

NOV 27 2007

ORDINANCE NO. 208A-2BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 18A, STORMWATER MANAGEMENT, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY RENUMBERING ARTICLE I, ILLICIT DISCHARGE AS ARTICLE II, ILLICIT DISCHARGE; BY NAMING CODE SECTION 18A-1 THROUGH SECTION 18A-19 AS NEW ARTICLE I, IN GENERAL; BY AMENDING SECTION 18A-6, ASSESSMENT, BILLING AND PAYMENT, INTEREST, LIENS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 18A, Stormwater Management, is hereby amended and reordained by renumbering Article I as Article II, Illicit Discharge; by naming Code Section 18A-1 through Section 18A-19 as new Article I, In General; and by amending Section 18A-6, Assessment, billing and payment, interest, liens.

#### Chapter 18A. Stormwater Management

##### *Article I. In General*

###### **Section 18A-1. Purpose.**

(a) It is necessary and essential to ensure that the collection of stormwater runoff and control of stormwater within the county limits adequately protects the health, safety, and welfare of the citizens of the county.

(b) Within James City County many streams are degraded by stormwater runoff from development and restoration of these streams is recommended in adopted watershed management plans.

(c) Citizens report an increasing number of problems with pipes, inlets, ponds, and other stormwater facilities installed within the community.

(d) It is necessary that the county address the various environmental issues that will further burden stormwater infrastructure requirements and comply with federal, state and local stormwater regulations.

(e) Stormwater runoff is associated with all improved properties in the county, whether residential or nonresidential, and the downstream impacts of runoff are correlated to the amount of impervious surface on a property.

(f) The elements and oversight of stormwater management infrastructure provide benefits and service to properties within the county through control of runoff and protection of the natural environment.

(g) Section 15.2-2114 of the Code of Virginia, as amended, grants statutory authority to localities to enact a system of service charges to fund stormwater control program.

(h) The costs of planning, monitoring, regulating, operating, maintaining, and constructing the stormwater system shall be allocated, to the extent practicable, to all owners of developed property based on their estimated impact on the stormwater management system through the implementation of a stormwater service fee.

#### **Section 18A-2. Definitions.**

The following words and terms used in this section shall have the following meanings:

*Developed non-single-family detached property.* Developed property that does not qualify as single-family detached residential property. Such property shall include, but not be limited to, multi-family residences, condominiums, townhouses, apartment buildings, time shares, mobile home parks, commercial properties, industrial properties, parking lots, recreational and cultural facilities, hotels, offices, churches, and other like properties.

*Developed property.* Real property, which has been altered from its "natural" state by the addition of any improvements such as buildings, structures, and other impervious surfaces. For improvements requiring a building permit, new construction, property shall be considered developed pursuant to this section upon issuance of any certificate of occupancy. For other improvements, property shall be considered developed upon evidence of the existence of impervious cover on the property.

*Developed single-family detached residential property.* A developed lot or parcel containing one dwelling unit, and accessory uses related to but subordinate to the purpose of providing a permanent dwelling facility. Such property shall not include townhouses, time shares, condominiums and mobile home parks.

*Equivalent residential unit (ERU).* The equivalent impervious area of a single-family detached residential developed property located within the county based on the statistical average horizontal impervious area on the property. An equivalent residential unit (ERU) equals 3,235 square feet of impervious surface area.

*Impervious surface area.* A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roofs, buildings, parking areas, and any concrete, asphalt or compacted aggregate surface. Pervious pavement surfaces will not be considered as totally impervious based on the open area and runoff characteristics of the paver structure and the proposed installation.

*Revenues.* All rates, fees, assessments, rentals or other charges, or other income received by the utility, in connection with the management and operation of the system, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the county, fees-in-lieu-of provided by developers or individual residents, and the proceeds from sale of bonds.

*Stormwater management fund.* The fund created by this section to pay for operation, maintenance and improvements to the county's stormwater management system.

*Stormwater management system.* The county operated stormwater management infrastructure and equipment and all improvements thereto for stormwater control within the county. Infrastructure and equipment may include structural and natural control systems of all types, including, without limitation, retention and detention basins, receiving streams, conduits, pipelines, and other best management practices, structures, and real and personal property used for support of the system. The system does not include private drainage systems.

*Stormwater manager.* The person designated to oversee and insure the implementation of the stormwater management system.

*Stormwater service fees.* The service charges applied to property owners of developed single-family detached property and developed non-single-family detached property, all as more fully described in section 18A-4.

*Undeveloped property.* Any parcel which has not been altered from its natural state to disturb or alter the topography or soils on the property in a manner, which substantially reduces the rate of infiltration of stormwater into the earth.

**Section 18A-3. Establishment of stormwater service fee.**

(a) The stormwater service fee is established to help provide for the general welfare, health, and safety of the county and its residents.

(b) The stormwater service fee shall be deposited in a separate ledger account and all funds deposited shall be used exclusively to provide services and facilities related to the stormwater management system. The deposited revenues shall be used for the activities as more fully allowed under section 15.2-2114 of the Code of Virginia, as amended, including:

- (1) Acquisition of real or personal property, and interest therein necessary to construct, operate and maintain stormwater control facilities;
- (2) The cost of administration of such programs, to include the establishment of reasonable operating and capital reserves to meet unanticipated or emergency requirements of the stormwater management system;
- (3) Engineering and design, debt retirement, construction costs for new facilities and enlargement or improvement of existing facilities;
- (4) Facility maintenance and inspections;
- (5) Monitoring of stormwater control devices;

- (6) Pollution control and abatement, consistent with state and federal regulations for water pollution control and abatement; and
- (7) Compliance with applicable regulatory requirements.

**Section 18A-4. Imposition of stormwater service fees.**

Adequate revenues shall be generated to provide for a balanced operating and capital improvement budget for maintenance and improvement of the stormwater management system by setting sufficient levels of stormwater service fees. Income from stormwater service fees shall not exceed actual costs incurred in providing the services and facilities described in section 18A-3. Stormwater service fees shall be charged to owners of all developed property in the county, except those owners exempted below and/or pursuant to section 18A-7(a).

(a) For purposes of determining the stormwater service fee, all developed properties in the county are classified by the county's real estate assessment classification codes into one of the following classes:

- (1) Developed non-single-family detached property.
- (2) Developed single-family detached property;

(b) The stormwater service fee for developed single-family detached property shall equal the ERU rate.

(c) The stormwater service fee for developed non-single-family detached property shall be the ERU rate multiplied by the numerical factor obtained by dividing the total impervious surface area of the developed non-single-family property by one ERU (3,235 square feet). The numbered factor will be rounded to the next highest integer. The minimum stormwater service fee for any developed non-single-family detached property shall equal the ERU rate. The stormwater fee for condominiums and townhouses will be calculated by dividing the total impervious cover on the condominium or townhouse property by the number of condominium or townhouse units on the property.

(d) Undeveloped property shall be exempt from the stormwater service fee. All private streets shall be exempt from the stormwater service fee except for those private streets which are part of entrances or parking for non-single family detached property.

**Section 18A-5. Structure of fees and charges.**

(a) Stormwater service fee and charges. The stormwater service fee per month shall be \$4.90 per ERU. Such stormwater service fee and charges set out in this section shall apply to all properties within the county except as altered by credits or specifically excluded under applicable state law.

(1) Single-family detached residential. Each developed single-family detached residential property shall be billed and shall pay the fee for one ERU.

(2) Other properties. All other developed properties having impervious coverage, including but not limited to multi-family residential properties, commercial properties, industrial properties, institutional properties, church properties, private school properties, unless specifically exempted by state law, shall be billed for one ERU for each 3,235 square feet or fraction thereof of impervious coverage on the subject property. The stormwater fee for condominiums and townhouses will be calculated by dividing the total impervious cover on the condominium or townhouse property by the number of condominium or townhouse units on the property.

(b) Change of stormwater service fee. Any change of the stormwater service fee shall be in accordance with the provisions of Virginia Code section 15.2-107.

**Section 18A-6. Assessment, billing and payment, interest, liens.**

(a) The stormwater service fee charged to owners of all developed property in the county shall be assessed as of July 1 of each year, except for those owners exempted pursuant to section 18A-7(a).

(b) The stormwater service fee is to be paid by the owner of each lot or parcel subject to the stormwater service fee. All properties, except undeveloped property and those exempted by state law, shall be rendered bills or statements for stormwater services. Such bills or statements may be combined with the county tax bill, provided that all charges shall be separately stated. The combined bill shall be

issued for one total amount. The treasurer has the authority to bill and collect the stormwater service fees through all available means provided.

(c) The bills shall be due and payable in two equal installments. One installment shall be due and payable on or before June fifth of the year after such fee is assessed and the other installment shall be due and payable on or before December fifth of the year such fee is assessed.

(d) Any bill, which has not been paid by the due date, shall be deemed delinquent, and the account shall be collected by any means available to the county. All payments and interest due may be recovered by action at law or suit in equity. Unpaid fees and interest accrued shall constitute a lien against the property, ranking on parity with liens for unpaid taxes.

(e) In the event charges are not paid when due, interest thereon shall commence on the due date and accrue at the rate of ten percent per annum until such time as the overdue payment and interest is paid. *In addition, any person who fails to pay the charge when due shall incur a penalty thereon of ten percent. Said penalty shall be added to the amount due from such person, which, when collected shall be accounted for in said person's settlements.*

(f) Fees for new developed property shall be billed in the first billing cycle following granting of any certificate of occupancy. In the event of alterations or additions to developed non-single-family detached property, which alter the amount of impervious surface area, the stormwater service fees will be adjusted upon determination of the change. A bill will be issued in the next billing cycle reflecting the adjusted stormwater service fee.

**State law reference** – Regulation of Stormwater, Code of Va., § 15.2-2114.

**Section 18A-7. Adjustment of fees, exemptions, and credits.**

(a) Waivers and exemptions shall be those set forth in Virginia Code section 15.2-2114.

(b) Any owner who has paid his/her stormwater service fees and who believes his/her stormwater service fees to be incorrect may submit an adjustment request to the stormwater manager or his designee. Adjustment requests shall be made in writing setting forth, in detail, the grounds upon which relief is sought. Response to such adjustment requests, whether providing an adjustment or denying an

adjustment, shall be made to the requesting person by the stormwater manager or his designee within 60 days of receipt of the request for adjustment. The stormwater manager shall have the authority to grant adjustments, as applicable. An appeal of the stormwater manager's final decision shall be made in writing within 30 days from the date of the final decision to the county administrator. The county administrator shall have the authority to review the stormwater manager's final decision and grant adjustments, as applicable. The final decision of the county administrator may be appealed to circuit court within 30 days from the date of the county administrator's final decision.

(c) Credits against stormwater service fees are an appropriate means of adjusting fees, rates, charges, fines, and penalties in certain cases. Crediting policy may be established by the board of supervisors and, when established, a credit manual shall be issued that will set forth the appropriate process and documentation to obtain such credits. No exception, credit, offset, or other reduction in stormwater service fees shall be granted based on age, race, tax status, economic status, or religion of the customer, or other condition unrelated to the stormwater management system's cost of providing stormwater services and facilities, or the goals of the stormwater management system.

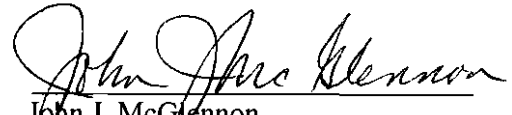
**Section 18A-8. Severability.**

The provisions of this chapter shall be deemed severable; and if any of the provisions hereof are adjudged to be invalid or unenforceable, the remaining portions of this chapter shall remain in full force and effect and their validity unimpaired.


**Sec. 18A-9 - 18A-19. Reserved.**

Article I. *II.* Illicit Discharge



  
John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

  
Sanford B. Wanner  
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
HARRISON	AYE
BRADSHAW	AYE
GOODSON	ABSENT
ICENHOUR	AYE
MCGLENNON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2007.

18A-6Penalties\_ord