



MEMORANDUM

TO: Mayor and Council

FROM: Victoria J. Li, P.E., Director
Watershed Protection Department

DATE: April 10, 2015

SUBJECT: Drainage Charge Revision Process

The Watershed Protection Department is currently working on a proposal to revise the way the storm water drainage charge is calculated and assessed. The revised charge would more directly reflect the impacts each property has on Austin's storm water drainage system. It will be based on two fundamental drainage characteristics of each developed property: (1) the amount of impervious area on the property; and (2) the percentage of the total property area that is covered by impervious surfaces. The first measure (square footage of impervious area) has long been the basis for calculating the City's drainage charge, and the second (percentage of impervious area) is a refined parameter that better estimates a given property's impact to the drainage system. A strong relationship between percentage of impervious area and the volume of storm water runoff has been confirmed by the City's local study using decades of monitoring data.

The Law Department has prepared a draft ordinance for Council consideration amending City Code Chapter 15-2 (*Drainage Utility*) and 15-9 (*Utility Service Regulations*) to provide for the proposed restructuring of the drainage charge. City staff will present the proposal and draft ordinance to the Public Utilities Council Committee on April 15, 2015 and to the full Council at a public hearing on May 21, 2015.

Background

In 1991, the City established its Drainage Utility under Texas' Municipal Drainage Utility Systems Act (the "Act"). The Act authorizes communities to adopt a drainage charge to recover the costs of drainage utilities with a structure that charges individual lots or tracts for drainage service on a basis that is directly related to drainage, rather than based on the value of the property. The Act requires that the schedule of charges and the classification of benefited properties be "nondiscriminatory, equitable and reasonable" (Texas Local Government Code 552.047). The City uses drainage charge revenue to fund flood, erosion and water quality management programs, capital improvement projects, and drainage system maintenance.

In 2001, the City adopted an impervious area-based drainage charge rate structure known as the equivalent residential unit (ERU). The ERU system is among the most common in use by drainage utilities nationally. The ERU may be thought of as the average impervious area per dwelling unit across all types of residential development. For Austin, an ERU is currently equal to 1,763 square feet of impervious area. Under an ERU billing system, each residential dwelling unit is assigned a single ERU billing unit, and that practice is at the crux of the issue: 1,763 square feet does not accurately represent the actual impervious area associated with single family dwellings (typically too low) and multifamily units (typically too high).

The City's current residential charge is one ERU, equal to \$9.80 per dwelling unit, regardless of the actual size or type of dwelling. Beginning in 2009, the City added a reduced charge for "vertical construction" dwelling units, i.e., those in structures with seven stories or greater, currently setting this charge at \$4.90 per unit.

All nonresidential properties (commercial, industrial, institutional) are charged according to their total amounts of actual impervious area. The current charge is calculated at the rate of \$242.16 per acre with the charge prorated to fractions of an acre. This is the same charge per square foot of impervious area as the ERU (\$9.80 for 1,763 square feet).

The Drainage Utility is now proposing a new way to calculate the drainage charge based on technical advancements made in the field of geographic information systems (GIS). Using GIS with planimetric mapping derived from aerial photography, the City now has the ability to more easily and accurately calculate the impervious area for individual properties. This allows the City to customize the drainage charge for each property based on its impact on the drainage system.

A July 2014 district court judgment (Poole v. City of Austin), although now under appeal, provides additional focus for revisions to the drainage charge. The court found that the City's drainage charge for multi-family residences was not equitable compared to the rates charged to other users. The ruling in the case is not final, as it is under appeal.

Proposed Revisions to the Drainage Charge Structure

The Drainage Utility is striving to craft revisions that will make the charge more equitable and reasonable for all properties, and more directly related to drainage. The revised charge will apply to real property, not to units located on property. It will be calculated the same way for all properties citywide regardless of land use. And the charge will be proportional to the impact that each specific property has on the City's drainage system. The proposed formula for calculating the drainage charge is:

Monthly Drainage Charge =

Base Rate x sq. ft. Impervious Area of property x Adjustment Factor / 12, where

The Base Rate will be determined by dividing the revenue requirements for the proposed FY 2016 budget for WPD by the total city-wide billable impervious area. It is anticipated that the monthly base rate will be in the range of \$0.005 (one-half cent) per square foot of impervious area. The city-wide billable impervious area has been calculated to be 1.45 billion square feet, although net adjustments (such as estimates for exempt properties or new development) will be modified from that.

The Adjustment Factor incorporates the percentage impervious cover with the formula based on local monitoring data. The city-wide weighted average percentage of impervious area for all billable properties has been estimated to be 52.9%. The value of the adjustment factor (higher or lower than 1.0) will depend on how much a property's percentage of impervious area is less than or greater than 52.9%. The adjustment factor varies from less than 0.20 with very low percent impervious area to 1.76 with 100% impervious area.

Because multi-family properties are currently charged by dwelling unit, using a standard ERU of 1,763 square feet of impervious area, the proposed drainage charge for multi-family properties will tend to be lower, per property and per dwelling unit, than the current charge. Since the proposed charge would be calculated for the total property, not for each dwelling unit, the owner, owner's agent, or home owner association will typically receive the bill rather than each individual resident. We are actively working with multi-family property management groups to help make this billing transition as smooth as possible.

Rather than paying the standard residential charge of one ERU, single family residents will pay a fee proportional to the amount and percentage of actual impervious area on the property. Because all residential charges are currently based on the relatively low (average) figure of 1,763 square feet of impervious area, many single-family residents, especially those with large houses, could see increased charges. The increase may be offset by the adjustment factor as most single family properties are less than 52.9% impervious.

Nonresidential properties are currently assessed a drainage charge based on amount of impervious area. However, the adjustment factor will be new to them. The percentage of impervious cover, whether higher or lower than 52.9%, will influence the drainage charge for them. Properties with 100% impervious area could have a charge 76% greater than a charge associated with 52.9% impervious area. Conversely, very small percentages of impervious cover could result in the charge dropping to as low as one-fifth the unadjusted charge. For all properties, however, the revised charges better reflect each property's direct impact on the drainage system.

The existing drainage charge reductions based on financial need will be retained. The current exemptions from the drainage charge for the State, county, school districts, and

certain properties associated with religious organizations that provide housing for the homeless will also remain.

The 20% discount for a well-maintained commercial storm water detention pond is proposed to be eliminated. This discount is neither equitable nor reasonable for a number of reasons. Storm water mitigation and the proper maintenance of those features are required by City Code. Some developers chose other types of mitigation that do not qualify for a discount. Only a relatively small number of businesses (not residential properties) are eligible for the discount, and the amount of the discount does not correspond to the actual maintenance costs of the ponds.

Timeline

December 3, 2014: Environmental Board briefing

December 2014 – April 2015: Targeted stakeholder meetings

February 2015: General public meetings

April 2, 2015: Council sets the public hearing

April 15, 2015: Public Utilities Council Committee is briefed

May 21, 2015: Council conducts the public hearing and considers approval of ordinance

October 1, 2015: Effective date of ordinance

Additional information, including a video demonstrating the difference in pervious and impervious areas, FAQs, and a drainage charge estimator may be found at <http://www.austintexas.gov/drainagecharge>. Additionally, the City is setting up a designated hotline number to deal with questions and concerns from the public.

We look forward to reviewing this information with the Council during the upcoming ordinance adoption process. Should you have any questions or require additional information, please do not hesitate to contact me at (512) 974-9195.

Victoria J. Li, P.E., Director
Watershed Protection Department

cc: Marc A. Ott, City Manager
Sue Edwards, Assistant City Manager
Diane Gonzales, Financial Manager, WPD