

<http://www.newport-news.va.us/stormwater/chapter37.htm>

***37.1-1. General.***

- a. The City of Newport News has developed and continues to maintain an infrastructure of manmade and natural components of a stormwater management system to both limit and manage the volume of stormwater runoff to control flood events and, through stormwater pollution control measures, to prevent degradation of the city's waterways. Adequate revenues shall be generated to provide for balanced operating and capital improvement budgets for the stormwater management system by setting sufficient levels of the service charge.(Ord. No. 4482-93, § 1)

***Sec. 37.1-2. Program administration.***

The Newport News stormwater management program shall be administered by the department) of engineering.  
(Ord. No. 4482-93, § 1)

***Secs. 37.1--3-37.1-9. Reserved.***

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## **ARTICLE II. SERVICE CHARGE**

***Sec. 37.1-10. Findings and determinations.***

- a. Stormwater runoff is associated with all real estate in the city, whether residential or nonresidential, and the quantity and quality of runoff is correlated to the amount of impervious surface and land-disturbing activities on each parcel.
- b. The elements of the stormwater management system provide benefit and service to all land within the city through direct protection of property, control of flooding of critical components of the infrastructure, and enhancement of water quality and the city's natural environment.
- c. The costs of monitoring, operating, maintaining and constructing the system required in the city, both to meet stormwater pollution control regulations and to address and resolve erosion and flooding needs, should therefore be allocated to the extent practicable to all property owners based on their contribution to stormwater runoff.  
(Ord. No. 4482-93, § 1)

***Sec. 37.1-11. Definitions.***

- a. The following words and terms used in this chapter shall have the following meanings:

1. **Developed multifamily residential property** shall mean any property used primarily for residential living purposes and containing dwelling units that are stacked vertically or one on top of another, and are two (2) or three (3) dwelling units in height.
2. **Developed other property** shall mean developed property that does not serve a primary purpose of providing permanent dwelling units or contain structures that are greater than three (3) stories in height.
3. **Developed property** shall mean a parcel of real property that has been altered in whole or in part from its natural state by the addition of improvements, such as buildings, structures, paving and/or other impervious surfaces.
4. **Developed residential property** shall mean any property used primarily for residential living purposes that does not have a separate dwelling unit located vertically or stacked above the single dwelling unit's footprint.
5. **Director** shall mean the director of the department of engineering or his designee.
6. **Dwelling unit** shall mean a single housing unit, mobile home, townhouse, condominium or apartment providing complete, independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking and sanitation.
7. **Equivalent residential unit (ERU)** shall mean the equivalent impervious area of the developed residential property class per dwelling unit located within the city based on the statistical average horizontal impervious area of developed residential property in the city. One ERU shall equal one thousand seven hundred seventy-seven (1777) square feet of impervious surface area.
8. **ERU rate** shall mean the service charge fee charged for one ERU as established in this article.
9. **Impervious surface area** shall mean a surface that is covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, parking lots and other similar structures.
10. **Service charge** shall mean the user fee based upon the ERU rate applied to property owners of developed residential property, developed multifamily residential property and developed other property.
11. **Stormwater management revenues or revenues** shall mean all rates, service charges, fees, assessments, rentals, other charges or other income received in connection with the management and operation of the system, including amounts received from the investment or deposit of money in any fund or account and any amounts contributed by the city council from general revenues of the city.
12. **Stormwater management system or system** shall mean the stormwater management infrastructure and equipment of the city and all improvements thereto. Infrastructure and equipment shall include structural and natural stormwater control facilities of all types including, without limitation, retention and detention basins, conduits, pumping stations, and other plants, structures, and real and personal property used for support of the system.
13. **Undeveloped property** shall mean any parcel that has not been altered from its natural state in such a manner that the topography or soils on the property have been disturbed or altered to the extent that the rate of surface infiltration of stormwater has been affected.(Ord. No. 4482-93, § 1; Ord. No. 4683-95)

***Sec. 37.1-12. Establishment of service charge and expenditures of revenue.***

- a. There is hereby established a service charge pursuant to the statutory authority granted to localities in sections 15.1-292.4 and 15.1-839 of the Code of Virginia and Section 2.01 of the Charter to provide for the general health, welfare and safety of the city and its residents.
- b. The revenues collected pursuant to this article shall be deposited in a separate ledger account. The funds deposited shall be used exclusively to provide services and facilities related to the system. Services and facilities related to the system shall include, but not be limited to, the following:
  1. Acquisition of real or personal property and interests therein necessary to construct, operate and maintain the system;

2. The cost of administering such programs, to include the establishment of reasonable operating and capital reserves to meet unanticipated or emergency requirements of the system and all associated legal and collection costs;
3. Engineering, design, inspection, debt retirement, and construction costs for new facilities and enlargement or improvement of existing facilities;
4. Facility and equipment maintenance;
5. Monitoring of the quantity and quality of stormwater and associated control devices; and
6. Pollution control and abatement activities consistent with city, state and federal regulations for stormwater pollution control and abatement.(Ord. No. 4482-93, § 1)

***Sec. 37.1-13. Imposition of service charge.***

- a. For the fiscal year beginning on July 1, 1993 and ending on June 30, 1994 and for each and every fiscal year thereafter there shall be and hereby is levied an annual stormwater management service charge on all developed property in the City of Newport News.
- b. For the purposes of determining the service charge, all properties in the city are classified into one or more of the following classes:
  1. Developed residential property;
  2. Developed multifamily residential property;
  3. Developed other property; or
  4. Undeveloped property.
- c. The service charge for developed residential property shall equal the ERU rate multiplied by the number of dwelling units.
- d. The service charge for developed multifamily residential property shall be 0.42 multiplied by the ERU rate per dwelling unit or residence.
- e. The service charge for developed other property shall be the ERU rate multiplied by the numerical factor obtained by dividing the total impervious surface area square footage of the property by the square footage contained in one ERU. The numerical factor will then be rounded up to the nearest tenth (0.1) of a unit. The minimum service charge for any developed other property shall equal the ERU rate.
- f. The service charge for vacant developed property shall be calculated in the same manner as for occupied property of the same class.
- g. Undeveloped property shall not be subject to the service charge.
- h. Stormwater management service charges levied annually under the provisions of this article shall be effective on the first day of July in the year for which the same is made.(Ord. No. 4482-93, § 1; Ord. No. 4683-95)

***Sec. 37.1-14. Service charge, billing, payment, interest, fee and lien.***

- a. The levied service charge shall be billed, due and payable in two equal installments. The first installment shall be due on or before the fifth (5th) day of December and the second installment shall be due on or before the fifth (5th) day of June. Any parcel or dwelling unit owner who has remitted payment of the service charges and believes that it is incorrect may submit an adjustment request as provided for in this article.
- b. The service charge is to be paid by the owner of each parcel or dwelling unit that is subject to the charge. The owner of each parcel or dwelling unit in the city, except undeveloped property, shall be mailed a statement for the stormwater service charges. The statements shall include a date by which payment shall be due. All statements shall be mailed at least thirty (30) days prior to the payment due date stated thereon. Payments received after the due date of the bill shall be subject to interest as established in this article.
- c. The service charge due the city from property owners for stormwater management shall be based on the ERU rate of twenty-seven dollars and sixty cents (\$27.60) per ERU per year. When applicable, the service charge shall be prorated at two dollars and thirty cents (\$2.30) per ERU per month.

- d. Any bill which has not been paid by the due date shall be deemed delinquent. Unpaid service charges and accrued interest shall constitute a lien against the property, ranking on a parity with liens for unpaid taxes. All charges and interest due may be recovered by action at law and/or suit in equity. For delinquent charges, interest thereon shall commence on the first day of the month following the due date and shall accrue at the rate of ten (10) percent per annum until such time as the delinquent charges and accrued interest are paid.
- e. When previously undeveloped properties are brought into the system or in the event of alterations or additions to developed multifamily property or developed other property that alter the amount of impervious surface and/or the number of dwelling units, a service charge will accrue as determined by the director:
  - 1. Upon substantial completion of the improvements; or
  - 2. In the event completion of the improvements is not diligently pursued, upon establishment of the impervious area or dwelling units that affect stormwater runoff. A statement will be issued and said charges will be prorated for the number months for which the parcel is subject to the service charge.(Ord. No. 4482-93, § 1; Ord. No. 4683-95)

***Sec. 37.1-15. Administration, waiver and adjustment of service charge.***

- a. The property owner may make application in writing to the director for an adjustment to or waiver of the stormwater management service charge. The property owner shall substantiate the claim to the satisfaction of the director with plans, engineering calculations and related documents prepared by a licensed professional engineer or land surveyor. The director may waive the licensed professional requirement if in his opinion the specific adjustment request does not warrant such a requirement.
  - 1. Effective July 1, 1993, new construction service charge adjustment applications for new construction shall be made in conjunction with the relevant site plan or development plan submittal or a request for waiver of normal site plan processing requirements. Action on such applications shall be within the response times specified for such submittals and requests. Approved adjustments shall be effective from the date of approval and will be prorated from the first day of the month in which the adjustment is approved.
  - 2. Developed parcels:
    - a. Effective July 1, 1993, any owner of an existing developed parcel or dwelling as of July 1, 1993, who has paid his service charge and who believes such charge to be incorrect shall have until June 30, 1994 to make application for a service charge adjustment or waiver. The city will act on complete requests within sixty (60) calendar days from the completed application date. All approved adjustments received by the director on or before June 30, 1994 shall be effective as of July 1, 1993.
    - b. Effective July 1, 1994, any owner of a developed parcel or dwelling unit who has paid his service charge and who believes such charge to be incorrect may make application for adjustment of the charge to the director, provided that such application must be provided to the director not later than forty-five (45) calendar days following the date of the first bi-annual statement. Response to such requests shall be made by the director within thirty (30) calendar days of receipt of a complete request. All approved adjustments received on or after July 1, 1994 shall be effective as of the date the completed request was received by the director, shall be credited to future bills and shall be prorated for a full month.
- b. Any owner may appeal the director's decision to the city manager but must do so in writing within fifteen (15) calendar days of the date of the director's response. The city manager shall respond to the appeal within fifteen (15) calendar days and such response shall be final.
- c. The director may extend such city response times as appropriate to ensure full and complete evaluation of the application. In these cases, the director shall notify the applicant of the action by certified mail.

- d. Full waiver of the service charge shall be provided upon approval of a request for waiver for properties owned by federal, state and local government agencies when the agency owns and provides for maintenance of storm drainage and stormwater control facilities or is a unit of the city.
- e. Adjustments:
  1. The city recognizes that on-site stormwater control facilities and increased green area reduce peak stormwater runoff rates and the transport of pollutants. The city's stormwater management system is constructed and maintained for the benefit of everyone in the city. Each land owner in the city has an obligation to pay an equitable share of the stormwater management program costs. The service charge adjustments established in this section account for the efforts of individuals who own, maintain and operate stormwater control facilities. The total maximum additive service charge adjustment shall be twenty-five (25) percent of the service charge for items contained in (eX2) and (e)(3).
  2. a. In order to be eligible and maintain eligibility for the following service charge adjustments, all of the following conditions shall be met:
    - a. Applicant required to apply for and demonstrate to the satisfaction of the director that an adjustment is warranted;
    - b. Service charge after adjustment shall be greater than one ERU;
    - c. Control facility shall be privately constructed, owned, operated and maintained;
    - d. Control facility shall be covered under an on-going maintenance program approved by the director;
    - e. Control facility shall be a permanent, on-site facility;
    - f. Control facility shall operate at design efficiency;
    - g. Service charge adjustment eligibility shall be certified by the owner and approved by the director every two (2) years; and
    - h. Control facility shall be designed to meet or exceed the minimum criteria as established and maintained in writing by the director.
  3. Parcels utilizing stormwater control facilities that control the peak rate of discharge from a site in accordance with the following shall receive the service charge adjustment stated for the area controlled:
    - 75-100 percent reduction in post development peak runoff rate-15 percent service charge adjustment;
    - 50-74 percent reduction in post development peak runoff rate-10 percent service charge adjustment; and
    - 30-49 percent reduction in post development peak runoff rate-5 percent service charge adjustment.
  - a. Parcels utilizing stormwater control facilities that provide structural stormwater pollution controls which serve at least eighty (80) percent of the developed portion of the site shall receive a service charge adjustment according to the following:
    - Wet retention basin(s) - 15 percent;
    - Extended dry detention-10 percent; and
    - Infiltration facilities-5 percent.
1. In order to be eligible for the following service charge credits, all of the indicated conditions shall be met:
  - Applicant shall apply for and demonstrate to the satisfaction of the director that an adjustment is warranted; and
  - Service charge after adjustment shall be greater than one ERU.

- a. Parcels providing green area (percentage shall be based upon the ratio of green area to developed area) shall receive the service charge adjustment specified as follows:
  - Greater than ten (10) percent and up to and including twenty (20) percent green area-5 percent; and
  - Greater than twenty (20) percent of green area-10 percent.
- a. Parcels that are encumbered by a recorded public easement used exclusively for drainage purposes, the undeveloped area of which exceeds fifteen (15) of the parcel area with no portion of the encumbrance area being used to meet green area requirements or receive any other service charge adjustment, shall receive a one percent service charge adjustment, not to exceed ten (10) percent of the service charge, for each one percent of the easement area that exceeds fifteen (15) percent of the parcel area.
  1. Service charge adjustments shall be given to parcels that meet the conditions established in (e)(2)a. and for which a reduction in the city stormwater management program costs can be documented to the satisfaction of the director. This is a stand alone adjustment that will be considered separate and not added to any other service charge adjustment. Any such credit shall be awarded on the basis of a "betterment" test and the reduction in the city's stormwater management program costs. The total maximum credit for this adjustment shall be seventy (70) percent of the service charge.
  2. A one hundred (100) percent service charge adjustment shall be granted upon approval of a request for those portions of parcels that are subject to and in compliance with the requirements of an individual federal or state industrial stormwater discharge permit, drain into a privately owned, operated and maintained storm drainage systems, and discharge directly into waters of the United States.(Ord. No. 4482-93, § 1)

*Secs. 37.1-16-37.1-19. Reserved.*

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## **ARTICLE IV. STORMWATER CONTROL REGULATIONS**

*Sec. 37.1-32. Definitions.*

***Impervious surface*** means a hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Impervious areas include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of stormwater. Natural waterbodies and open, uncovered retention/detention facilities shall not be considered as impervious surfaces.

***Infiltration facility*** means a stormwater management facility which temporarily stores stormwater and discharges it via infiltration through the surrounding soil.

*Sec. 37.1-35. Technical criteria.*

- a. A stormwater management plan for a land development project shall be developed so that from the site, the post-development peak runoff rates from a two-year storm and a 10-year storm, considered individually, shall not exceed their respective pre-development rates.

*Sec. 37.1-51. Performance standards.*

- a. Land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the use or development permitted.
  - 1. Pervious surfaces, such as grid and modular pavements, shall be considered for any required parking area, alley, or other low traffic driveway and approved by the director of engineering.
  - 2. Parking requirements shall be otherwise governed by the Zoning Ordinance.