

Storm Water Management Fee

ARTICLE IV. STORMWATER MANAGEMENT FEE PROGRAM*

*State law references: Authority is granted to local governments to establish stormwater utilities, S.C. Code 1976, § 48-14-120(C); criteria for implementation of a stormwater utility, S.C. Code Reg. 72-310; local government responsibility, S.C. Code Reg. 72-310.E.

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Sec. 90-281. Program costs

The city administrator or his designee shall establish a program which addresses four categories of program costs, as more fully described as follows:

- (1) Administrative costs, including but not limited to the salaries of program administrators and staff and the costs of general planning and development.
- (2) NPDES permit compliance costs, including but not limited to the costs of complying with the provisions of the NPDES permit and subsequent permits.
- (3) Quantity project costs, including, but not limited to, the costs of projects related to flooding or other drainage problems as approved by council.
- (4) New construction costs, including but not limited to permitting and inspection of land on which new construction is occurring that results in a "land disturbing activity" which:
 - a. Requires a permitted plan; and
 - b. Changes the natural cover or topography and which may cause erosion or contribute sediment and alter the quantity or quality of stormwater runoff.

New construction costs will only be chargeable to those parcels of land on which new construction is occurring which results in land disturbing activities equal to or greater than one acre in size, regardless of the size of the parcel.
(Code 1982, § 29-111)

Sec. 90-282. Establishment of land use classifications

(a) Classification of property designated. The amount of the stormwater fee to be paid will be dependent on the classification of the property into one of four use classifications as follows:

- (1) Classification 1. Developed residential properties, which shall

include all single-family detached units and all duplexes and developed agricultural properties.

(2) Classification 2. Developed nonresidential properties, which shall include but not be limited to triplexes; apartment buildings and complexes; condominiums, boardinghouses; commercial properties; industrial properties; parking lots; recreational, institutional, and governmental facilities; hotels; offices; schools and other educational facilities; theaters and other facilities for performance; and churches and other religious institutions and facilities.

(3) Classification 3. Undeveloped residential properties and agricultural properties.

(4) Classification 4. Undeveloped nonresidential properties.

(b) Payment of fee. Each of these four classifications shall pay stormwater fees according to the fee schedule adopted by the city council.

(Code 1982, § 29-112)

Sec. 90-283. Calculations and adjustments

To pay for the unfunded federal and state mandated stormwater requirements, stormwater fees shall be established by city council using the following formula:

(1) Fee calculation. For purposes of calculating the stormwater fee:

a. Impervious surfaces shall mean those hard surfaces which either prevent or retard the entry of water into the soil and include such surfaces as roof tops, asphalt or concrete paving, driveways, parking lots, walkways, sidewalks, patio areas, storage areas, graveled areas, or other surfaces which affect the natural infiltration.

b. The city engineer shall determine the amount of impervious area on each developed nonresidential property. The determination will be made using information derived from digital and other photographic data, Greenville County and Spartanburg County Geographic Information System (GIS) data, and other additional information, if available, to supplement such data. Upon written request to the city engineer, an owner, or lawful occupant obligated to the owner for payment of the stormwater fee shall be provided with a written determination of the amount of impervious area for which the stormwater fee was charged.

c. The city engineer shall determine the mean average amount of impervious surface on all developed residential properties in the city using a statistical process. This mean average shall constitute the equivalent residential unit (ERU) that shall be used to calculate the fee for residential and nonresidential parcels.

d. The ERU shall be the billing unit used in the formula for calculating the stormwater fees for each parcel. The number of ERUs for all developed and undeveloped residential properties shall be one. The number of ERUs for all developed nonresidential properties shall be determined by the amount of impervious area on the property divided by the ERU and rounded up to the nearest whole integer. The number of ERUs for all undeveloped nonresidential properties shall be one.

(2) Procedure for calculating fee annually. The annual stormwater fee shall be calculated using the following procedure:

a. Classification 1. The stormwater fee for all developed residential properties shall be calculated by multiplying one ERU by the applicable developed residential property rate.

b. Classification 2. The stormwater fee for all developed nonresidential

properties shall be calculated by multiplying the number of ERUs calculated in subsection (1)d of this section by the applicable developed nonresidential property rate.

c. Classification 3. The stormwater fee for all undeveloped residential properties shall be calculated by multiplying one ERU by the applicable undeveloped residential property rate.

d. Classification 4. The stormwater fee for all undeveloped residential properties shall be calculated by multiplying one ERU by the applicable undeveloped nonresidential property rate.

(Code 1982, § 29-113)

Sec. 90-284. Fees

(a) The following fee schedule is hereby adopted to finance the stormwater management program in the city:

(1) The fee ERU shall be \$21.60 per ERU annually.

(2) For all classification 2, the fee shall be calculated based on the amount of impervious surface on the property.

(3) For classifications 1, 3, and 4, the fee shall be calculated on one ERU.

(b) This fee and rate schedule may be adjusted annually through the adoption of the city budget based on the cost of the program.

(Code 1982, § 29-114)

Sec. 90-285. Creation of enterprise fund

All stormwater fees shall be deposited into an enterprise fund created by the city entitled, "stormwater enterprise fund," with such accounts and subaccounts as the city administrator or his designee shall determine are necessary. Funds generated from stormwater fees, bond issues, other borrowing, and other sources shall be invested and reinvested pursuant to the same procedures and practices established by the city for investment and reinvestment of funds. The city council may use any form of borrowing authorized by the state to fund capital acquisitions or expenditures for the program.

(Code 1982, § 29-115)

Sec. 90-286. Billing and collection of stormwater fees

The stormwater fee shall be billed on an annual basis and shall be due and payable within the time and in the manner prescribed by law for city ad valorem taxes pursuant to S.C. Code 1976, § 12-45-70, or other law of similar import. The county tax collector shall bill and collect the annual stormwater fee established in this section, in the same manner as county and municipal taxes are collected and shall include the stormwater fee as one or more line items on the tax bills mailed to each owner of property subject to the stormwater fee.

(Code 1982, § 29-116)

Sec. 90-287. Penalties

The city administrator shall be the enforcement officer for the provisions of this section.

(1) It shall be unlawful for any person to violate any provision of this article, and any such violation shall be punished as prescribed in this section. Each day a violation continues constitutes a separate offense.

(2) In addition to any other penalties provided in this article, the city administrator may assess a civil penalty not to exceed \$500.00 against any person violating any provision of this article. In setting the amount of the civil penalty, the city administrator shall consider the type, duration, and severity of the violation and the penalty. If full payment of the penalty is not made within 30 days after such demand is mailed or delivered to the person, the city attorney may commence a civil action in the appropriate court to recover the penalty.

(3) In addition to any other penalties or remedies provided in this article, the city attorney may institute a civil action in the appropriate court to obtain compliance with the provisions of this section or remedy or prevent the violation or threatened violation of any provision article.

(Code 1982, § 29-117)

Sec. 90-288. Appeals

(a) Any person aggrieved by the amount of the stormwater fee imposed with respect to property in which he has an interest may appeal the amount of the stormwater fee by filing a written notice of appeal with the city administrator within 30 days of mailing or delivery of the notification of the stormwater fee. The city administrator will send the decision and notice of appeal to a hearing officer to be appointed by the city council. The notice of appeal shall state the specific reasons why the amount of the stormwater fee is alleged to be in error. The hearing officer shall hear the appeal within 30 days after receipt of the written appeal, or within such time as may be practicable. The hearing officer shall render a decision of the written appeal, or within such time as may be practicable. The hearing officer shall render a decision on the appeal in writing within ten working days after the appeal has been heard. The decision of the hearing officer shall be final with respect to the stormwater fees.

(b) Any person aggrieved by the decision of the city administrator with respect to a civil penalty imposed may appeal in writing within 30 days of the mailing or delivery of the notification of the imposition of such penalty to the city administrator according to the procedure set forth in subsection (a) of this section. The penalty shall be stayed during the tendency of such appeal. The decision of the hearing officer shall be final with respect to penalties.

(c) The hearing officer shall conduct a de novo review of the fee or civil penalty, provide the appellant with notice of the review, and allow the appellant an opportunity to be heard orally or in writing upon request.

(Code 1982, § 29-118)

Secs. 90-289--90-340. Reserved.