through *stormwater management utility funds* . Such a utility will benefit *owners* and occupants of *developed land* in the *City* and other Raleigh citizens.

(d) The amount of*impervious surface* on a *property* is the single most important factor affecting the peak rate of runoff, the total volume discharged, and pollutant loadings of stormwater that flows from *property* .

State law reference: Authority to adopt a stormwater management utility, Chapter 160A, Article 16.

(Ord. No. 2003-537, §3, 11-5-03)

Sec. 6-4002. DEFINITIONS.

All definitions as used in this chapter, unless the context clearly indicates otherwise,*shall* have the meaning given herein:

Customer or ***consumer*** means the *person* or entity to which a bill for stormwater service charges is sent.

Developed land means *real property* that contains *impervious surfaces* , and includes improved land without structures and land on which improvements are under construction.

Dwelling unit means one (1) or more rooms physically arranged to create an housekeeping establishment with separate facilities for cooking, sleeping and toilet for occupancy by one (1) or more *persons.*

Impervious surface means any surface which because of its material composition or compacted nature impedes or prevents natural infiltration of stormwater into the soil. *Impervious surfaces* include, but are not limited to, roofs, roof extensions, patios, balconies, decks, including wooden slatted decks, athletic courts, swimming pools, excluding the water area of swimming pools, *streets* , parking areas, driveways, sidewalks, and any concrete, stone, brick, asphalt, or compacted gravel surfaces. Ungraveled natural footpaths, water surfaces of lakes streams and swimming pools and drain fields are not *impervious surfaces* .

Other residential and nonresidential developed land means any individual lot or parcel of *developed land* that is not *single-family developed land* . It includes, but is not limited to, land upon which there are residential structures that contain more than one (1) *dwelling unit* , such as multi-family dwellings (duplexes and greater), manufactured home

park, as defined in Part 10, §10-2002, condominiums, apartments, boarding houses, rooming houses, fraternity houses, sorority houses, dormitories, churches; institutional buildings, whether public or private; hospitals, rest homes, public and private schools, colleges, and universities, commercial, office, hotels and motels, and industrial buildings, storage areas, parking lots and land containing improvements under construction or *impervious surfaces* .

Property owner or ***owner*** means the *owner* of a *real property* as shown on the Wake County tax records.

Single-family equivalent unit (SFEU) is the median of *impervious surface* on a single-family (detached home) *developed land* in the *City* as established by *City Council* resolution.

Single-family developed land means an individual lot or parcel of land developed with only one (1) single-family (attached [townhome] or detached) *dwelling unit* , one (1) manufactured home, or one (1) mobile home, and the ownership interest of the land and of the *dwelling unit* are united and identical. *Single-family developed land* *shall* not include structures used primarily for nonresidential purposes or other residential and nonresidential developed *property* .

Stormwater management service charge is the charge to provide *stormwater services* to developed *property* . The charge is based upon the *single-family equivalent unit (SFEU)* as calculated for that *property* .

Stormwater management system or ***system*** means the system of natural and constructed devices for collecting and transporting stormwater. It includes, but is not limited to, structural drainage systems such as open swales and ditches, catch basins, pipes, inlets, storm sewers, drains, culverts, junction boxes, and other stormwater management facilities that affect the quality and quantity of stormwater located within dedicated public *street* rights-of-way and City of Raleigh permanent drainage easements accepted by the *City* and all natural stormwater drainage systems.

Stormwater management utility funds mean the *stormwater management service charges* and the interest generated by those charges.

Stormwater services means *City* stormwater management programs designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater and *City* service of structural and natural stormwater and drainage systems of all types. *Stormwater services* include any cost necessary to assure that all aspects of stormwater quality and quantity are managed in accordance with federal and State laws, regulations and rules, and costs related to the mapping, planning, construction, operation, maintenance, inspection, management and regulation of the *stormwater management system* and the regulation of *impervious surface* and stormwater.

(Ord. No. 2003-537, §3, 11-5-03; Ord. No. 2004-571-TC-243, §§1, 2, 2-17-04)

Sec. 6-4003. CREATION OF STORMWATER MANAGEMENT ACCOUNT.

All*stormwater management service charges* and interest generated by such charges, the *stormwater management utility funds* , *shall* be placed in a separate *City* account and *shall* be used by the City of Raleigh solely for the operational costs, maintenance costs, and management costs, indirect costs, capital improvements, debt principal and debt service, and establishment of a reserve fund for *stormwater services* . The *City* *may* use funds that are not *stormwater management utility funds* to provide *stormwater services.*

(Ord. No. 2003-537, §3, 11-5-03)

Sec. 6-4004. STORMWATER MANAGEMENT SERVICE CHARGES.

(a) All*developed land* in the *City* , whether public or private, *shall* be subject to a *stormwater management service charge* . Exemptions *shall* not be allowed based on age, tax exemption, or other status of an individual or organization. *Stormwater management service charges may* be subject to a credit system as further provided herein

(b) *Stormwater management service charges* on *developed land shall* be based on a schedule of rates, charges, tiers, and late fees fixed and established from time to time by the *City Council* and maintained on file in the offices of the Finance Director and Chief Engineer. *Stormwater management service charges* will be determined and modified from time to time by the *City Council* , so that the total revenues generated by said charges will be used to pay the principal and the interest on the debt incurred for stormwater purposes, and such expenses as are reasonably necessary for providing *stormwater services* within the City of Raleigh.

Cross reference: The amount of*impervious surface* area for *single-family equivalent units* , the base rate, the tier structure for *single-family developed land* and late charges are set forth in Resolution No. (2003)-888.

(c) Computation of*stormwater management service charges.*

For*Other residential and nonresidential land* , the monthly *stormwater management service charges* on *developed land* is calculated by dividing the total *impervious surface* area of the *property* divided by one (1) *single-family equivalent unit* , rounded to the nearest tenth, multiplied by the established monthly *single-family equivalent unit* rate as fixed by *City Council* Resolution.

For developments with common*property* containing *impervious surfaces,* such as townhouse developments, cluster unit developments, or condominiums, each *dwelling unit shall* be responsible for its equal pro rata share of the total *impervious surfaces* area of the common areas of the development not served by *City* of Raleigh water or sewer or both unless other arrangements are made pursuant to §6-4006(e).

(d) The*following* exemptions from *stormwater management service charges* are allowed:

(1) Undeveloped land.

(2) Improved public*streets* , not including internal roads within public facilities which have been conveyed to the North Carolina Department of Transportation or City of Raleigh and which are used by the general public for motor vehicle transportation, and private *streets* constructed in accordance with the Raleigh City Code and City of Raleigh Streets Sidewalks and Driveway Access Handbook.

(3) Railroad tracks. However, railroad stations, maintenance buildings or other*developed land shall* not be exempted from *stormwater management service charges* .

(4) *Developed land* with less than four hundred (400) square feet of *impervious surface* area.

(5) Portions of*developed land* that directly drain outside the *City* limits.

No exemption authorized under subsections (4) and (5)*shall* be made until a *written* request to the Chief Engineer of the *City* documenting the application of the exemption is approved. The Chief Engineer *may* approve or reject the request in whole or in part.

(Ord. No. 2003-537, §3, 11-5-03; Ord. No. 2004-571-TC-243, §§3, 4, 2-17-04)

Sec. 6-4005. CREDITS APPLICABLE TO STORMWATER MANAGEMENT SERVICE CHARGES.

(a) The*City* *may* provide a system of credits to reduce *stormwater management service charges* for properties on which stormwater control measures substantially mitigates the peak discharge or runoff pollution flowing from such properties or substantially decreases the *City's* cost of maintaining the *stormwater management system* . The Central Engineering Department will develop *written* policies to implement the credit system. 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 City Clerk. The *City's* policies *may* make credits retroactive to the date *stormwater management service charges* were initiated. Any bill charges requiring adjustments must be applied through the utility billing system. But no credit will be granted for more than three (3) past *years* . Nothing *shall* prevent the *City Council* from modifying the adopted system of credits, and such modifications *may* apply to holders of existing credits.

(b) Each credit allowed against the*stormwater management service charge* is conditioned on the continuing operation and functioning of the stormwater control measure as designed; credited stormwater control measures must comply with all applicable laws, ordinances and regulations, and credits *may* be rescinded for noncompliance with these standards.

(c) Each credit for which a*customer* applies *shall* be subject to review and approval by the Chief Engineer or his designee. The Chief Engineer *may* approve or reject any application for a credit in whole or in part.

(d) Credits*shall* only be applied to *developed lands* containing the credited stormwater control measure. For developments with common *property* containing credited stormwater control measures such as townhouse developments, cluster unit developments, or condominiums, each *dwelling unit shall* be eligible for its equal pro rata share of the credit unless other arrangements for billing the *stormwater management service charge* are made pursuant to §6-4006(e).

(Ord. No. 2003-537, §3, 11-5-03)

Sec. 6-4006. BILLING METHOD, RESPONSIBLE PARTIES.

(a) Bills for*stormwater service shall* be sent at regular periodic intervals. *Stormwater management service charges may* be billed on a combined utility bill that also contains charges for sewer service or combined sewer and water service and/or solid/waste management service. *Stormwater management service charges* that are shown on a combined utility bill *may* be for a different service period than that *used for* sewer service or combined sewer and water service.

(b) *Stormwater management service charges* for a *property* that receives sewer service or combined sewer and water service will be sent to the *customer* receiving such service. However, where multiple water and sewer accounts exist for a single parcel, the bill for *stormwater management service charges may* for good cause shown at the discretion of the *City* be sent to the *property owner* . Additional policies concerning billing will be developed by the *City* .

(c) The*property owner* is ultimately responsible for payment of the *stormwater management service charge* for *property* for which the party billed has not paid the stormwater management service charge.

(d) *Owners* of *property may,* with the consent of the *City* , designate each occupant of the *property* as the party to receive the bill for *stormwater management service charge* by completing and properly executing a form provided by the *City* . Such designation *shall* fairly allocate the *impervious surfaces* actually used by the billed party, and it *shall* be binding for the period of time specified by the *City* . No occupant *may* be designated as the party to receive the bill for *stormwater management service charge* unless the occupant is also receiving a *City sewer service or combined sewer and water service* bill. Such transfer does not relieve either the *owner* or occupant from liability for *stormwater management service charges* if they are not paid by the party billed.

(e) The residents of townhouse, cluster unit, and condominium developments and other similar properties containing*impervious surface* in common areas *may* in accordance with this subsection charge the total *impervious surface* of all commonly-owned or common areas to the homeowners association. The bill for *stormwater management service charge*

will be sent to the homeowners' association upon official request of a majority of all lot or unit *owners* of the association; provided that (1) the current adopted budget of the association includes this additional charge to the homeowners association, (2) the association is receiving a *City* sewer service bill or combined sewer and water service bill and (3) a payment bond in the amount of six (6) *months* estimated bill in favor of the *City* . *Stormwater management service charges* applied to all individually-owned *property* within the development *may* likewise be billed to the homeowners association. Any request for homeowner association billing must contain all information required by the *City* and *shall* be binding for the period of time specified by the *City* .
(Ord. No. 2003-537, §3, 11-5-03)

Sec. 6-4007. PAYMENT PROVISIONS; UTILITY TERMINATION.

(a) Where*stormwater management service charges* appear on a combined utility bill or a master summary bill, and a *customer* does not pay the service charges for all the utilities on the bill, the partial payment will be applied to the respective service charges in the *following* order: delinquent *stormwater management service charges* , delinquent recycling and/or solid waste management service charges, delinquent sewer service or combined sewer and water charges, current stormwater charges, current recycling and/or solid waste management service charges and current sewer service or combined sewer and water charges.
(b) *Stormwater management service charges* are due at the collection office in *City* hall within the time period stated on the bill. Bills not paid within this time *shall* be charged a late fee as set forth in the *City Council* adopted schedule of charges.
(c) Where a*property* receives sewer service or combined sewer and water service, if *stormwater management service charges* for that *property* are not paid, sewer service or combined sewer and water service to that *property* *may* be terminated, whether or not the *stormwater management service charges* were included on a combined utility bill. Termination will be handled in accordance with standard operation provisions of the *City* . At least twenty-one (21) days prior to termination of service, the *City* will post a sign or signs either upon the subject *property* or at convenient locations as it deems appropriate. Such posting *shall* advise that *City* sewer service or combined sewer and water service *may* be terminated and direct further inquiry to a listed telephone number. All postings are for the convenience of the public and any defective posting *shall* not invalidate the termination of *City* utility services.
(d) No*property* for which *stormwater management service charges* are outstanding is entitled to receive sewer service or combined sewer and water service until the outstanding *stormwater management service charge* on that *property* is paid. No *customer* with a delinquent stormwater management service account is entitled to open a sewer service or a combined sewer and water account at the same or different location until the delinquency has been satisfied.
(e) If*property* is underbilled, or not billed, or a bill is sent to the wrong party, the *City* *may* backbill up to a three- *year* period.
(f) *Customers* with complaints about the accuracy of *stormwater management service charges* are entitled to a review as provided in section 6-4008. No charge will be retroactively adjusted to resolve *customer* complaints for a period of more than three- *year* prior to the date the *City* received the complaint. Any bill charges requiring adjustment must be applied through the utility billing system.
(Ord. No. 2003-537, §3, 11-5-03)

Sec. 6-4008. APPEAL.

Any*customer* who believes the provisions of this chapter have been applied in error *may* appeal in the *following* manner:

(1) An appeal must be filed*in writing* with the Chief Engineer. At the discretion of the Chief Engineer, the appeal *may* be required to include a survey prepared by a registered land surveyor and such other information that show the total *property* area, the *impervious surface* area, and any other features or conditions which influence the hydrologic response of the *property* to the stormwater events.

(2) Using the information provided, the Chief Engineer*shall* conduct a technical review pursuant to good engineering practices. The Chief Engineer *may* adjust the *stormwater service management charge* so long as the adjustment is in conformance with the general purpose and intent of this chapter. At the conclusion of the review, the Chief Engineer *shall* issue a *written* determination stating whether an adjustment to the *stormwater service management charge* is appropriate, and if so, the percentage of such adjustment. Any approved adjustments must be communicated *in writing* to the appropriate utility billing staff.

(3) An appeal*may* be taken from any decision of the Chief Engineer which is adverse to the *customer* by giving notice of appeal to the City Manager within thirty (30) days after service of the Chief Engineer's *written* decision on the *customer* . Notice of appeal *shall* be given by the *customer* by delivery of a *written* statement to the City Manager stating the grounds for the appeal and providing the City Manager with a copy of the *written* decision of the Chief Engineer. The Chief Engineer *shall* transmit to the City Manager and the *customer* all documents constituting the record upon which the Chief Engineer's decision was made.

(4) All decisions of the Chief Engineer and City Manager*shall* be served on the *customer* personally or by registered or certified mail. Mailing *shall* be based upon the billing address of the *customer* .

(5) Following the decision of the City Manager, the*customer* *may* make an appeal to the *City Council.* The *City Council* *shall* fix a reasonable time for the hearing of an appeal, *shall* give due notice of such hearing to the *customer* and the manager, and *shall* render its decision within a reasonable time.

(6) When an appeal is from a decision authorizing an adjustment to the*customer's* bill, the Chief Engineer's decision *shall* remain in effect until and unless reversed or otherwise modified.

No adjustment to a*customer's* bill *shall* be made which is for more than the three-year period immediately *preceding* the date that the *customer's* request is first received by the *City.*

(Ord. No. 2003-537, §3, 11-5-03)

Sec. 6-4009. LIMITATIONS OF RESPONSIBILITY.

(a) The*City shall* be responsible only for the portions of the drainage system which are in *City* maintained *street* rights-of-way and permanent storm drainage easements conveyed to and accepted by the *City.* Repairs and improvements to the drainage system *shall* be in accordance with established standards, policies, and schedules.

(b) The*City's* acquisition of permanent storm drainage easements and/or the construction or repair by the *City* of stormwater control measures and drainage facilities does not constitute a warranty against stormwater hazards, including, but not limited to, flooding, erosion, or standing water.

(Ord. No. 2003-537, §3, 11-5-03)