

**RULE NO.: R161-18.15**

**ADOPTION DATE: September 6, 2018**

**NOTICE OF RULE ADOPTION**

By: Michael L. Personett, Acting Director  
Watershed Protection Department

The Director of the Watershed Protection Department has adopted the following rule. Notice of the proposed rule was posted on July 10, 2018. Public comment on the proposed rule was solicited in the July 10, 2018 notice. This notice is issued under Chapter 1-2 of the City Code. The adoption of a rule may be appealed to the City Manager in accordance with Section 1-2-10 of the City Code as explained below.

A copy of the complete text of the adopted 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.

**EFFECTIVE DATE OF ADOPTED RULE**

A rule adopted by this notice is effective on September 6, 2018.

## **TEXT OF ADOPTED 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.

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## **COMMENTS AND CHANGES FROM PROPOSED RULE**

No comments were received and no changes were made.

## **AUTHORITY FOR ADOPTION OF 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 regulate water quality is established in Chapter 25-8 of the City Code.

## **APPEAL OF ADOPTED RULE TO CITY MANAGER**

A person may appeal the adoption of a rule to the City Manager. **AN APPEAL MUST BE FILED WITH THE CITY CLERK NOT LATER THAN THE 30TH DAY AFTER THE DATE THIS NOTICE OF RULE ADOPTION IS POSTED. THE POSTING DATE IS NOTED ON THE FIRST PAGE OF THIS NOTICE.** If the 30th day is a Saturday, Sunday, or official city holiday, an appeal may be filed on the next day which is not a Saturday, Sunday, or official city holiday.

An adopted rule may be appealed by filing a written statement with the City Clerk. A person who appeals a rule must (1) provide the person's name, mailing address, and telephone number; (2) identify the rule being appealed; and (3) include a statement of specific reasons why the rule should be modified or withdrawn.

Notice that an appeal was filed and will be posted by the city clerk. A copy of the appeal will be provided to the City Council. An adopted rule will not be enforced pending the City Manager's decision. The City Manager may affirm, modify, or withdraw an adopted rule. If the City Manager does not act on an appeal on or before the 60th day after the date the notice of rule adoption is posted, the rule is withdrawn. Notice of the City Manager's decision on an appeal will be posted by the city clerk and provided to the City Council.

On or before the 16th day after the city clerk posts notice of the City Manager's decision, the City Manager may reconsider the decision on an appeal. Not later than the 31st day after giving written notice of an intent to reconsider, the City manager shall make a decision.

## CERTIFICATION BY CITY ATTORNEY

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

## REVIEWED AND APPROVED



Michael L. Personett, Acting Director  
Watershed Protection Department

Date: 8/22/18



Anne Morgan  
City Attorney

Date: 8/27/18

**[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.

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.

**[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.