

## CHAPTER 5

### **RULES, RATES AND CHARGES FOR THE STORMWATER UTILITY SERVICE<sup>1</sup>**

#### **SECTION**

- 19-501. Rules, rates, and charges adopted.
- 19-502. Findings.
- 19-503. Definitions.
- 19-504. Determination and modification of stormwater service charges.
- 19-505. Effective date of stormwater service charges.
- 19-506. Stormwater service charges.
- 19-507. Exemptions and credits applicable to stormwater service charges.
- 19-508. Stormwater service charge billing, delinquencies, and collections.
- 19-509. Application of utility service charges billed in common.
- 19-510. Removal or cessation of utility services.
- 19-511. Appeals.
- 19-512. City of Maryville, Tennessee Stormwater Utility Credit Manual for Stormwater Fees.

**19-501. Rules, rates and charges adopted.** Pursuant to authority granted by §§ 68-221-1101 through 68-221-1113 of the Tennessee Code Annotated and for the purpose of providing stormwater management operations and establishing a stormwater utility service charge within the City of Maryville, the "Rules, Rates, and Charges for the Stormwater Utility Service Charge", are hereby adopted and incorporated by reference as part of this code. (as added by Ord. #2003-31, Oct. 2003)

**19-502. Findings.** The Council of the City of Maryville makes the following additional findings:

(1) An equitable approach to funding stormwater management services and facilities can be provided by adopting a schedule of service charges upon properties that is related to burden of stormwater quantity and quality control service requirements and costs posed by properties throughout the city.

(2) Such schedule of service charges can be complemented by other funding methods that address specific needs, including but not limited to allocations of local option sales taxes to stormwater drainage improvement projects, collection of fees for special services including but not limited to plans review and inspections, and establishment of a capital recovery fee or fees consistent with state law.

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<sup>1</sup>This chapter renumbered in conjunction with Change 8, April 1, 2008.

(3) A service charge credit is an appropriate means of adjusting service charges in recognition that private stormwater systems and/or actions can effectively reduce or eliminate the burden of stormwater quantity and quality control service requirements and costs that a property or properties pose for the city. In addition, the value to the stormwater utility of certain actions and practices performed by property owners and other stormwater utility customers may be recognized by credits based on other factors, including but not limited to the avoided cost of public information and education realized by the utility when public information and education about stormwater management is provided by the public school system.

(4) Impervious area is the most important factor influencing stormwater service requirements and costs posed by properties throughout the city, and therefore is an appropriate parameter for calculating stormwater service charges and associated credits. (as added by Ord. #2003-31, Oct. 2003)

**19-503. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Credit" shall mean a conditional reduction in the amount of a stormwater service charge to an individual property based on the provision and continuing presence of an effectively maintained and operational on-site stormwater system or facility or the provision of a service or activity by the property owner, which system, facility, service, or activity reduces the stormwater utility's cost of providing stormwater services and facilities. Credits for on-site stormwater systems shall be generally proportional to the affect that such systems have on the peak rate of runoff from the individual property. Credits shall be defined and implemented in a City of Maryville Stormwater Credit Policy Manual which shall be produced by the city engineer, and changed as deemed necessary at the sole discretion of the city engineer.

(2) "Customers of the stormwater utility" shall include all persons, properties, and entities served by and/or benefiting from the utility's acquisition, management, maintenance, extension, and improvement of the stormwater management programs, systems, and facilities and regulation of public and private stormwater systems, facilities, and activities related thereto, and persons, properties, and entities which will ultimately be served or benefited as a result of the stormwater management program.

(3) "Detached dwelling unit" shall mean developed land containing one structure which is not attached to another dwelling and which contains one or more rooms with a bathroom and kitchen facilities designed for occupancy by one family. Detached dwelling units may include houses, manufactured homes, and mobile homes located on one or more individual lots or parcels of land. Developed land may be classified as a detached dwelling unit despite the presence of incidental structures associated with residential uses such as garages, carports, or small storage buildings. Detached dwelling unit can also include developed land that has a non-residential use of a dwelling unit

designed for occupancy for one family so long as such use does not result in additional impervious areas, such as parking spaces, impervious surfaced playgrounds, or structures or additions to the building which are used as offices, storage facilities, meeting rooms, classrooms, houses of worship, or similar non-residential uses. Detached dwelling unit shall not include developed land containing: manufactured homes and mobile homes located within manufactured home or mobile home parks where the land is owned by others than the owners of the manufactured homes or mobile homes: or multiple-unit residential properties.

(4) "Developed land" shall mean property altered from a natural state by construction or installation of more than 200 square feet of impervious surfaces as defined in this chapter.

(5) "Duplexes and triplexes" shall mean developed land containing two (duplex) or three (triplex) attached residential dwelling units located on one or more parcels of land.

(6) "Equivalent residential unit (ERU)" of impervious area shall mean the median impervious coverage of detached dwelling unit properties in the City of Maryville as determined by the city, and shall be used as the basis for determining stormwater service charges to detached dwelling unit properties or classes of detached dwelling unit properties and other properties. Two thousand four hundred (2,400) square feet of impervious area shall be one equivalent residential unit (ERU).

(7) "Flood control facilities" shall mean all natural and manmade conveyances and structures for which the partial or full purpose or use is to convey surface flood runoff water within the jurisdictional boundaries of Maryville. This includes all natural conveyances for which the city has assumed a level of maintenance responsibility, to which the city has made improvements, against the flooding of which the city must make provision to protect public and private property, or for which the city is accountable under federal or state regulations for protecting the water quality within its jurisdictional boundaries.

(8) "Impervious surfaces" shall 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 areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings.

(9) "Multiple dwelling unit residential properties" shall mean developed land whereon four or more attached residential dwelling units are located and shall include, but not be limited to, apartment houses, condominiums, townhomes, attached single-family homes, boarding houses, group homes, hotels and motels, retirement centers, and other structures in which four or more family groups commonly and normally reside or could reside. In the application of stormwater service charge rates, multiple dwelling unit properties shall be treated as other developed lands. However, multiple

dwelling unit residential properties where individual residential dwelling units are owned independently, such as residential condominiums, may be treated as detached dwelling unit properties in the application of stormwater service charge rates.

(10) "Other developed land" shall mean, but shall not be limited to, multiple dwelling unit residential properties, manufactured home and mobile home parks, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools and universities, research stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, water reservoirs, and water and wastewater treatment plants.

(11) "Stormwater" shall mean stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration (other than infiltration contaminated by seepage from sanitary sewers or by other discharges) and drainage.

(12) "Stormwater service charge" shall mean the stormwater management service charge or charges applicable to a parcel of developed land, which charge shall be reflective of the City of Maryville stormwater utility's cost of providing stormwater management services and facilities. Stormwater service charge may also be termed "stormwater utility service charge."

(13) "Stormwater management facilities" shall mean those natural and man-made drainage structures, conveyances, conduits, combined sewers, sewers, and all device appurtenances by means of which storm water is collected, transported, pumped, treated or disposed of. (as added by Ord. #2003-31, Oct. 2003)

**19-504. Determination and modification of stormwater service charges.** Stormwater service charges may be determined and modified from time to time by the council of the City of Maryville so that the total revenue generated by said charges and any other sources of revenue that may be made available to the stormwater utility will be sufficient to meet the cost of services and facilities, including but not limited to the payment of principal and interest on debt incurred for stormwater management purposes, and such other expenses reasonably necessary or convenient in the acquisition, construction, operation, maintenance, and regulation of the stormwater system and of properties affecting the stormwater system. These fees shall be reasonable in amount and used exclusively by the municipality for purposes set forth in this part. Such a graduated storm water user's fee shall be based on actual or estimated use of the storm water and/or flood control facilities of the municipality, and each user or user class shall only be required to pay its proportionate share of the construction, administration, operation and maintenance including replacement costs of such facilities based on the user's actual or estimated proportionate contribution to the total storm water runoff

from all users or user classes. To ensure a proportionate distribution of all costs to each user or user class, the user's contribution shall be based on factors such as the amount of impervious area utilized by the user, the water quality of user's storm water runoff or the volume or rate of storm water runoff.

The use of any particular parameter as a service charge rate parameter shall not preclude the use of other parameters, or of grouping of properties having similar characteristics through the use of ranges or rounding up or down to a consistent numerical interval, or the use of flat-rate charges for one or more classes of similarly-situated properties whose impact on the stormwater utility's cost of providing stormwater management services and facilities are relatively consistent. Stormwater service charges may also include special charges to individual customers for services or facilities related to stormwater management, including but not limited to charges for development plan review, inspection of development projects and on-site stormwater control systems, and enhanced levels of stormwater services above those normally provided by the city. (as added by Ord. #2003-31, Oct. 2003)

**19-505. Effective date of stormwater service charges.** Stormwater service charges shall accrue beginning January 1, 2004 and shall be billed periodically thereafter to customers except as specific exemptions and adjustments may apply. (as added by Ord. #2003-31, Oct. 2003)

**19-506. Stormwater service charges.** In order to fully recover the cost of providing stormwater services and facilities while fairly and reasonably apportioning the cost among developed properties throughout the city, the following stormwater rates shall apply.

(1) Detached dwelling units. Detached dwelling units shall be charged the rate applicable to one (1) equivalent residential unit as specified in § 18-406(3), or as amended by ordinance in the future.

(2) Other developed lands. All developed lands not classified as detached dwelling units shall be billed for one (1) equivalent residential unit (ERU) as specified below in § 18-406(3) for each two thousand four hundred (2,400) square feet of impervious surface or increment thereof, or as amended by ordinance in the future.

(3) The stormwater service charge rate per equivalent residential unit, as defined in this chapter, shall be \$3.97 per month until and unless the service charge rate is changed by the Council of the City of Maryville. (as added by Ord. #2003-31, Oct. 2003)

**19-507. Exemptions and credits applicable to stormwater service charges.** Except as provided in this section, no public or private property shall be exempt from stormwater utility service charges or receive a credit or offset against such service charges. No exemption, credit, offset, or other reduction in stormwater service charges shall be granted based on the age, tax, or economic

status, race, or religion of the customer, or other condition unrelated to the stormwater utility's cost of providing stormwater services and facilities.

(1) The following exemptions from stormwater service charges shall be allowed:

(a) Undeveloped land as defined this chapter shall be exempt from stormwater charges;

(b) Railroad tracks shall be exempt from stormwater service charges. However, railroad stations, maintenance buildings, or other developed land uses for railroad purposes shall not be exempt from stormwater charges.

(c) Improved public road rights-of-way of federal, state, or local governments that are available for vehicular transportation by the general public are exempt from storm water service charges. Platted private roads and platted private rights-of-way are further exempt from storm water charges.

(2) Stormwater service charge credits shall be allowed for the following activities/occurrences shall be effective when initiated at the discretion of the City of Maryville and in accordance with a credit manual described subsequently:

(a) Other developed lands that have, and maintain in proper working order, on-site stormwater detention and retention systems that reduce the peak rate of stormwater discharge.

(b) Detached dwelling units whose total impervious surface area is less than eighteen-hundred (1800) square feet.

(c) Schools that teach approved water conservation curricula. This credit will be allowed at such time as the City of Maryville's NPDES Phase II permitted program is in place.

(d) Other developed lands that have, and maintain in proper working order, on-site stormwater best management practices that reduce the impact of stormwater runoff on water quality in accordance with water quality standards set forth by the City of Maryville. This credit will be allowed at such time as City of Maryville's NPDES Phase II permitted program is in place.

(e) Other developed lands that have, and maintain, a Tennessee Multi-Sector General Permit for industrial activities. This credit will be allowed at such time as the City of Maryville's NPDES Phase II permitted program is in place.

(3) A stormwater service charge credit manual shall be prepared by the City of Maryville Department of Engineering, Planning and Codes specifying the design and performance standards of on-site systems, facilities, activities, and services which qualify for application of a service charge credit, and how such credits shall be calculated.

(4) The stormwater service charge credit shall be determined based on the technical requirements and standards contained in the stormwater service

charge credit manual. The stormwater service charge credit may be up to fifty (50) percent of the service charge applicable to a property, and shall be proportional to the extent that on-site systems, facilities, services, and activities provided, operated, and maintained by the property owner reduce or mitigate the stormwater utility's cost of providing services and facilities.

(5) Groups of detached dwelling units represented by a homeowner's association providing on-site systems or facilities that reduce or mitigate the stormwater utility's cost of providing stormwater management services and facilities may receive a stormwater service charge credit. The stormwater service charge credit shall be determined based on the technical requirements and standards contained in the stormwater service charge credit manual. The stormwater service charge credit available to groups of detached dwelling units may be up to fifty (50) percent of the service charge applicable to the individual properties, and shall be proportional to the extent that on-site systems and facilities provided, operated, and maintained by the homeowners association reduce or mitigate the stormwater utility's cost of providing services and facilities.

(6) Any credit allowed against the stormwater service charge is conditioned on continuing compliance with the city's design and performance standards as stated in the stormwater service charge credit manual and/or upon continuing provision of the systems, facilities, services, and activities provided, operated, and maintained by the property owner or owners upon which the credit is based. A credit may be revoked by the city at any time for non-compliance. Thirty (30) days notice of a non-complying condition and intent to revoke a stormwater service charge credit shall be provided to the stormwater service charge customer receiving a credit before the credit is revoked thereby allowing the customer the opportunity to attain compliance. (as added by Ord. #2003-31, Oct. 2003, and amended by Ord. #2005-23, June 2005; and Ord. #2006-22, April 2006)

**19-508. Stormwater service charge billing, delinquencies, and collections.** A stormwater service charge bill may be sent through the United States mail or by alternative means, notifying all customers of the amount of the bill, the date the payment is due, and the date when past due.

Failure to receive a bill is not justification for non-payment. Regardless of the status of the party to whom the bill is initially directed, the owner of each parcel of developed land shall be ultimately obligated to pay the stormwater service fee. If a customer is under billed or if no bill is sent for developed land, the city may backbill for a period of up to ten years, but shall not assess penalties for any delinquency. A late charge will be based upon the unpaid balance in accordance with the City of Maryville Customer Service Policy Manual. (as added by Ord. #2003-31, Oct. 2003)

**19-509. Application of utility service charges billed in common.** Insofar as allowed by existing bond covenants, of the stormwater utility charge is billed and collected along with other city utility services, any payment of utility service charges billed in common shall be applied to the customer's bill as established through other related requirements imposed by TVA and the City of Maryville Customer Service Policy Manual. (as added by Ord. #2003-31, Oct. 2003)

**19-510. Removal or cessation of utility services.** The City of Maryville may remove or cease to provide any utility services as it determines necessary to enforce the payment of all city utility service charges. (as added by Ord. #2003-31, Oct. 2003)

**19-511. Appeals.** Any stormwater utility service customer who believes the provisions of this article have been applied in error may appeal in the following manner:

(1) An appeal must be filed in writing with the City of Maryville Department of Engineering, Planning and Codes. In the case of service charge appeals, the appeal shall include a survey prepared by a registered land surveyor or professional engineer containing information on the total property area, the impervious surface area, and any other features or conditions which influence the hydrologic response of the property to rainfall events.

(2) Using the information provided by the appellant, the director of the department of engineering, planning and codes shall conduct a technical review of the conditions on the property and respond to the appeal in writing within thirty (30) days.

(3) In response to an appeal the director of the department of engineering, planning and codes may adjust the stormwater service charge applicable to a property in conformance with the general purpose and intent of the article.

(4) A decision of the director of the department of engineering, planning and codes which is adverse to an appellant may be further appealed to the city manager within thirty (30) days of the adverse decision. Notice of the appeal shall be delivered to the city manager by the appellant, stating the grounds for the further appeal. The city manager shall issue a decision on the appeal within thirty (30) days. All decisions of the city manager shall be served on the customer personally or by registered or certified mail. Service shall be based upon the service charge billing address of the customer.

(5) A decision of the city manager that is adverse to an appellant may be further appealed to the city council within thirty (30) days of the adverse decision.

(6) The appeal process contained in this section shall not prevent an appellant from seeking relief in the approved manner and form from a court of competent jurisdiction. (as added by Ord. #2003-31, Oct. 2003)



**19-512. City of Maryville, Tennessee Stormwater Utility Credit Manual for Stormwater Fees.** The City of Maryville, Tennessee Stormwater Utility Credit Manual for Stormwater Fees as attached hereto as Exhibit A is hereby adopted and incorporated by reference as part of the municipal code. A copy of this manual shall be available for review and copying at the city recorder's office during regular business hours. (as added by Ord. #2005-23, June 2005)