

**AN ORDINANCE
ADOPTING STORMWATER MANAGEMENT UTILITY FEES, PROVIDING FOR
CLASSIFICATION OF REAL PROPERTY SUBJECT TO SUCH FEES AND REPEALING
ORDINANCE 2003-035 WHICH ESTABLISHED INTERIM STORMWATER
MANAGEMENT UTILITY FEES**

WHEREAS, The City of North Charleston established an interim stormwater management utility fee structure to be utilized until such time that the City completed a Stormwater Utility Rate Study and subsequently adopt a permanent rate structure and schedule of fees; and

WHEREAS, The City of North Charleston commissioned Woolpert, Inc., an engineering and consulting company to perform a Stormwater Utility Rate Study for The City; and

WHEREAS, based upon such study The City of North Charleston Council desires to repeal Ordinance Number 2003-035 which established interim fees and hereby establish stormwater fees for all parcels of land.

Now therefore, be it ordained by the Mayor and City Council, in Council assembled that City of North Charleston Ordinance Number 2003-035 is repealed and the following Stormwater Management Utility Fee Ordinance is adopted:

**Section I
Findings of Fact**

- A. By Ordinance No. 2002-094 the City established a Stormwater Management Utility and provided that fees may be adopted to assist in the establishment of the Utility.
- B. In the adoption of such ordinance, City Council made certain findings and declarations which findings and declarations are hereby reaffirmed, as if set forth verbatim.
- C. By Ordinance 2003-035, City Council adopted Interim Stormwater Rate Fees which are now being replaced with the fees set forth herein.
- D. The fee system set forth herein is reasonable and equitable so that each user of the stormwater system pays to the extent to which the user contributes to the need for the stormwater system, and the charges bear a substantial relationship to the cost of the service.

**Section II
Stormwater Management Utility Fee Structure**

For properties in the City of North Charleston within Charleston County, the following stormwater management utility fee rate structure will apply:

- 1. For purposes of determining the fee, properties are classified as follows:
 - a. Single Family Residential Property (includes individual Agricultural Residential Property, Townhouses, or individual Mobile Homes that are not part of a Mobile Home Park);
 - b. Non-residential/Commercial Property;
 - c. Multi-Family Residential Property;

- d. Condominium Units;
 - e. Mobile Home Parks;
 - f. Undeveloped Property.
2. For all parcels containing a Single Family Residence, an annual fee of \$36.00 shall be assigned.
3. For all parcels containing Non-residential land use (Commercial or Industrial), an annual fee of \$36.00 per ERU or any portion thereof shall be assigned. An ERU is defined as 2,900 square feet of impervious surface.
4. For all parcels containing Multi-family residences excluding mobile home parks, an annual fee of \$36.00 per ERU or any portion thereof shall be assigned. An ERU is defined as 2,900 square feet of impervious surface.
5. For all parcels containing condominium units that are covered by a Horizontal Property Regime, an annual fee of \$36.00 per ERU or any portion thereof shall be assigned. An ERU is defined as 2,900 square feet of impervious surface.
6. For all parcels containing condominium units that are not part of a Horizontal Property Regime, an annual fee of \$36.00 per unit shall be assigned.
7. For all parcels containing Mobile Home parks, an annual fee of \$36.00 per ERU or any portion thereof shall be assigned to all the permanent impervious surface and a fee of \$14.90 per unit, per year, shall be assigned to all Mobile Homes maintained onsite.
8. Undeveloped/unimproved real property shall not be charged a stormwater management utility fee .

For properties in the City of North Charleston within Dorchester County, any Stormwater Utility Rate Study conducted on behalf of Dorchester County is hereby adopted and the stormwater management utility fee rate structure established in Dorchester County Ordinance #09-08 is hereby adopted.

Section III Utility Fee Credit Policy

Properties in the City of North Charleston within Charleston County, not to include single family residential properties, may qualify for a credit on their stormwater management utility fee as follows:

- A. All entities within the City that have a MS4 permit shall be entitled to a maximum MS4 credit of 80% and no other credits shall apply.
- B. Owners/representatives of facilities that provide a signed maintenance agreement and can verify through documentation that maintenance is being performed on their stormwater management practices shall be entitled to a maintenance credit up to 20%.
- C. A maximum 20% education credit shall be offered to all accredited educational facilities that can document stormwater education classes, seminars and/or workshops.
- D. If owners/representatives of a facility can provide accurate documentation that the stormwater from their site is self-contained (self contained is defined as stormwater that does not use the City system for conveyance) may be entitled to a maximum self-contained credit of up to 50%. These self-contained credit applications will be evaluated on a case by case basis. The City may allow adjustments of stormwater charges for self-contained stormwater facilities that reduce the amount of impact on City maintained stormwater facilities upon inspection and approval of facilities by the

Public Works director or his or her designee. The amount of adjustment and requirements for receiving and maintaining those adjustments are as follows:

1. The rate of the adjustment for self-contained stormwater facilities is based on the amount of reduced impact that the privately maintained stormwater facilities achieve. The City may allow adjustments to stormwater fees for any portion of the parcel that can be demonstrated to directly discharge into any drainage conveyance facility not maintained by the City and does not ultimately flow into a City owned or maintained facility. The adjustment will be up to 50% for the portion of the parcel that meets this requirement.

2. A non-residential property with private stormwater facilities shall be eligible for an adjustment of fees for self-contained stormwater facilities when the following conditions are met:

a. Private Stormwater facilities exist;

b. The utility customer has provided to the City, information demonstrating its' facilities qualify as self-contained facilities, including hydraulic/hydrologic calculations, topographic maps and other necessary information signed and sealed by a professional engineer registered in the state of South Carolina;

c. The utility customer has provided a copy of a valid NPDES stormwater permit or a statement that no permits are required for the activity on the parcel;

d. The utility customer has entered into an agreement with the City in which the property owner agrees to provide continued maintenance of the private stormwater facilities;

e. The proof of reduced impact upon City-owned or maintained stormwater facilities has been approved by the Public Works Director or his/her designee and;

The owners of the parcel of property receiving such adjustments of the City stormwater management utility fee agrees that, prior to receiving such adjustments, it will provide maintenance on all private drainage structures, consistent with the requirements of the City and consistent with the City's maintenance practices for public drainage structures.

E. The maximum combined credit for any facility, which does not have a MS4 permit, shall be 70%.

F. The minimum fee for any property that is subject to the Stormwater management utility fee shall be one (1) ERU after consideration of any applicable credits.

G. Potential credits do not apply to single family residential properties.

NOW THEREFORE, be it ordered by The City of North Charleston Council, duly assembled that Section IV shall be deleted from Ordinance 2003-035 and previous Section V (Billing of Stormwater Management Utility Fee) will become Section IV and new item IVA. shall read as follows:

Section IV.

Billing of Stormwater Management Utility Fee

A. Billing and collecting a stormwater management utility fee within the Charleston County portion of the City of North Charleston shall be by agreement with Charleston County and shall provide that the failure to pay the stormwater management utility fee can be enforced through the collection process of Charleston County. Upon collection of the fees by Charleston County, the fees shall be dispersed to the City of North Charleston.

B. The Public Works Director, along with the Finance Director, shall prepare and forward all information necessary to the Charleston County Business License/User Fee Department, for the Purpose of annual billing of stormwater management utility fees.

C. For non-payment of all or any part of the stormwater fees, the monetary penalty shall be the same penalty set forth in Section 12-45-180 of the South Carolina Code of Laws. If any stormwater fee shall remain unpaid for sixty (60) days after the due date, the City or its collection representative, including but not limited to Charleston or Dorchester County within the respective jurisdictions, may issue a lien upon the parcel for the stormwater fee, penalties and costs of collection and shall proceed to collect in the same manner as prescribed by law for the collection of other fees and taxes.

D. Developed properties shall be subject to the imposition of the stormwater management utility fees upon final approval of the site by the City.

E. The property owner(s) of record as indicated by the County Assessor's tax rolls as of January 1st of the year of billing shall be responsible for the payment of the stormwater management utility fees.

F. Billing and collecting a stormwater management utility fee within the Dorchester County portion of the City of North Charleston shall be as per agreement between the two (2) entities. Dorchester County shall collect the fees and disperse the appropriate percentage as per agreement with the City of North Charleston.

**Section V.
Severability**

It is the declared intent of City Council that the sections, subsections, paragraphs, sentences, clauses, phrases and provisions of this ordinance are severable; and if any such part shall be declared unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity or enforceability of any remaining portions of this ordinance, and it is the intent of this Council that all such provisions shall continue in full force and effect.

**Section VI.
Effective Date**

This ordinance shall take effect immediately. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

THE WITHIN ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON ITS RATIFICATION BY CITY COUNCIL.

ATTEST:

Ordained in City Council the 10th day of September, in the Year of Our Lord, 2009, and in the 234th year of the Independence of the United States of America.



ELLEN CLARK,
MUNICIPAL CLERK


R. KEITH SUMMEY, MAYOR

APPROVED AS TO FORM:


LEGAL COUNSEL