

FIRST READING

9-29-09

SECOND READING

10-6-09

INDEX NO.

ORDINANCE NO. 12294

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 31, ARTICLE VIII, SECTIONS 31-302, 31-352, 31-354, 31-356, AND 31-357, TO ADD DEFINITIONS, REVISE THE WATER QUALITY FEE (FORMERLY KNOWN AS STORM WATER USER'S FEE) RATE STRUCTURE, AND PROVIDE A SCHEDULE OF CHARGES FOR THE FUNDING OF THE OPERATION, MAINTENANCE, AND IMPROVEMENT OF THE STORM WATER SYSTEM WITHIN THE CITY LIMITS.

WHEREAS, the 1972 U.S. Federal Water Pollution Control Act, amended by the Water Quality Act of 1987 and the Tennessee Department of Environment and Conservation, regulates the City's operation of its storm water system, by which the City is required to obtain an NPDES Phase I permit for this system and will be required to implement programs to improve the quality of storm water; and

WHEREAS, the City currently owns and operates a storm water system for the collection and disposal of storm and other surface waters and for flood control; and,

WHEREAS, T.C.A. § 68-221-1107 authorizes municipalities to establish a graduated storm water user's fee; and,

WHEREAS, the City is conducting a water quality utility program level of service analysis, cost of service analysis, rate study analysis and cash flow analysis, identifying and analyzing water quality and water quantity problems and needs, and financing and management options, which is hereby incorporated by reference; and,

WHEREAS, the City Council finds that the repair, replacement, improvement and regulation of the storm water system is necessary to prevent further deterioration of the existing system, prevent or reduce water pollution and to prevent or reduce drainage and flood; and

WHEREAS, it is the intent of the City that the costs of the operation, maintenance, and improvements of the storm water system be borne by the users of the system in relation to their individual contributions of water quality to the system; and

WHEREAS, the “water quality fee” (formerly referred to as the “storm water user’s fee”) should be fair, equitable, revenue sufficient, and reflect the relative contribution of surface water runoff from a property, benefits enjoyed, and services received by each property as a result of the collection of surface water, and should consider the impervious area of the various properties within the City, because the extent of surface water runoff from a particular lot or parcel is largely a function of its impervious area;

WHEREAS, the City is responsible for the protection and preservation of the public health, safety, and welfare of the community, and the environment and finds that it is in the best interest of the health, safety, and welfare of the citizens of the city and the community at large and the environment to proceed with the revision of a water quality utility program; and,

WHEREAS, it is necessary and desirable and in the best interests of the City, its citizens, and the users of the City storm water system to revise the mechanism for the financing of storm water and water quality facilities, systems, and services provided by the City through the water quality fee, which shall be imposed and collected as provided in this ordinance; and,

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE:

SECTION 1. That Chattanooga City Code, Part II, Chapter 31, Article VIII, be and is hereby amended by deleting the terms “storm water user’s fee,” “storm water fee,” “storm water fees,” “storm water charge,” and “storm water charges” throughout the article and replacing same with the term “water quality fee.”

SECTION 2. That Chattanooga City Code, Part II, Chapter 31, Article VIII, Section 31-

302, be and is hereby amended by adding the following definitions in alphabetical order:

"Abatement" means any action taken to remedy, correct, or eliminate a condition within, associated with, or impacting a drainage system.

"Adjustment" means a modification in a non-residential customer's water quality service fee for certain activities that impact water quality runoff or impacts the City's costs of providing water quality management.

"Apartment Property" is defined as a lot or parcel of real estate on which is situated a building containing 3 or greater single-family dwelling units.

"Approved plans" shall mean plans approved according to a permits and plan review which will govern all improvements made within the City that require storm water/water quality facilities or changes or alterations to existing storm water/water quality facilities.

"Code" means the Chattanooga Municipal Code.

"Condominium Property" is defined as a lot or a parcel of real estate in which individuals own their units and share joint ownership in common elements with other unit owners. Water Quality fees are assessed according to the following:

- Condominium dwelling units with separate/individual parcels are treated as "Residential" properties;
- Condominium dwelling units without separate/individual parcels, which are part of another parcel or share the same parcel with other units, are treated as "Non-Residential" properties.

"Detention" is described as the temporary storage of storm water runoff in a basin, pond, or other structure to control the peak discharge rate by holding the storm water for a lengthened period of time.

"Detention facility" means an area designed to store excess storm water.

"Equivalent Residential Unit (ERU)" is a value, equal to 3,200 square feet of measured impervious area and is equal to the average amount of impervious area of residential properties within the City of Chattanooga.

"Facilities" means various storm water and drainage works that may include inlets, pipes, pumping stations, conduits, manholes, energy dissipation structures, channels, outlets, retention/detention basins, and other structural components.

"Infiltration" is defined as a complex process of allowing runoff to penetrate the ground surface and flow through the upper soil surface.

"Mobile Home Property" is defined as a lot or a parcel of real estate in which individuals own their units and share joint ownership in common elements with other unit owners. Water Quality fees are assessed according to the following:

- Mobile Home dwelling units with separate/individual parcels are treated as "Residential" properties;
- Mobile Home dwelling units without separate/individual parcels, which are part of another parcel or share the same parcel with other units, are treated as "Non-Residential" properties.

"Non-residential properties" means all properties not encompassed by the definition of "Residential Property." Non-residential properties include:

- apartment properties;
- condominium dwelling units without separate/individual parcels;
- mobile home parks with rented spaces (parcel not owned);
- commercial property;
- industrial property;
- institutional property;
- governmental property;
- churches;
- schools;
- federal, state, and local properties; and
- any other property not mentioned in this or the list of residential properties below.

"Residential Property" means all single-family, condominium dwelling units with separate/individual parcels, mobile home units with separate/individual parcels and separate City tax billing accounts, two-family duplex properties and all agricultural parcels within the City of Chattanooga.

"Retention" is defined as the holding of storm water runoff in a constructed basin or pond or in a natural body of water without release except by means of evaporation, infiltration, or emergency bypass.

"Retention facility" means a facility, which provides storage of storm water runoff and is, designed to eliminate subsequent surface discharges.

"Square footage of impervious area" means, for the purpose of assigning an appropriate number of ERUs to a parcel of real property, the square footage of all impervious area using the outside boundary dimensions of the impervious area to include the total enclosed square footage, without regard for topographic features of the enclosed surface.

"Storm sewer" means a sewer, piping or natural structure, which carries storm water, surface runoff, street wash waters, and drainage, but which excludes sanitary sewage and industrial wastes, other than unpolluted cooling water.

"Storm water system" means all man-made facilities, structures, and natural watercourses owned by the City of Chattanooga, used for collecting and conveying storm water to, through, and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: conduits and appurtenant features, canals, creeks, catch basins, ditches, streams, gulches, gullies, flumes, culverts, siphons, streets, curbs, gutters, dams, floodwalls, levees, and pumping stations.

"Water quality fee" is defined as a fee assessed to users and contributors of flow to the City's storm water collection, impounding and transportation system.

SECTION 3. That Chattanooga City Code, Part II, Chapter 31, Article VIII, Division 7, Sections 31-352, 31-354, 31-356, and 31-357, be and are hereby amended by deleting same in their entirety and substituting in lieu thereof the following:

Sec. 31-352. Rate Structure.

(a) A water quality fee shall be assessed to the owner of each and every lot and parcel of land within the corporate City limits which directly or indirectly uses the storm water system of the City and that contains impervious area. This fee is not related to the drinking water and/or sewer service and does not rely on occupancy of the premises to be in effect and is hereinbefore provided, and in the amount determinable as follows:

(b) For any such property, lot, parcel of land, building or premises that directly or indirectly uses the storm water system of the City, such fee shall be based upon the size of impervious area situated thereon.

(c) All properties having impervious area within the City of Chattanooga will be assigned an Equivalent Residential Unit (ERU) or a multiple thereof, with all properties of having impervious area receiving at least one (1) ERU.

(d) **Residential properties.** All residential properties will be assigned one (1) ERU. A flat rate fee will apply to all residential properties.

(e) **Non-residential properties.** Non-residential properties will be assigned an ERU multiple based upon the properties' individually measured impervious area (in square feet) divided by 3,200 square feet (1 ERU). This division will be calculated to the first decimal place and rounded according to mathematical convention.

Sec. 31-354. Schedule of Fees.

The annual water quality fee shall be \$115.20 per ERU as of the adoption of this ordinance.

Sec. 31-356. Adjustments to Water Quality Fee

Increase adjustments (debit) can be made to non-residential service charges by property owners adding additional impervious area such as rooftops, parking lots, driveways and walkways. Decrease (credit) adjustments can be made to non-residential service charges by property owners performing activities that reduce the impact of storm water runoff to the water quality system.

Upon application by any user adequately supported by documentation, the user shall be entitled to an adjustment of their water quality fee as provided in this section. The water quality credits (applied in 5% increments) are offered to property owners that perform an activity or activities that reduce the burden on the City storm water system and provide water quality benefit.

(a) Permanent Basins Credits. The water quality fee shall be reduced up to 10% for the proper maintenance of storm water facilities that retain and control the quantity of storm water runoff. An additional 20% credit is available for permanent basins exceeding minimum design standards for water quantity control.

(b) Water Quality Devices Credits.

(i) Floatable Skimmers. The water quality fee shall be reduced up to 10% for the proper maintenance of floatable skimmers that are used to retain oil and floatable materials from entering the City storm water system.

(ii) Proprietary Devices Credits. The water quality fee shall be reduced up to 10% for the proper maintenance of water quality propriety devices. An additional 20% credit is available for the installation of propriety devices exceeding minimum standards for water quality control.

(c) Low Impact Developments (LIDs) or Open Space Developments Credits. The water quality fee shall be reduced up to 50% for the installation and proper maintenance of green storm water control structures such as green roofs, bio-retention areas (rain gardens), bio-swales, filter strips, wetlands, porous pavement, level spreader, conservation easement, and proper steep slope management or other proven LIDs.

- (d) LEED® certified developments. The water quality fee shall be reduced up to 50% for developments that earn at least 5 credits from the "Sustainable Sites" category including Credit-6.1 (Storm Water Design Quantity Control) and Credit-6.2 (Storm Water Design Quality Control).
- (e) Education credits. The water quality fee shall be reduced up to 25% for public and private schools (K through 12) for the purpose of providing water quality and watershed management education programs to students. To obtain this credit public and private schools would teach a water curriculum in each grade level.
- (f) The reductions authorized under sections a, b, c, d, and e above shall be cumulative, provided, however, that the total reduction in water quality fee shall not exceed 50%.
- (g) The user shall make application to the Manager of the Storm Water Management Section requesting reductions in the water quality fee pursuant to this section. Each application shall be accompanied by proper documentation to demonstrate the accuracy of the claims. To the extent that the Manager is satisfied that the reductions applied for are warranted by the circumstances, he or she shall reduce the bill as provided herein. If the fee shall have been paid, a refund or credit on future billing shall be authorized to the extent warranted by the reductions.
- (h) The Manager shall act upon any application for a reduction in fees within ninety (90) days of the receipt thereof. In the event he shall not have acted upon same within this time, then the application shall be deemed to have been denied.
- (i) The user may appeal the denial by the Manager of any claimed Water Quality Fee reduction to the Storm Water Regulations Board by filing a written notice of appeal in care of the Administrator of Public Works within thirty (30) days following the action of the Manager. No particular form for a notice of appeal shall be required and any written notice setting forth with reasonable particularity the grounds for the appeal shall be acceptable, but the Manager shall develop and maintain a form for such purposes. A copy of the notice of appeal shall be filed with the Manager. Unless the Storm Water Regulations Board shall consent to an enlargement of the administrative record, the appeal shall be decided upon the plans and data submitted by the applicant in support of the claimed reduction and any information relating thereto generated by the Administrator in review of the application. The board shall schedule a meeting to consider the appeal and both the applicant and the Manager shall be allowed to make a written

