

Stormwater Utility Bureau

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STORMWATER UTILITY POLICIES AND PROCEDURES

Chapter 31 of the Orlando City Code was established on 26 June 1989 to provide for 1) the collection of stormwater service charges, 2) classes of property within the City of Orlando and stormwater service rates applicable thereto, 3) methods of calculation, and 4) a Code, the City of Orlando hereby adopts a comprehensive drainage policy and other necessary rules and regulations related thereto.

Section 1: Service Charge Specifications

Each property's contribution to runoff shall be the primary consideration in setting the applicable service charge, with secondary considerations being such property's specific or unusual service requirements, and special or general benefits accruing to or from properties as a result of on-site stormwater management facilities.

Section 2: Erosion, Siltation, and Sedimentation.

The Utility Bureau shall be responsible for controlling erosion, siltation, and sedimentation that will adversely affect storm sewers, drainage ditches, watercourses, and other drainage facilities within the City environs. The Bureau shall not be concerned with slips and slides of earth; however, it shall be concerned with the pollution of public waters and watercourses carrying sediment from accelerated soil erosion (and accelerated storm runoff) caused by earth-disturbing activities insofar as they clog, change, or alter the carrying capacity of stormwater drainage facilities. The Bureau shall also be concerned with any other activities causing erosion, siltation, or sedimentation (other than construction procedures) that might hinder proper drainage, as the Bureau may so determine in its sole discretion.

Section 3: Multiple Fund Projects

Where a public improvement is funded by the City or other governmental agencies or organizations and storm drainage is not a primary part of that project, then the Utility Bureau's responsibility for the storm drainage costs shall be in proportion to the City's share, if any, of the total cost of the project, unless otherwise agreed among the parties thereto.

Section 4: Ancillary Improvements

The Utility Bureau Chief may authorize the construction of curbs, pavements, channels, watercourses, conduits, culverts, or other structures necessary to properly operate and maintain new and existing stormwater facilities within the City's environs, and as adjuncts to stormwater facilities within the City's jurisdictional boundaries.

Section 5. Routine and Remedial Maintenance.

The Utility Bureau Chief shall provide for inspection and routine maintenance of facilities under the Bureau's control. Maintenance may include, but not be limited to, catch-basin cleaning, grating and casting repair, inlet and outlet structure repair, bridge-surface drainage systems cleaning, channel clearing, and erosion repair. The Utility Bureau Chief shall provide for remedial maintenance of facilities based upon the severity of stormwater problems and potential hazard to the public health, safety, and welfare. Remedial maintenance of bridge surface drainage systems shall be outside the Utility Bureau's responsibilities.

Section 6. Rules and Regulations

To protect the drainage facilities, improvements, and properties owned by the City, to secure the best results from the construction, operation, and maintenance thereof; and to prevent damage and misuse of any drainage facilities, improvements, or properties within the City; the Utility Bureau Chief may make and enforce rules and regulations that are approved by the Public Works Director, and are deemed necessary and reasonable to:

- 1) prescribe the manner which storm sewers, ditches, channels, and other stormwater facilities are designed, installed, adjusted, used, altered, or otherwise changed;
- 2) prescribe inspection and other fees permitted by this Chapter;
- 3) prescribe the manner in which such facilities are operated;
- 4) facilitate the enforcement measures of this Chapter;
- 5) prescribe the collection procedures and timing of service charge bills;
- 6) protect the drainage facilities, improvements, and properties controlled by the Bureau (and to prescribe the manner of their use by any public or private person, firm, or corporation); and
- 7) protect the general health, safety, and welfare of all City residents and visitors.

Section 7. Master Plan

The Utility Bureau Chief shall establish and maintain a stormwater system master plan designed to handle all stormwater runoff within the City's environs. The master plan shall provide (or be accompanied by) maps or other descriptive material showing, at a minimum, the following:

- (1) An inventory of the existing City stormwater facilities, plus the extent and area of each watershed tributary to the City's main drainage channels.
- (2) All present and proposed storm sewers and storm drains; the basis of their design; their outfall, inlet, and outlet locations; their receiving streams or channels, and high water elevations; and the functioning of such systems and facilities during high-water conditions.
- (3) Those portions of the City street system where pavements are planned to be depressed sufficiently to convey or temporarily store overflow from storm sewers and runoff (over the curb) resulting from heavier rainstorms, and the outlets for such overflow waters.
- (4) Existing and proposed streams and floodplains that may be maintained, enlarged, altered, or eliminated in the future, along with their locations, cross-sections, and profiles, and any new channels that are to be constructed.
- (5) Existing culverts and bridges, drainage areas, and adequacy of waterway openings; and the basis of their design.
- (6) Existing detention ponds and basins to be maintained, enlarged, and altered; and new ponds or basins to be built with dams, if any.
- (7) The slope, type, and size of all City sewers and other waterways.
- (8) A tabulation of storage volumes, with corresponding water surface elevations and basin outflow rates for all detention/retention basins.
- (9) Design hydrographs of inflow and outflow for the design year under developed conditions, and the calculated frequency peak flows from the site (under natural and developed conditions) for all detention/retention basins.
- (10) An analysis of the need for reduction of pollution loads that result from surface runoff (where applicable), now or in the future.
- (11) Estimates of cost for all items above, and for any other maintenance, operations, or construction projects that are deemed desirable to enforce or implement the purposes of City Code Chapter 31.

Section 8. Inspection and Surveillance.

The Utility Bureau Chief (or his designees) shall have the authority to inspect the construction, alteration, repair, removal, demolition, equipment, use, location, and maintenance of any and all drainage facilities located upon any property within the City's jurisdictional boundaries. The Utility Bureau Chief shall, when the interests of the City so require, make site investigations and render appropriate written reports thereto. The Utility Bureau Chief shall also have the authority to issue such notices or orders to the owner or contractor as may be necessary to enforce compliance with the City law.

The Utility Bureau Chief shall keep comprehensive records of all applications, inspections, reports rendered, notices, orders issued, and approvals, and all such records shall be open for public inspection pursuant to Ch. 119, Florida Statutes.

Section 9. Notice of Violations.

When the Utility Bureau Chief finds that a) any drainage facility or the construction thereof is contrary to or in violation of the approved plans; or that b) such facilities or plans are otherwise unacceptable; c) the facility presents an unsafe or dangerous condition in connection with the provisions of these policies, the Stormwater Utility Code, or any law or ordinance relating to the same subject matter, then the Utility Bureau Chief shall give appropriate notice(s) to the owner of the premises, or to the contractor. The notice shall state where and in what respect the work does not conform to City law, regulation, policy, or to the approved plans. The notice shall also specify a reasonable period of time by which the work must conform to the appropriate plans, laws, rules, regulations, or policies.

Notice, as required by this provision, is to be served by hand-delivery or certified mail, addressed to the last known place of residence or place of business (noted on the Orange County Tax Records) of the appropriate (receiving) parties.

Section 10. Right of Entry for Survey and Examination.

After presenting proper credentials, and at any reasonable times, the employees of the Utility Bureau (or its agents; including but not limited to contractors and their employees, consultants, and employees), may enter upon lands within the City to make surveys, inspections, or examinations to accomplish preliminary findings in accordance with the City's master stormwater plan, and for analyses to prepare final plans and specifications for any proposed site improvements.

Where project site improvements are made that require periodic maintenance or inspection of the lands (by the Utility Bureau), the owner of such lands shall grant the City a perpetual easement and right of entry around and access to any stormwater channel or facility, including storm sewers.

Section 11. Cessation of Work.

The Utility Bureau Chief may cause the work to be stopped on a project for any of the following reasons:

- 1) Whenever there is a violation of any provision of these policies, or any ordinance of the City, or any State or Federal Statute relating to the project;
- 2) Whenever the continuance of any work becomes dangerous to the health, safety, or welfare, or poses any significant danger to the subject property;
- 3) Whenever any false statement or misrepresentation has been made regarding the application, plans, or specifications upon which the work is based.
- 4) Whenever, in the City's sole discretion, the project should not be allowed to continue.

Section 12. Funding.

Funding for the Stormwater Utility Bureau activities shall include, but not be limited to the following:

1. Yearly stormwater service charges
2. Inspection fees.
3. Direct charges. (Collected from owners and developers for the cost of designing and constructing stormwater facilities, and for administrative costs and related expenses where the Utility Bureau designs, constructs, or contracts for the construction of such facilities.)
4. Direct assessment. (Controlled from owners in localized areas who desire stormwater drainage facilities not considered a part of the City-area or stormwater-area development, or where an improvement is desired ahead of a priority status.)
5. Other income obtained from Federal, State, local, and private grants, or revolving funds.

Section 13. Stormwater Fund.

All revenues generated by or on behalf of the Utility Bureau, including stormwater service charges, inspection fees, and direct charges and interest earnings on those revenues, shall be deposited in a stormwater fund and used exclusively for Stormwater Utility Bureau purposes.

Section 14. Stormwater Service Charge.

A stormwater service charge is hereby imposed on each parcel of land within the City, and the owner thereof; provided, however, that no such charges shall be imposed on lakes, or public streets, boulevards, expressways, alleys, viaducts, sidewalks, curbing, street crossings, grade separations, other public ways and easements, and any highway structures or appurtenances belonging to the City.

Undeveloped land shall pay a minimal (flat-rate) stormwater service charge per acre.

Properties that have existing stormwater management facilities, or those planning such facilities, may have their stormwater service charges reduced or pro-rated as determined by the Utility Bureau Chief (in accordance with OUSWMM requirements, as they may be from time to time amended), to more accurately reflect the level of service provided to and contribution of runoff from the subject property. The facilities must comply with the hydrologic, hydraulic, and structural design requirements of these standards and the Stormwater Utility Chapter. Temporary stormwater facilities will not be allowed a decrease in charges.

Section 15. Classification of Property.

There shall be the following property classifications to determine the appropriate stormwater service charge: See Page 6.1.

Section 16. Monthly Charge per Equivalent Runoff Unit (ERU).

The monthly charge per ERU shall be \$4.50 effective October 1, 1996, and \$5.50 effective October 1, 1997. The Utility Bureau Chief shall prepare a list of all residential and non-residential parcels within the City, assign a designation to each, and for which each shall be charged a reasonable and equitable fee in accordance with assigned ERU equivalence and site mitigation factors, if any; provided, however, that the City shall have the option to set a yearly fixed minimum and maximum fee for all residential parcels.

Section 17. Collection of Stormwater Service Charge.

The stormwater service charge shall be billable to the owner of each parcel (subject to this charge) on a periodic basis, and in accordance with regulations established via the Stormwater Utility Code and related Interlocal Agreements, where applicable.

Property owners shall be billed annually, on or about 1 November of each year.

Section 18. Adjustment of Charge; Appeal.

Property owners who dispute the charges applicable to their parcel(s) may apply to the Utility Bureau Chief for adjustment thereof, stating in writing the grounds of the dispute, error, or inequity. The Utility Bureau Chief shall make appropriate investigations thereof, consider the complaint in its entirety, and determine whether a charge adjustment or reduction is appropriate.

If this decision is unacceptable to the property owner, then the owner shall send a written appeal to the Utility Bureau Chief within fifteen (15) calendar days after receipt of the Bureau Chief's decision. The Utility Bureau Chief shall have thirty (30) days to re-investigate the matter, after which the Stormwater Utility Appeals Board (Board), composed of the City Engineer, the Public Works Director, and a third member to be named by the Public Works Director, shall timely review and rule upon the appeal. The Board's ruling shall be made within sixty (60) calendar days from the Utility Bureau Chief's receipt of a property owner's written appeal; and all such rulings shall be the final Utility Bureau decision on such matters. These appeal procedures shall be followed for any and all such charges that may be levied on any parcel within the City's jurisdictional boundaries, and any appeal beyond the Board's decision shall be made to the City Council.

Section 19. Delinquent Charges.

All delinquent charge payments shall be resolved via the Orange County Tax Collection procedures.

Section 20. Notice to Correct Drainage.

Whenever the Utility Bureau Chief shall find that a tract of land is inadequately drained; or that there is an obstruction to a culvert, covered drain, or other natural or man-made watercourse that interferes with water naturally flowing therein; or that such culvert, drain, or watercourse is of insufficient capacity to reasonably accommodate stormwater flow as required by these policies, then the Utility Bureau Chief shall notify the owner (or person having possession, charge, or management of such land) to remove the obstruction or provide the necessary or appropriate drainage thereto. Such notice shall be served pursuant to Section 9, above.

The owner must comply with the Utility Bureau Chief's orders within the time specified, which shall not exceed thirty (30) calendar days unless the Bureau Chief grants a written time extension to the owner. Failure to comply with such orders shall constitute an unlawful act on the part of the owner. Each additional period of ten (10) calendar days thereafter (during which the owner fails to carry out the Bureau Chief's order) shall constitute a separate offense to these policies, and shall be prosecuted pursuant to Chapter One of the Orlando City Code.

Section 21. Emergencies and Abatement.

In case of emergency, the Bureau Chief may direct that immediate action be taken to correct or abate any such condition. In the Bureau Chief's sole discretion, the Stormwater Utility Bureau personnel may perform the required work and charge the appropriate owner (s) all such related and provable costs.

In any case, where an unsafe or deleterious stormwater condition exists for more than thirty (30) calendar days after service of notice to the appropriate property owners, the Board may direct the owner to fill or drain such land, remove any obstructions and, if necessary, enlarge the culverts, drains, or watercourse to meet the requirements of these policies and the Stormwater Utility Code, and all at the owner's sole cost or expense.

Within ten (10) calendar days of service of a copy of such order, the owner shall comply with all directions therein. The owner shall be afforded notice and an opportunity to be heard prior to any further action by the City, provided that such notice and an opportunity to be heard prior to any further action by the City, provided that such notice is delivered to the Bureau Chief at least three (3) business days before the end of the 10-day period. In the event the owner fails or refuses to comply with the directive, the Utility Bureau may perform the required work and charge the owner all such abatement costs, fees, and expenses. Such costs [if remaining unpaid for thirty (30) days following a bill being sent for their reimbursement] shall constitute a lien on the real property, and may be enforced as outlined in Section 20, above.

Section 22. Abatement Costs.

The Utility Bureau Chief shall account for all costs associated with an emergency or abatement (repair or maintenance) procedure, including but not limited to costs of administrative, notification, inspection, service of papers or documents, legal counsel, labor, enforcement, operational services, and outside-contracted services. These costs shall be added to the owner's stormwater service charge, and shall be payable pursuant to the applicable payment provisions above.

This Section shall not be construed to relieve the owner of any penalties prescribed by other Sections of this Manual, or of the City Code as a whole.

Section 23. Appeals and Variance.

Any person who has a bona fide dispute with the Utility Bureau Chief as to the interpretation or application of a provision in this Manual, or the related laws or ordinances pertaining to stormwater management (which are and subject to the administration of the Utility Bureau Chief), may apply in writing to the Utility Bureau Chief for a written interpretation or ruling, setting forth in such document the facts of that particular dispute.

When the Utility Bureau Chief has rendered a written interpretation or ruling on the dispute, the complainant shall be allowed thirty (30) calendar days (from the date of the receipt of interpretation or ruling) within which to file with the Utility Bureau Chief an appeal Board, as outlined in Section 18, above.

The appeal shall be based upon (and state specifically) at least one of the following grounds:

- 1) The interpretation, ruling, or order is erroneous; or constitutes an erroneous application of the particular provisions of the drainage code or other related laws or ordinances pertaining to stormwater management and finance; or is otherwise contrary to law;
- 2) A modification of these policies is necessary and feasible whereby the Utility Bureau should find:
 - A. Good and sufficient cause for relief is based upon an unreasonable burden or hardship having been proven by the complainant.
 - B. The granting of the modification would not result in any increase in quantity or velocity of stormwater flow, degradation of water quality, or negative impacts upon adjoining or downstream properties, or upon the City stormwater system as a whole.
 - C. The degree of modification is the minimum necessary to afford relief from the unreasonable burden or hardship imposed by the drainage code or standards, specifications, requirements, regulations, and procedures adopted pursuant to this Code, and is otherwise not deleterious to the health, safety, or welfare of any City resident or visitor.
 - D. The modification may otherwise be granted without defeating the intent of the drainage code, or related laws or ordinances pertaining to stormwater management and finance in this City.

Section 24. Contents of Petition.

The complainant shall set forth in full (or attach a complete copy of), 1) the interpretation, ruling, or order appealed from and 2) the provisions of the City Code or related laws or ordinances. The complaint shall also state, with particularity, wherein the modification, the petition shall specify the provision (s) from which the modification is sought, and how the request otherwise satisfies, and does not significantly conflict with, the other requirements of this Manual and the Stormwater Utility Code.

Section 25. Filing Fee.

No appeal shall be accepted for filing unless the complainant, at the time of filing, pays a fee of fifty and 00/100 dollars (\$50.00), to partially compensate the City for the direct and indirect expenditures, costs, and administrative tasks demanded by the filing and prosecution of the appeal. Such filing fee shall be in addition to the payment of inspection fees and any other fee defined in these policies and no portion of the filing fee shall be refunded, whatever the outcome of the appeal. The Bureau Chief shall have the authority to waive or reduce the filing fee in individual cases.

Section 26. Emergency Situations.

Nothing in this Manual shall be construed to prevent immediate action by the Bureau Chief, the City Engineer, or the Public Works Director, in any emergency situation that may arise regarding the City's stormwater facilities.

Section 27. Penalties.

Any person who violates any of the provisions of these policies, or of the Stormwater Utility Code; or who fails to conform to any of the provisions thereof; or who fails to obey any order of the Utility Bureau Chief or his designee; may be prosecuted as provided in Chapter 1.08, or Chapter 5, of the City Code. Each and every day on which such person continues to violate any of the above-named provisions, after having once been notified of such violation, shall constitute a separate offense.

Section 28. Violation of Section.

- (1) Whoever fails to file an application for minor repairs shall first be given a written warning by the Utility Bureau Chief, and thereafter shall be guilty in accordance with Section 20, above.
- (2) Whoever fails to obey a warning or notice under these policies shall be guilty of a misdemeanor on a first offense, and a misdemeanor on each subsequent offense. See Section 27, above. Each and every day on which such person continues to violate the provisions of this Code (after having once been notified of such

violation) shall constitute a separate offense. Any related fine hereunder shall be mandatory.

Section 29. Accessories.

Any person having control of the premises, including but not limited to the owner, the owner's agent; or an architect, engineer, contractor, builder, subcontractor, foreman, mechanic, employee; or any other person who shall violate or be a party to a violation of this Manual or the Stormwater Utility Code, or of any certificate, order, or notice, or permit issued hereunder, shall be guilty of a misdemeanor in each offense, and may be prosecuted as outlined in the appropriate Sections above.

Section 30. Retrofitting.

Owners who retrofit an existing stormwater management system (on a parcel to meet the design criteria, as described in the Orlando Urban Stormwater Management Manual), will receive the same site mitigation factor as if the property were or had been developed under these design standards.

If, due to site limiting factors such as lot size, required parking, cost of construction, etc., an owner determines, through retrofitting, that OUSWMM standards can only be partially met, then the site mitigation factor shall be adjusted to represent the appropriate proportionment to the lowest standard met. OUSWMM describes both quantity and quality standards for development on vacant property. If, though retrofitting, only a percentage of the quality or quantity standard is met, the site mitigation factor will reflect the percentage of compliance for the lower of the two factors (quality or quantity).

The determination of percentage or proportion will be solely that of the Stormwater Utility Bureau, following due investigation and calculation.

Section 31. Information Use and Retrieval.

It is the goal of Stormwater Utility Bureau to utilize accurate information in the preparation of the annual billings. Due to the timing of the billings and the necessity to have the data automated, October 1 of each year is established as the date before which all proposed changes to the City's billing data must be submitted to the Stormwater Bureau for review. Since it is administratively easier to make changes prior to October 1, efforts will be made to maximize accuracy prior to this annual date.

Since most bills are based upon the amount of impervious surface on each parcel, accurate determinations of these surface areas are the Stormwater Bureau's primary goal. These dimensions in square feet may be established by any of the following methods:

- 1) On-site or photogrammetric measurements of the apparent dimensions of the impervious surface made by the City or on its behalf; or

- 2) Computation of the area using dimensions from construction plans which accurately depict “in-the-field” conditions made by the City or on its behalf; or
- 3) Computations of the area using dimensions from construction plans presented to the City prior to construction if other means are not available or not cost effective to obtain unless said cost were to be borne by the parcel owner; or
- 4) Information provided by the owner (if other means are not available or cost effective.) This information may require verification, the cost and payer of which shall be determined by the Bureau Chief.

The City shall have the option to make changes at any time to these computations, if the City receives appropriate new information in that regard.

Section 32. Exemption Requests.

Requests for exceptions or other relief from the subject charges based on financial hardship must be submitted in writing and signed by the person (or business entity representative) billed. The request will contain the requester’s name, address, phone number, parcel ID number, and justification for the request. Requests received by any City office will be forwarded to the Public Works Director for appropriate action. The Public Works Department will forward all valid requests to the Stormwater Bureau for investigation and recommendations. The Stormwater Utility Bureau will consolidate into one schedule the replies received since the previous reporting period. The schedule shall list the name, address, phone number, parcel ID number, yearly amount, and the total recommended for payment by the City for the balance of the Fiscal Year. The amount recommended will not exceed 50% of the total cost of services to be rendered to the end of the Fiscal Year. The amount recommended will not exceed 50% of the total cost of the services to be rendered to the end of the Fiscal Year. The amount will not exceed 50% of the total cost of services to be rendered to the end of the Fiscal Year. The schedule will be subject to review at least once a year. The schedule, with a copy of each request and accompanied by the recommendation of the Stormwater Bureau, will be forwarded to the Public Works Director for action. The Public Works Director will review the schedule and submit recommendations to the City Council. Upon the City Council’s approval of the recommendations, the Stormwater Bureau Chief will compile a yearly schedule of all approved charges, listing the name, address, parcel ID number, yearly charge to be paid by the City, and expiration date of authorization. The payment of funds, in such cases, between the City and the County, shall be coordinated by the Stormwater Utility Bureau Chief and the City’s Finance Director, or his designee.