

RULE NO.: R161-18.15

POSTING DATE: July 10, 2018

NOTICE OF PROPOSED RULE

The Director of the Watershed Protection Department proposes to adopt the following rule after August 11, 2018.

Comments on the proposed rule are requested from the public. Comments should be submitted to Dana Lappin, 505 Barton Springs Road, Suite 1200, Austin Texas, 78704, 974-2634, or via email at *dana.lappin@austintexas.gov*. To be considered, comments must be submitted before August 11, 2018, the 32nd day after the date this notice is posted. A summary of the written comments received will be included in the notice of rule adoption that must be posted for the rule to become effective.

An affordability impact statement regarding the proposed rule has been obtained and is available for inspection or copying at the address noted in the preceding paragraph.

EFFECTIVE DATE OF PROPOSED RULE

A rule proposed in this notice may not become effective before the effective date established by a separate notice of rule adoption. A notice of rule adoption may not be posted before August 11, 2018 (the 32nd day after the date of this notice) or not after September 18, 2018 (the 70th day after the date of this notice).

If a proposed rule is not adopted on or before September 18, 2018 it is automatically withdrawn and cannot be adopted without first posting a new notice of a proposed rule.

TEXT OF PROPOSED RULE

A copy of the complete text of the proposed rule is available for public inspection and copying at the following locations. Copies may be purchased at the locations at a cost of ten cents per page:

Watershed Protection Department, located at 505 Barton Springs Road, Suite 1200, Austin, TX, 78704; and

Office of the City Clerk, City Hall, located at 301 West 2nd Street, Austin, Texas.

BRIEF EXPLANATION OF PROPOSED RULE

R161-18.15: Revises the Drainage Criteria Manual Section 9.5, *Calculation of Drainage Charge* and Section 9.6, *Assessment of the Drainage Charge*, as follows:

- Section 9.5.5 B – Adds subsection f. – Clarifies that presence of an easement does not change the calculation of drainage charge.
- Section 9.6.7 – Revises Subsection B – Defines secondary residence for drainage charge purposes to be in line with definition for second dwelling in Land Development Code.

AUTHORITY FOR ADOPTION OF PROPOSED RULE

The authority and procedure for the adoption of a rule to assist in the implementation, administration, or enforcement of a provision of the City Code is established in Chapter 1-2 of the City Code. The authority to administer a Drainage Utility charge is located in Section 15-2-4 of the City Code.

CERTIFICATION BY CITY ATTORNEY

By signing this Notice of Proposed Rule (R161-18.15), the City Attorney certifies the City Attorney has reviewed the rule and finds that adoption of the rule is a valid exercise of the Director's administrative authority.

REVIEW AND APPROVED

for 

Michael L. Personett, Interim Director
Watershed Protection Department

Date: 6-20-2018



Anne Morgan
City Attorney

Date: 6/29/18

This Notice of Proposed Rule was posted on a central bulletin board at City Hall by the City Clerk. Date and time stamp is on the front of the notice.

[Revise DCM Section 9.6.7, Subsection B]

9.6.0 - ASSESSMENT OF THE DRAINAGE CHARGE

9.6.1 City Code Section 15-2-8 defines how the drainage charge will be billed.

9.6.2 The fee will be assessed beginning when the Department confirms that a Certificate of Occupancy or Certificate of Completion has been issued for the property.

9.6.3 If the property owner, or his designee, requests to pay the Drainage charge, WPD may accommodate customer request.

9.6.4 Redevelopment - If there is an existing drainage charge, and additional development or redevelopment on that property occurs, the existing impervious area prior to construction activities beginning will be the basis for the impervious cover amount to generate a charge during construction. Once construction activities are complete and a Certificate of Occupancy/Completion is issued for the new improvement, the new impervious cover area shall be the basis for the impervious cover amount to generate a charge.

9.6.5 Phased Construction - When new construction is phased on a property, and following occupancy or utility activation on part of the property, the drainage charge shall be assessed to the owner in proportion to the amount of impervious cover in the completed phase(s). The City shall determine an equitable method to estimate impervious cover for the completed phase(s).

9.6.6 Any account billing for fewer than 17 days will not be assessed the drainage charge. This ensures that users will not be charged twice in one month if they move within the city limits.

9.6.7 Other clarifications for Section 15-2-8:

A. Single Account - The drainage charge shall be assessed to the utility account associated with either residential or nonresidential properties with only one account (one service point).

B. Secondary Residence - For a property comprising solely of two residential units that are not duplexes, townhomes, or condos and that have separate active utility customer accounts, the City shall bill 100% of the charge to the utility customer associated with the primary residence and no charge shall be assessed to the utility customer associated with the secondary residence. For this purpose, a secondary residence is defined as a second dwelling unit under Land Development Code §25-2-774 or a secondary apartment under Land Development Code §25-2-1463. with living area square footage less than 40% of the total living area square footage on the property, as provided by county appraisal district data. When neither of the two residences has a living area square footage less than 40% of the total living area square footage on the property, neither shall be considered as the primary residence, and billing will remain at 50% responsibility for each. However, in instances where a metered service (water or electric) is supplied to both premises by a single account, the drainage charge will be assigned 100% to that account.

[Add New Subsection f to DCM Section 9.5.5]

9.5.5 Impervious Area - Impervious area (also called impervious cover) is defined by City Code Sections 15-2-1 (B) (4), 15-2-5, 25-8-63, and Environmental Criteria Manual Section 1.8.1.

A. Measurement - Impervious area shall be measured by the City's Geographic Information System (GIS) when calculated from the City's latest planimetric maps. Measurement of impervious area for the purpose of calculating the drainage fee shall conform to the methods and standards specified in the City's Environmental Criteria Manual, the City's Drainage Criteria Manual, and the City's Land Development Code as it is interpreted by the City's Watershed Protection and Development Services Department (or successor department) staff.

B. Additional Detail

a. Structures - The impervious area for structures shall be determined by whichever of the following is larger - the roof area, the foundation area, or exterior wall area. Consequently, horizontal projections of the overhang of a house (eaves for example) are considered impervious area.

b. Sidewalks/Trails - Sidewalks and trails that are accessible by the general public and are located on public property or on public easements shall not be counted as impervious cover.

c. Roads/Driveways/Parking Areas - Partially paved vehicular areas constructed with pervious areas (e.g. concrete strips with a pervious median) may have the pervious area removed from the impervious cover quantity if there is clear evidence of focused use on the paved areas. Unpaved vehicular areas compacted by vehicle use may have the uncompacted, pervious areas removed from the impervious cover quantity only if there is clear evidence of focused use on the wheel track area. In cases where ungrouted stones/bricks/pavers are placed adjacent to each other (gaps < 1"), the requirements below for permeable pavers and porous pavement must be met to receive a reduction in impervious cover. For vehicular areas with both impervious and pervious features, City staff may assign the entire area as 50% impervious or specifically delineate the impervious areas.

d. Pedestrian Patios/Walkways - For all pedestrian patio or walkway uses where there are bricks, stones, or other impervious features spread over an area, when the pervious space between the impervious features is greater than 50%, the entire area may be considered pervious. When the pervious space between the impervious features is less than 50%, the entire area may be considered as 50% impervious. In cases where ungrouted stones/bricks/pavers are placed adjacent to each other (gaps < 1"), the requirements below for permeable pavers and porous pavement must be met to receive a reduction in impervious cover.

e. Permeable Pavers and Porous Pavement - In order to exclude permeable pavers or porous pavement from impervious cover, the customer will need to provide plans, specifications, details, or other information that clearly demonstrates the installation met City of Austin permeability requirements at the time of construction. If sufficient proof is provided, the area may be considered fully pervious for pedestrian applications and 50% pervious for vehicular applications.

Q3 FY 2018 Changes to Drainage Criteria Manual

f. Easements: For purposes of calculation of the drainage charge, no adjustments to the impervious cover shall be made due to any easement on the property or adjacent to the property, regardless of the nature of the easement. The City shall neither add the adjacent easement to the property area nor remove any existing easement on the property from calculation of impervious cover for the purpose of determining the drainage charge.