

**TITLE 18**

**WATER AND SEWERS<sup>1</sup>**

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**CHAPTER**

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## CHAPTER 9

### STORMWATER USER FEE

#### SECTION

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**18-901. Definitions.** For the purpose of this chapter, the following definitions shall apply; words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "Billing period" means the period identified from the first day of the month to the last day of the month. All bills rendered during a month are for the period beginning on the first day of the same month and are valid for that entire month unless otherwise identified. When city water service is discontinued during a month, the stormwater user fee due for that account shall be the pro rata portion of the month for which water services were active. When a developed property that does not receive city water service changes ownership during a billing period, the account existing on the first day of the billing period shall be liable for the pro rata portion of the drainage fee for that billing period from the first day of the billing period until the day the property transaction is recorded with the Carter County, Sullivan County, or Washington County register of deeds offices.

(2) "Bonds" means revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the costs of construction.

(3) "Calendar year" means a twelve (12) month period commencing on the first day of January of any year.

(4) "Costs of construction" means reasonable costs incurred in connection with providing capital improvements to the system or any portion thereof, including, but not limited to, the costs of (1) acquisition of all property, real or personal, and all interests in connection therewith including all rights-of-way and easements therefor, (2) physical construction, installation and testing, including the costs of labor, services, materials, supplies and construction services used in connection therewith, (3) architectural, engineering, legal and other professional services, (4) insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction and installation, (5) any taxes or other charges which become due during construction, (6) expenses incurred by the city or on its

behalf with its approval in seeking to enforce any remedy against any contractor or sub-contractor in respect of any default under a contract relating to construction, (7) principal of and interest of any bonds, and (8) miscellaneous expenses incidental thereto.

(5) "Debt service" means, with respect to any particular calendar year and any particular series of bonds, an amount equal to the sum of (i) all interest payable on such bonds during such calendar year, plus (ii) any principal installments of such bonds during such calendar year.

(6) "Developed property" means real property other than undisturbed property and vacant improved property.

(7) "Director" means the director of public works.

(8) "Dwelling unit" means a singular unit or apartment providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

(9) "Exempt property" means public rights of way, public streets, public alleys and public sidewalks.

(10) "Extension and replacement" means costs of extensions, additions and capital improvements to, or the renewal and replacement of capital assets of, or purchasing and installing new equipment for, the system, or land acquisitions for the system and any related costs thereto, or paying extraordinary maintenance and repair, including the costs of construction, or any other expenses which are not costs of operation and maintenance or debt service.

(11) "Impervious area" means the number of square feet of hard surfaced areas which either prevent or retard the entry of water into soil mantle, as it entered under natural conditions as undisturbed property, and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as undisturbed property, including, but not limited to, roofs, roof extensions, patios, porches, driveway, sidewalks, pavement and athletic courts.

(12) "Multi-family residential property" means property designed to accommodate more than one residence, including multi-family residential structures, townhouses/condominiums, mobile homes and high rise multi-family structures.

(13) "Multi-family residential structure" means a residential structure designed with two or more dwelling units to accommodate two or more families or groups of individuals living separately and not sharing the same living space.

(14) "Nonresidential developed property" means developed property that is not utilized for dwelling units within the city.

(15) "Operating budget" means the annual operating budget adopted by the city for the succeeding fiscal year.

(16) "Operations and maintenance" means the current expenses, paid or accrued, of operation, maintenance and current repair of the system, as calculated in accordance with sound accounting practice, and includes, without

limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation, and cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.

(17) "Revenues" mean all rates, fees, assessments, rentals or other charges or other income received by the stormwater user fee fund, 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 city, all as calculated in accordance with sound accounting practice.

(18) "Single family unit or SFU" means the average impervious area of a single family detached residential dwelling unit located within the city as periodically determined and established as provided in this article. The initial average impervious area is calculated to be three thousand three hundred fifteen (3,315) square feet.

(19) "SFU rate" means the dollar value periodically determined and assigned to each SFU as a charge for stormwater services, and expressed as a dollar value per SFU per month.

(20) "Stormwater management system" or "system" means the existing stormwater management of the city and all improvements thereto which by this chapter are constituted as the property and responsibility of the city, to be operated as an enterprise fund to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system.

(21) "Stormwater user fee" means a fee authorized by ordinance(s) established to pay operations and maintenance, extension and replacement and debt service.

(22) "Stormwater user fee fund" means the enterprise fund created by this chapter to operate, maintain and improve the system and for such other purposes as stated in this chapter.

(23) "Undisturbed property" means real property which has not been altered from its natural state by grading, dredging, filling, removal of trees and vegetation or other activities which have disturbed or altered the topography or soils on the property.

(24) "User fee district" means the area or property within the corporate limits of Johnson City.

(25) "Vacant improved property" means vacant property which is, or could reasonably be, served by any subdivision improvements that allow egress. (as added by Ord. #4226-06, Jan. 2007)

**18-902. Establishment of enterprise service area.** The city finds, determines, and declares it to be conducive to the health, welfare, safety and convenience of the city and its residents that a stormwater service area be established within the city. Consequently, pursuant to Tennessee Code Annotated, §§ 68-221-1101 through 68-221-1113, a stormwater enterprise fund, to be known as the Johnson City Stormwater Enterprise Fund, is established, and it is ordained and declared that the city limits shall be and constitute the stormwater enterprise fund service area, and that the enterprise shall comprise and include elements of the city's stormwater drainage and flood protection systems which provide for the collection, treatment and disposal of stormwater, surface water, and groundwater. It is further found, determined, and declared that the elements of the stormwater enterprise fund are of benefit and provide services to all real properties within the incorporated city limits, including property not directly served by the stormwater drainage system, and that such benefits and services may include but are not limited to the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater; the reduction of hazard to property and life resulting from stormwater runoff and flooding; improvement in general health and welfare through reduction of undesirable stormwater conditions and flooding; and improvement to the water quality in the stormwater and surface water system and its receiving waters.

It is further determined and declared to be necessary and conducive to the protection of the public health, welfare, safety and convenience of the city and its residents that charges to be levied upon and collected from the owners or occupants of all lots, parcels of real estate, and buildings that discharge stormwater (surface or subsurface waters), directly or indirectly, to the city stormwater drainage system, and that the proceeds of such charges so derived be used for the purposes of operation, maintenance, repair, replacement and debt service for construction of stormwater drainage and flood protection improvements comprising the stormwater enterprise fund. (as added by Ord. #4226-06, Jan. 2007)

**18-903. User fee.** Subject to the provisions of this chapter, each and every residential developed property and nonresidential developed property, other than exempt property, within the corporate limits of the city, and the owners and non-owner users thereof, have imposed upon them a stormwater user fee. In the event the owner and non-owner users of a particular property are not the same, the liability for each the owner and non-owner user for the user fee attributable to that property shall be joint and several. The stormwater user fee shall be a monthly or a regular interval service charge and shall be determined by the provisions of this chapter and the SFU and SFU rate which shall be established and changed from time to time by the board of commissioners.

(1) Single family detached residential property. The stormwater fee for a single family detached residential property shall be the following percentage of the SFU rate:

<u>Impervious Area of the Property</u> (square feet)	<u>Percentage of SFU Rate</u>
1690 or less	51 percent
1691 to 5574	100 percent
5575 or more	168 percent

(2) Multi-family residential property. The stormwater fee for a non-single family detached residential property shall be seventy-one (71) percent of the SFU rate multiplied by the number of dwelling units on the property:

(3) Non-residential property. The stormwater fee for nonresidential properties shall be the SFU rate multiplied by the numerical factor obtained by dividing the total impervious area of a nonresidential property by the number of square feet associated with 1 SFU, or three thousand three hundred fifteen (3315) square feet. The minimum fee for any developed nonresidential property will be equal to 1 SFU rate. (as added by Ord. #4226-06, Jan. 2007)

**18-904. Billing.** The stormwater user fee for all metered property shall be billed and collected monthly with the monthly city's services utility bill for properties within the corporate limits of the city utilizing city utilities. For all properties not utilizing other city utilities, the stormwater user fee shall be billed and collected separately. All such bills for stormwater user fees shall be rendered monthly by Johnson City. The stormwater user fee for those properties utilizing city utilities is part of a consolidated statement for utility customers which are generally paid by a single payment. The stormwater user fee for unmetered property shall be billed at regular intervals. All bills for stormwater user fees shall become due and payable in accordance with the rules and regulations of Johnson City pertaining to the collection of the stormwater user fees. (as added by Ord. #4226-06, Jan. 2007)

**18-905. User fee determination.** There is hereby established the following uniform schedule of rates for the services and use of facilities of the stormwater management system by the owner, tenant, or occupant of the premises using the services and facilities of said system:

(1) Periodically, the board of commissioners, upon recommendation of the director, shall, by resolution, establish reasonable rates for stormwater management systems for each single family unit (SFU): Each single family unit shall be billed at a flat fee established by the board of commissioners for an SFU. A single family unit is hereby defined as the statistical average horizontal impervious area of detached single family residential units in Johnson City.

(2) Parcels which are undeveloped may be assessed a stormwater user fee. The bill shall be determined by dividing the total land area of the property, in square feet, by the area of an equivalent residential unit times a correction factor. The correction factor shall be based on the relative volume of runoff from an undeveloped property and that of a typical single family residence, under typical hydrologic conditions.

(3) For all nonresidential properties, that are enterprise, business establishment, building, or other occupancy not covered by subsection (1) and (2) of this section, the rate shall be computed based on the total impervious area of the property divided by the average impervious area of a single family detached residential property times the rate established for a single family unit. The billing amount shall be updated by the director based on any additions to the impervious areas as approved through the building permit process.

(4) Any owner or occupant of a property aggrieved by the director's calculation of the storm water fee or allocation among users as provided in this section may appeal such determination to the director.

(5) Procedures and policies associated with credits and/or adjustments to the storm water fee are set forth in the document entitled Stormwater Management Utility Adjustment and Credit Manual - City of Johnson City, Tennessee, as may be amended from time to time by the board of commissioners by resolution. (as added by Ord. #4226-06, Jan. 2007)