

**DIVISION 4. STORM DRAINAGE MANAGEMENT AND FINANCE****Sec. 56-108. General provisions; legislative findings.**

(a) The council finds that, due to its general terrain and geographical location, the city is particularly subject to damage from storm waters which, from time to time, overflow from existing water courses and drainage facilities. Presently existing storm drainage facilities require continuous operation, maintenance, renewal and replacement.

(b) Each owner of a lot or parcel of real property within the city to the extent that it makes use of, and is served by; the city's storm drainage facilities by contributing to those facilities' storm water runoff beyond that amount of storm water which would occur if that real property were undeveloped in its natural state, should pay for the use and the availability of use of such facilities.

(c) Because the operation and maintenance of the city storm drainage system benefits the city sanitary sewer system, the city could lawfully apply revenue derived from the service charges set forth in division 3 of this article to pay a portion of the costs of the operation and maintenance of the storm drainage system, and has in fact done so historically. Notwithstanding the segregation of storm drainage and sanitary sewer revenue provided for in subsection (d) of this section, the city may resume the practice of funding a portion of the costs of its drainage system from sanitary sewer revenues when and if deemed necessary.

(d) The revenue from the service charges promulgated and set forth herein are required, and shall be used, solely for storm drainage purposes and the revenues from the service charges promulgated and set forth in division 3 of this article shall be used solely for sanitary sewer purposes; provided, however, that receipts from the collection of storm drainage service charges and all sanitary sewage service charges and fees may be cross-pledged to secure the repayment of bonds issued for either storm drainage or sanitary sewer purposes or both; provided further, however, that if such a cross-pledge shall occur, the bond ordinance in such case shall contain a provision requiring that, in the event that receipts from either the storm drainage service charges or sanitary sewage charges and fees shall ever be required to be utilized in order to make payments on bonds, the proceeds of which were used for such other purpose, then the rates and charges shall be adjusted as necessary and reimbursement of the receipts so utilized shall occur as soon as is practical.

(e) In addition to the above-stated general purposes, the council declares that this division is enacted for the following specific purposes:

(1) To promote the general public health, safety and welfare by assuring that the movement of emergency vehicles is not prohibited or inhibited during storm or flooding periods and by minimizing storm and flood losses and inconvenience and damage resulting from uncontrolled storm runoff in the city.

(2) To provide for the establishment of a master drainage plan for effective storm drainage management.

(3) To establish reasonable storm drainage fees and service charges computed on a basis of the use made of, and the need for, and the service provided by, the storm drainage system of the city.

(4) To encourage and facilitate urban water resources management techniques, including detention of storm runoff, minimization of the need to construct storm drainage facilities, reduction of pollution and the enhancement of the urban environment.

(Ord. No. 160-80, § 1(167A.1), 4-14-80; Ord. No. 200-02, §§ 3, 4, 3-11-02)

### **Sec. 56-109. Definitions.**

For the purposes of this division, the following words and terms shall be defined as follows, unless the context in which they are used clearly indicates otherwise. The definitions of words and terms set forth in division 3 of this article shall also apply herein to the extent that they are not inconsistent herewith:

- (.5) *Controlled release* means the rate of peak outflow from detention storage controlled by physical or mechanical means.
- (1) *Design year storm* means the selected or established frequency or return period of rainfall time-duration for which drainage facilities are to be designed.
- (1.5) *Detention* means short term storage of storm water runoff, designed to reduce the peak flow from a drainage basin by reducing the peak outflow to less than the peak inflow.
- (2) *Developer (and land developer)* means a person whose intent or function is to change the scope, type or amount of man-made use of real property.
- (3) *Drainage basin (and watershed)* means the catchment area from which storm water is carried off by a watercourse or storm drainage system. The area served by a drainage system receiving storm and other surface-borne water. The definition of drainage basin boundaries is a product of natural topography and drainage system configuration.
- (4) *Existing (and presently existing)* means those conditions which obtain, are in place, or are taking place, as of the date of enactment of the ordinance from which this division was derived.
- (5) *Facilities (and drainage facilities)* means all man-made structures or natural watercourses for the conveyance of storm runoff. Drainage facility examples are storm sewers, detention and water quality ponds, channels, bridges, gulches, pipes, ditches, siphons, catch basins, streets, alleys, curbs, gutters, and crosspans.
- (6) *Function* means a group of related activities which are designed to accomplish a major service or regulatory program for which a governmental agency is responsible.
- (7) *Impervious surface* means surfaces on or in a lot or parcel of real property where the infiltration of storm water into the earth has been reduced by the works of man.
- (8) *Land developer.* See "developer."
- (9) *Master drainage plan* means a plan defining gravity drainage basin boundaries containing criteria to be used in preliminary design, presenting the location and characteristics of all drainage facilities (including those presently existing and those expected to be needed under ultimate development as shown in the city's comprehensive plan), providing preliminary designs of required improvements, and including recommended staging of facilities construction, together with cost estimates.
- (10) *Peak flow* means the maximum rate of runoff from precipitation or snow melt during a given storm event.
- (11) *Person* means a natural individual person, a firm, a partnership, a co-partnership, a joint venture, a corporation, an estate or trust, a governmental entity other than the city, or any other group or combination acting as a unit, or other legal entity, and includes the plural as well as the singular number.

(12) *Pervious surface* means land surface where the rate of absorption of storm water is equal to or higher than the rate which existed in the natural and undeveloped state of the land surfaces.

(13) *Ratio group* means a specified range of ratios of impervious surface to total surface area of lots or parcels of real property to which a particular lot or parcel of real property is assigned for the purposes of fixing the charge per one hundred (100) square feet of impervious surface on or in the aforesaid lot or parcel.

(14) *Ratio of impervious surface* means that ratio obtained by dividing total square footage of surface area of a lot or parcel of real property into the total square footage of impervious surface area. That ratio shall not exceed one (1) for the purpose of determining the ratio group or the service charge.

(15) *Runoff* means that part of rainfall which is not absorbed, transpired, evaporated or left in surface depressions; and which then flows controlled or uncontrolled into a stream channel or body of water.

(15.5) *Statement of system continuity* means storm water drainage infrastructure, surface and/or subsurface, that will collect and convey stormwater runoff from a watershed to a watercourse or body of water.

(16) *Storm drain* means an improved storm drain is a closed conduit or paved open ditch for conducting collected storm water. An unimproved storm drain is an unpaved open ditch, natural or specifically constructed for conveying collected storm water.

(17) *Storm drainage system* means all facilities used in whole or in part for collecting and conveying storm water to, through and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: conduits and appurtenant features, channels, ditches, streams, gulches, gullies, flumes, culverts, streets, alleys, curbs, gutters, crosspans, and pumping stations.

(18) *Total square footage of the surface area of the lot or parcel of real property* means that square footage of a lot or parcel using the outside boundary dimensions in feet to obtain the total enclosed square footage, without regard for topographic features of the enclosed surface. The boundary dimensions in feet of the enclosed surface area may be established by any of the following methods:

- a. On-site measurements of the apparent outside boundary dimensions of the lot or parcel of real property made by the city or in its behalf; or
- b. Computation of the area using dimensions of the lot or parcel of real property which are set forth and contained in the records of the office of the assessor of the city; or
- c. Computation of the area using dimensions of the lot or parcel of real property which are set forth and contained in the records of the clerk and recorder of the city.

(19) *Urban hydrograph method* means a method of determining storm water runoff, used primarily where basis exceeds two hundred (200) acres, as described in the Urban Storm Drainage Criteria Manual published by the Denver Regional Council of Governments, and filed with the Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver, filed as City Clerk's Filing No. 94061.

(20) *Watercourse* means a stream, usually flowing in a particular direction (though it need not flow continuously in a definite channel), having a bed or banks and usually discharging into some other stream or body of water.

(21) *Watershed*: See "drainage basin."

(Ord. No. 160-80, § 1(167A.2), 4-14-80; Ord. No. 78-87, §§ 37--40, 2-9-87; Ord. No. 1101-01, § 1, 12-17-01; Ord. No. 200-02, §§ 5--7, 3-11-02)

**Cross references:** Definitions and rules of construction generally, § 1-2.

### **Sec. 56-110. Master drainage plan.**

(a) The manager of public works (hereinafter sometimes referred to as "manager") shall, as soon as is practicable, formulate and develop a plan to be known as the master drainage plan of the city. This master drainage plan, which shall be based on expert engineering studies, shall set forth the location of all drainage facilities within the city, including those facilities which presently exist and those which are planned to be constructed in the future.

(b) The master drainage plan shall describe all major drainage ways within the city, and all major facilities which are required to provide for the drainage and control of surface waters within the basin of said drainage ways to carry such waters to the designated points of outflow or discharge. The studies of future needs shall be based upon land uses as projected by the city's comprehensive plan, and on the criteria contained in the Urban Storm Drainage Criteria Manual of the Denver Regional Council of Governments.

(c) The manager of public works shall make such additional studies as may be necessary to determine the most cost-effective approach and the estimated costs of constructing the drainage facilities shown on the master plan which do not presently exist.

(d) The purposes of the master plan are to identify and alleviate present and future drainage problems of the city by means of:

- (1) Presenting, in an orderly fashion, the general data and information needed to understand the relationship between rainfall and storm runoff;
- (2) Forming the basis for the development of construction priorities, budgets and long-range plans for financing storm drainage system maintenance and operations;
- (3) Providing additional engineering bases for the preparation of a plan for financing the required new and expanded facilities; and
- (4) Providing additional supportive data for the establishment of the fees and charges required to provide revenues to meet system construction, operations and maintenance needs.

(e) The master drainage plan shall not be considered to be the official master drainage plan of the city until and unless it shall have first been adopted by resolution, by the city council. The master drainage plan shall be updated in no less frequent intervals than five (5) years, including new improvements and developing problem areas and shall be submitted to the city council for evaluation and approval.

(Ord. No. 160-80, § 1(167A.3), 4-14-80)

### **Sec. 56-111. Duties of land developers.**

(a) The city council finds and declares that each developer of land within the city has a duty to provide on his/her property all reasonably necessary drainage and detention facilities to ensure the adequate drainage and control of groundwater, underground springs and storm waters which fall or develop on his/her property or which contribute runoff to his/her property.

(b) Prior to the issuance by the city of a building permit for any building or structure, the owner, or building permit applicant on his/her behalf, shall submit a detailed storm drainage plan to the

manager unless a variance from such required submission is requested in writing and approved by the manager of public works. The requested building permit shall not be issued until and unless such storm drainage plan has been approved by the manager. Such plan shall be reviewed with regard for generally accepted engineering principles and standards.

(1) The storm drainage plan submitted to the manager of public works shall define the alignment and boundary of any natural drainage course, drainage facility or sub-drainage area on the land in question, and it shall include drawings, profiles and specifications for the construction of channels, alleys, conduits, detention ponds, culverts, bridges and all other drainage facilities reasonably necessary to ensure that groundwater, underground springs, flood and storm waters, including drainage from other lands which will contribute runoff to the subject property, will be adequately drained, stored, or otherwise controlled. Included in the plan shall be a schedule containing the estimated dates of completion of construction for all drainage facilities shown on the plan. If and when the plan is approved and the building permit issued, the owner and applicant shall comply with said schedule.

(2) No storm drainage plan shall be approved by the manager of public works unless it conforms with the engineering principles and standards of the master drainage plan, and particularly that portion of the master drainage plan which relates to the drainage basin in which the land in question is located.

(c) The owner or developer shall be encouraged to use creative and innovative solutions, such as detention or retention, to minimize the storm water runoff from his/her land. The owner or developer shall, at his/her own expense, submit necessary plans, designs and specifications to the manager of public works for review and approval. When approved by the manager of public works, a building permit shall be issued, subject to the developer's providing the manager, in a form satisfactory to the city attorney, a bond or other guarantee or indemnification for the construction of said facilities in accordance with such a schedule acceptable to the manager.

(d) In order to ensure the construction of any of the drainage facilities shown on an approved storm drainage plan pursuant to subsection (b), the owner of the land shall submit to the city, prior to issuance of a building permit, and in a form satisfactory to the city attorney, a bond or other guarantee or indemnification for the timely construction of said on-site facilities. This guarantee is in addition to that imposed pursuant to subsection (c).

(e) In addition to other obligations described in this section, each developer shall provide, without cost to the city, easements of sufficient width, which, in the opinion of the manager of public works, are necessary to ensure access to the constructed facilities for maintenance and operation purposes.

(Ord. No. 160-80, § 1(167A.4), 4-14-80; Ord. No. 78-87, §§ 41, 42, 2-9-87; Ord. No. 200-02, § 8, 3-11-02)

### **Sec. 56-112. Storm drainage service charge.**

(a) There is hereby imposed on each and every lot or parcel of land within the city, and the owners thereof, a storm drainage service charge. This charge is deemed reasonable and is necessary to pay for (1) the operation, maintenance, improvement and replacement of the existing city storm drainage facilities, and (2) the operation, maintenance, and replacement of future facilities. All of the proceeds of these service charges are deemed to be in payment for use of the city storm drainage system by the real property on, and with respect to, which the charge is imposed, and the owners thereof. Real property owned by the city pursuant to the Charter authority of the department of aviation shall not be subject to payment of such service charge for so long as the department of aviation performs all necessary and appropriate maintenance, repair, replacement and future construction relating to storm drainage facilities located on such real property.

(b) The storm drainage service charge shall be payable annually in advance and shall be paid to the city, as billed by the city, by the owner or owners of each and every lot or parcel of real property located within the political jurisdiction of the city and shall be computed by first determining the ratio of impervious surface, as defined herein, for the lot or parcel of real property; second, based on the aforesaid ratio determination assigning the lot or parcel of real property to a ratio group as defined and set forth herein; and third, multiplying the drainage service charge per one hundred (100) square feet for the assigned ratio group by the number of one hundred (100) square feet of impervious surface in or on the lot or parcel; provided, however, that the storm drainage service charge for each lot or parcel of real property in or on which there is impervious surface shall not be less than ten dollars and twenty-six cents (\$10.26) per annum. The manager of public works shall determine the number of square feet of impervious surface in or on the real property of each owner or owners thereof using the definition of impervious surface set forth in this division by any of the following methods:

- (1) On-site measurements of the impervious surface in or on such real property made by the city or in its behalf;
- (2) Computation of the impervious surface using the dimensions of the impervious surfaces in or on the real property which are set forth and contained in the records of the office of the assessor of the city;
- (3) Estimation, calculation and computation of the impervious surfaces using aerial photography or photogrammetry, or using the information and data from on-site measurements of like or similar property or features or as contained in the records of the city which set forth certain characteristics of the improvements on such real property such as the sum of the living space above the basement level in all buildings on the real property, the number of garages, the area of the real property, the year of construction of the buildings, the number of garage spaces, the assessor's use code, the number of levels in the primary building, and the assessor's class code, hereinafter referred to as "assessor's characteristics" of the improvements of such real property and actual measurements made by the city, or in its behalf, if any, of impervious surfaces in or on real properties whose assessor's characteristics are similar to those assessor's characteristics of the real property for which the estimation, calculation and computation is made.

(Ord. No. 160-80, § 1(167A.5), 4-14-80; Ord. No. 73-83, § 8, 1-31-83; Ord. No. 560-88, § 14, 9-6-88; Ord. No. 676-96, § 1, 8-5-96; Ord. No. 1101-01, § 2, 12-17-01; Ord. No. 189-05, § 1, 3-21-05)

**Sec. 56-113. Storm drainage service unit charge.**

(a) The storm drainage service unit charge per one hundred (100) square feet of impervious surface per year for each ratio group is fixed as follows:

TABLE INSET:

| Ratio Group | Rate of Charge<br>(per 100 Square Feet<br>of Impervious Surface) |        |        |        |
|-------------|--|--------|--------|--------|
|             | 2002   | 2003   | 2004   | 2005   |
| . 0 to .10  | \$0.83   | \$1.00 | \$1.20 | \$1.44 |
|             |  |        |        |        |

|             |      |      |      |      |
|-------------|------|------|------|------|
| .11 to .20  | 1.05 | 1.26 | 1.51 | 1.81 |
| .21 to .30  | 1.27 | 1.52 | 1.82 | 2.18 |
| .31 to .40  | 1.49 | 1.79 | 2.15 | 2.58 |
| .41 to .50  | 1.71 | 2.05 | 2.46 | 2.95 |
| .51 to .60  | 1.71 | 2.05 | 2.46 | 2.95 |
| .61 to .70  | 1.93 | 2.32 | 2.78 | 3.34 |
| .71 to .80  | 2.15 | 2.58 | 3.10 | 3.72 |
| .81 to .90  | 2.37 | 2.84 | 3.41 | 4.09 |
| .91 to 1.00 | 2.59 | 3.11 | 3.73 | 4.48 |

(b) From the revenue from the storm drainage service charges, not more than sixty (60) percent shall be apportioned for the payment of the costs of the administration, management, operation and maintenance, planning and engineering of storm drainage facilities; and forty (40) percent or a greater proportion, if not otherwise allocated for the costs of administration, management, operation and maintenance, planning and engineering of storm drainage facilities, shall be apportioned for the payment of the costs of construction, reconstruction, replacement and renewal of the storm drainage facilities and system and the payment of principal and interest upon bonds issued and outstanding, if any, and to be issued.

(Ord. No. 160-80, § 1(167A.6), 4-14-80; Ord. No. 629-88, § 1, 10-11-88; Ord. No. 676-96, § 2, 8-5-96; Ord. No. 1101-01, § 3, 12-17-01; Ord. No. 200-02, § 9, 3-11-02)

#### **Sec. 56-114. Administrative review and court proceedings.**

(a) Any person who disputes the amount of any charge or rate of charge made against his property may request a revision or modification to such charge or rate of charge from the agency or division of the department of public works assessing such charge. Such request shall be made in writing not later than one (1) year after having been billed for any such charge. Said agency or division shall issue a written determination granting or denying such request, in whole or in part, which determination may be appealed pursuant to the remaining provisions of this section.

(b) Any person who disputes any determination made by or on behalf of the city pursuant to and by authority of the manager, which determination adversely affects such person, may petition the manager for a hearing concerning such determination no later than thirty (30) days after having been notified of any such determination.

(c) The manager may hold such hearing himself or, in his sole discretion, may designate an officer or employee of the department of public works as a hearing officer with authority to hold such hearing or such hearings.

(d) Such petition shall be in writing and the facts and figures submitted shall be submitted under oath or affirmation either in writing or orally at a hearing scheduled by the manager of public works or the hearing officer. The hearing, if any, shall take place in the city and notice thereof and the proceedings shall otherwise be in accordance with rules and regulations issued

by the manager of public works. The petitioner shall bear the risk of nonpersuasion, and the standard of proof shall conform with that in civil, nonjury cases in state district court.

(e) Thereupon, the manager of public works or his designee shall make a final determination. Such final determination shall be considered a final order of the manager and may be reviewed under rule 106(a)(4) of the state rules of civil procedure.

(f) The district court of the second judicial district of the state shall have original jurisdiction in proceedings to review all questions of law and fact determined by the manager of public works by order or writ under rule 106(a)(4) of the state rules of civil procedure.

(Ord. No. 160-80, § 1(167A.7), 4-14-80; Ord. No. 96-84, § 2, 3-12-84; Ord. No. 560-88, § 15, 9-6-88)

### **Sec. 56-115. Administration of division by manager of public works.**

The administration of the provisions of this division is hereby vested in and shall be exercised by the manager of the department of public works who may, in accordance with article VI of chapter 2, prescribe forms and rules and regulations in conformity with this division for the ascertainment, computation and collection of the fees and charges imposed hereunder, and for the proper administration and enforcement hereof. The manager of public works may delegate the administration of this division, or any part thereof, subject to the limitations of the Charter and this Code, to duly qualified deputies and agents of the manager of public works.

(Ord. No. 160-80, § 1(167A.8), 4-14-80)

### **Sec. 56-116. Notice.**

Every decision or determination of the manager of public works shall be in writing and notice thereof shall be mailed to or served upon the petitioner within a reasonable time from the date of the manager's action, and all such determinations, orders and decisions shall become final upon the expiration of thirty (30) days after notice of such determination or decision shall have been mailed to or personally served upon the petitioner, unless proceedings are begun within the time for review thereof as herein provided. Service by certified mail, return receipt requested, shall be conclusive evidence of service for the purpose of this division.

(Ord. No. 160-80, § 1(167A.9), 4-14-80)

### **Sec. 56-117. Fiscal matters.**

(a) Except to the extent otherwise provided by Subsection 56-108(d), all fees and charges paid and collected pursuant to this division shall be segregated, credited and deposited in a special fund or funds, and shall not be transferred therefrom to any other account of the city, except to pay for expenses directly attributable to storm drainage activities.

(b) The fees and charges paid and collected by virtue of this division shall not be used for general or other governmental or proprietary purposes of the city, except to pay for the equitable share of the costs of accounting, management, and government thereof. Instead, the fees and charges shall be used other than as described above, solely to pay for the costs of the operation, repair, maintenance, improvement, renewal, replacement and reconstruction of storm drainage facilities within the city and costs incidental thereto.

(c) The city may pledge all fees and charges collected under this article, including those anticipated to be collected, to the payment of principal and interest of general obligation bonds or revenue bonds issued by the city for financing the design, construction, construction inspection, reconstruction, improvement, replacement and installation of facilities and the

acquisition of interests in land.

(d) The annual budget of the department of public works shall include a proposed budget for (1) the operation and maintenance of storm drainage facilities for the ensuing budget year, and (2) the construction of storm drainage facilities during the same period. There shall also be included in the annual budget a statement of all amounts presently in the storm drainage fund, and an estimate of anticipated revenues for the ensuing budget year.

(Ord. No. 160-80, § 1(167A.12), 4-14-80; Ord. No. 200-02, § 10, 3-11-02)

### **Sec. 56-118. Billing and collection of charges.**

(a) The annual storm drainage service charge shall be billed and collected from owners of property directly by the manager of public works. While bills for the service charge may be sent to the address of the lot or parcel of real property directed to "owner or occupant," the obligation to pay promptly the service charges is in no way affected by the failure of the city to furnish or send a bill or of the owner or occupant of the premises served to receive a bill for such services. Bills and notices are sent solely as a convenience to the users.

(b) If any owner or owners of any lot, parcel of land or any real property within the legal boundaries of the city shall neglect, fail or refuse to pay the charges or fees fixed by this division, the rates, charges or fees due therefor may, by the manager of public works, be periodically certified to the manager of revenue who shall record a notice of such lien with the clerk and recorder. Such rates, charges or fees due therefor shall become, from and after the date of such recording of the notice in the office of the clerk and recorder, a continuing lien upon the real property so charged. The manager of revenue shall assess and charge the amounts of the charges or fees due against the property involved, and collect the same, plus interest thereon, in the manner as are delinquent real property taxes. The lien created hereby shall be superior and prior to all other liens, regardless of their dates of recordation, except liens for general taxes and special assessments. In addition to the remedies set forth herein, an action or other process provided by law may be maintained by the city to recover or collect any amounts, including interest, owing under this provision. Provided however, that when the failure to pay such rates, charges or fees due is the result of incorrect billing by the manager of public works, the owner shall only be billed, with the related certification and notice, if any, for not more than two (2) years prior to the mailing of a corrected billing.

(Ord. No. 160-80, § 1(167A.13), 4-14-80; Ord. No. 78-87, § 43, 2-9-87; Ord. No. 11-93, § 5, 1-4-93; Ord. No. 464-98, § 10, 7-6-98)

### **Sec. 56-119. No guarantee or liability.**

Larger floods from storm water runoff may occasionally occur which exceed the capacity of storm drainage facilities constructed and maintained by funds made available under this division. This division does not imply that property liable for the fees and charges established herein will always be free from storm water flooding or flood damage. Nor shall this section create a liability on the part of, or cause of action against, the city or any officer or employee thereof for any flood damage that may result from such rare or severe storms or the runoff thereof. Nor does this section purport to reduce the need or the necessity for obtaining flood insurance.

(Ord. No. 160-80, § 1(167A.14), 4-14-80)

### **Sec. 56-120. Violations; evasion of collection or payment.**

It shall be a violation of this division for any person to fail or refuse to make payment to the

manager of public works of any fees or charges due the city, or in any manner to evade the collection and payment to such fees and charges, or any part or parts thereof, imposed by this division or for any person to fail or refuse to pay such fees or charges or evade the payment thereof, or to aid or abet another in any attempt to evade the payments of the fees and charges imposed by this division.

(Ord. No. 160-80, § 1(167A.10), 4-14-80)