

CERTIFIED TRUE COPY

*Sandy W. Lawley*Sandy W. Lawley, Clerk to Council  
Dorchester County, SC

## AN ORDINANCE

RELATING TO THE IMPOSITION OF STORMWATER UTILITY FEES, PROVIDING FOR THE CLASSIFICATION OF REAL PROPERTY SUBJECT TO SUCH FEES, ESTABLISHING THE AMOUNT OF INTERIM STORMWATER UTILITY FEES AND PROVIDING FOR THE USE OF SUCH FEES BY THE STORMWATER MANAGEMENT UTILITY OF DORCHESTER COUNTY.

## Section I FINDINGS OF FACT

- A. By Ordinance No. \_\_\_\_\_, County Council created a Stormwater Management Utility and provided that interim fees may be adopted to assist in the establishment of the Utility.
- B. In the adoption of such ordinance, County Council made certain findings and declarations which findings and declarations are hereby reaffirmed as if set forth verbatim.
- C. County Council is aware of the practical difficulty of determining precisely the particular needs of each parcel of improved real property for stormwater management and the special benefits to be derived by the owners and users of such property. Upon the completion of the Stormwater Utility Rate Study, County Council will adopt a permanent rate structure and schedule of fees so as to equally and reasonably address and relate such needs and benefits to the fees assessed. As an interim measure, County Council feels that it is appropriate to adopt a flat fee per parcel. County Council recognizes that a different approach to the classification of property and assessment of fees may result from the pending study and cautions land owners of the interim nature and basis of the classifications and fees set forth herein.

## Section II Classifications of Property and Determination of the Interim Utility Fee

- A. Interim Rate:  
The Interim rate shall be 29.20 dollars per year per parcel  
All parcels included

## Section III Billing and Collection

- A. The Dorchester County Treasurer shall mail to each owner of real property and/or personal property a notice of the amount of the Annual Stormwater Utility Fee imposed on such owner. Such fee may be included with the property tax notice mailed to any owner against whom such fee is imposed.
- B. In addition to the authorization conferred upon the Treasurer, the office or its designee is authorized and empowered to bill and collect the annual Stormwater Utility Fee.
- C. The annual Stormwater Utility Fee shall initially be billed and collected in the same manner as taxes are billed and collected; however, collection of delinquent

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Stormwater Utility Fees shall be billed and collected by the Stormwater Department.

- D. If the Stormwater Fee is unpaid and referred for collection to an outside agency and/or attorney, the property owner, to the extent permitted by law, will pay all cost including reasonable attorney fees.
- E. The Stormwater Department reserves the right to charge a reasonable handling fee on any check returned by the bank for insufficient funds or is otherwise unpaid.

**Section IV Adjustment of Final Utility Fee**

- A. In cases where the Utility customer believes the fee to be inappropriate based on the actual impervious area of the property in which he has interest, a request for reconsideration may be filed with the County Engineer as outlined in Section XII, "Request for Reconsideration", of the Stormwater Management Utility ordinance.
- B. Where an adjustment of the fee is warranted, the County Engineer shall recalculate the fee using a weighted runoff coefficient (or C-factor) that is based on the total impervious and pervious areas as measured by the Land Surveyor.
- C. Where deemed appropriate and at the discretion of the County Engineer, the gross acreage of the property may be adjusted as a means of recalculating the fee. This method is generally applied in cases where the property is relatively large and the ratio of improved area to unimproved area is relatively low. The County Engineer and the property owner shall mutually agree on the general area of improvement. In cases where a mutual agreement cannot be reached, the property owner shall request a reconsideration of the fee using the method described in Section XII, "Request for Reconsideration", of the Stormwater Management Utility ordinance.

**Section V Duration of Interim Fees**

The interim fees established by this Ordinance are temporary, and shall apply only until such time as the pending Stormwater Utility Rate Study is completed and County Council adopts a permanent rate structure and schedule of fees for the Stormwater Management Utility.

**Section VI Severability**

It is declared intent of County 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 on adoption.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Ratified this 5th day of August, 2002

Randy Scott  
Randy Scott, Chairman

Myrtle Killion  
Myrtle Killion, Clerk to Council

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Dorchester County, SC

First Reading	<u>04-15-02</u>
Second Reading	<u>07-15-02</u>
Third Reading	<u>08-05-02</u>
Public Hearing	<u>08-05-02</u>



***ESTABLISHING A STORMWATER MANAGEMENT UTILITY FOR THE PURPOSE OF PLANNING, DESIGNING, CONSTRUCTING, FUNDING AND MAINTAINING STORMWATER MANAGEMENT, SEDIMENT CONTROL, AND FLOOD CONTROL PROGRAMS, PROJECTS AND FACILITIES, AND REVIEWING AND APPROVING STORMWATER MANAGEMENT AND***

***SEDIMENT CONTROL PLANS FOR LAND DISTURBING ACTIVITIES, AND PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT THEREOF.***

**BE IT ORDAINED**, by Council of Dorchester County that this Ordinance be adopted which shall provide as follows:

**WHEREAS**, the South Carolina General Assembly adopted the Stormwater Management and Sediment Reduction Act (the Act), South Carolina Code Annotated, Section 48-14-10, which authorizes a local government to establish a Stormwater Management Utility, and the South Carolina Land Resources Commission has promulgated comprehensive regulations as required by said Act which regulate implementation of a Stormwater Management Utility; and

**WHEREAS**, pursuant to section 5-7-30 and 5-31-10, et. Seq. of the South Carolina Code Annotated, counties are authorized to enact regulations and ordinances for government services deemed necessary and proper; and

**Section I FINDINGS OF FACT**

Dorchester County hereby ordains that;

- A. In Dorchester County the management of stormwater runoff and sediment is necessary to reduce pollution, siltation, sedimentation, local flooding, inflow and infiltration of stormwater into the public sewer collection system, and stream channel erosion, all of which impact adversely on land and water resources and the health, safety, property and welfare of the residents of the County.
- B. The County maintains a system of stormwater management facilities, including but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, and other components as well as natural waterways.
- C. The stormwater management facilities and components of the County need to be regularly rehabilitated, upgraded or expanded, and additional stormwater management facilities and measures need to be installed throughout the County.
- D. There is no comprehensive mapping system or base line data to assist in analysis, design and/or development of comprehensive maintenance and retrofit programs, and there is no long-term comprehensive drainage infrastructure maintenance program/plan in Dorchester County.
- E. There is a lack of resources (equipment, manpower, funds) in Dorchester County to address problems comprehensively and within a defined time frame.
- F. In Dorchester County current and anticipated growth will contribute to the need for improvements in and maintenance of the stormwater management system.
- G. Dorchester County needs to upgrade its capability to maintain existing and future stormwater management facilities and measures.
- H. Every Parcel of real property in Dorchester County either uses or benefits from the stormwater management system and the improvement of existing facilities and

construction of additional facilities in the system will directly benefit the owners of all property.

- I. In Dorchester County the extent of use of the stormwater management system by each classification of real property is dependent on a variety of factors that influence runoff, such as land use, topography, intensity of development, amount of impervious surface, and location in a particular watershed or basin.
- J. In Dorchester County property owners and users should finance the stormwater management system to the extent they contribute to the need for the system and benefit from the system, and charges therefore should bear a reasonable relationship to the cost of the service, and every effort should be made to fairly and reasonably spread the cost of the system to all property owners and users.
- K. Creating a permanent Stormwater Management Utility rate structure and schedule of fees is a difficult, time consuming and costly endeavor, and Dorchester County is committed to such an undertaking but finds it is necessary to provide for **INTERIM** Stormwater Management Utility Fees and Classifications thereunder prior to the final completion of the referenced Stormwater Management Utility Study. Thus, Council finds that a Stormwater Management Utility interim fees and classifications thereunder should be established with a view to establishing permanent Stormwater Management Utility Fees and Classifications based on the results of further study.
- L. It is in the best interests of the citizens of this County and, most specifically, the owners of real property, that a Stormwater Management Utility with interim fees and classifications thereunder be established by ordinance and implemented as part of the County's utility enterprise system as authorized by South Carolina Code Annotated, Sections 48-14-10 to 48-14-150 (Supp. 1991); Section 5-7-30 (Supp. 1991); and other relevant laws and regulations of the State of South Carolina

## **Section II Article Designation and Authority**

This article may be cited as the Stormwater Management Utility Ordinance and is adopted pursuant to South Carolina Code Annotated, Sections 48-14-10, et. seq.; Section 5-7-30 (Supp. 1991); and 26 South Carolina Code Annotated, Regulations 72-300, et. seq. and Section 5-31-10, et. seq.

## **Section III Definitions**

Unless the context specifically indicates otherwise, the meanings of words and terms used in this article shall be as set forth in South Carolina Code Annotated, Section 48-14-20 (Supp. 1991) and 26 South Carolina Annotated, Regulation 72-301, (Supp. 1992), mutatis mutandis.

## **Section IV Establishment of a Stormwater Management Utility; Administration; Duties and Powers**

County Council hereby establishes a Stormwater Management Utility (Utility) to carry out the purposes, functions and responsibilities herein set forth. The governing body of the Utility shall be County Council. The administrator shall administer the Utility under the Department of Public Works. The Utility shall have the powers and duties hereinafter set out, which powers are not necessarily exclusive to the Utility, to wit:

- A. Stormwater management planning and preparation of comprehensive watershed master plans for stormwater management.

- B. Regular inspections of public and private stormwater management facilities and measures and construction thereof.
- C. Maintenance and improvement of stormwater management facilities that have been accepted by the County for that purpose.
- D. Plan review and inspection of sediment control and stormwater management plans, measures, and practices.
- E. Retrofitting designated watersheds to reduce existing flooding problems or to improve water quality.
- F. Acquisition of interests in land, including easements.
- G. Design and construction of stormwater management facilities and measures and acquisition of equipment.
- H. Water quantity and water quality management, including monitoring and surveillance.
- I. Billing and collecting a stormwater management utility fee shall be by use of the County tax bill and the Stormwater Department.
- J. Any and all powers and duties delegated or granted to it as a local government-implementing agency under the laws and regulations of the State of South Carolina, and the ordinances of this town.

## **Section V     Boundaries and Jurisdiction**

The boundaries and jurisdiction of the Stormwater Management Utility shall be the entire County including municipalities.

## **Section VI    County Regulations of Land Disturbing Activity**

County Council shall establish by ordinance a system regulating land disturbing activities, including, but not limited to provisions for reviewing and approving stormwater management and sediment control plans; creating design requirements for such plans and land disturbing activities; and providing operational and maintenance requirements for stormwater management facilities and measures.

## **Section VII   Stormwater Utility Fees**

County Council shall establish by ordinance the amounts and classifications of stormwater management utility fees to be implemented to help fund the Utility and its programs and projects. Because of the complexity and practical difficulty of setting utility fees and classifications, **INTERIM** fees and classifications may be adopted by ordinance to assist in funding the establishment of the Utility. Interim fees are temporary and shall apply only until such time as the final Study is completed and County Council adopts a permanent rate structure and schedule of fees for the Stormwater Utility. County Council shall consider, among other things, the following criteria in establishing fees:

- (a) The fee system must be reasonable and equitable so that property owners and users pay to the extent they contribute to the needs for and benefit from the Utility. The fees shall be apportioned with approximate equality and upon a reasonable basis of equality with due regard for the benefits conferred. County Council recognizes that these benefits, while substantial, in many cases cannot be measured directly.
- (b) Cost analysis, construction, maintenance, and the overall operation of the stormwater system should be borne equally by all classifications of property owners in the County in that all will enjoy the direct and indirect benefits of an improved and well-maintained system;

- (c) Any fee established should be in an amount that is reasonable and equitable and not unduly burdensome on each property owner and user;
- (d) The components of the calculations used to establish fees may include, but shall not be limited to, the following cost factors:
  - (1) stormwater management planning and preparation of comprehensive watershed master plans for stormwater management;
  - (2) regular inspections of public and private stormwater management facilities and measures and the construction thereof;
  - (3) maintenance and improvement of stormwater management facilities that have been accepted by the County for that purpose;
  - (4) plan review and inspection of sediment control and stormwater management plans, measures, and practices;
  - (5) retrofitting designated watersheds to reduce existing flooding problems or to improve water quality;
  - (6) acquisition of interests in land, including easements;
  - (7) design and construction of stormwater management facilities and measures and acquisition of equipment;
  - (8) administration of enforcement;
  - (9) water quantity and water quality management, including monitoring and surveillance; and
  - (10) debt service and financing costs.
- (e) The practical difficulties and limitations related to establishing, calculating, and administering such fees.
- (f) The components of the calculations used to establish fees shall be based on whatever is determined to be reasonable and fair, to be approved by County Council.

## **Section VIII Investment and Reinvestment of Funds and Borrowing**

Funds generated for the Stormwater Management Utility from fees, bond issues, other borrowing, and other sources shall be utilized only for those purposes for which the utility has been established, including but not limited to: planning; acquisition of interests in land including easements; design and construction of facilities; maintenance of the stormwater system; billing and administration; and water quality and water quantity management, including monitoring, surveillance, private maintenance inspection, construction inspection, and other activities which are reasonably required. Such funds shall be invested and reinvested pursuant to the same procedures and practices established by the County for investment and reinvestment of funds. County Council may use any form of borrowing authorized by laws of the State of South Carolina to fund capital acquisitions or expenditures for the Stormwater Management Utility.

## **Section IX Billing of Stormwater Management Utility Fee**

- A. In the event that the fees are not paid when due, interest and/or late fees shall accrue at a rate equal to interest and/or late fees acceptable by law, until such time as the overdue payment and interest are paid.
- B. Developed Properties shall be subject to the imposition of a Fee upon final plat approval by the County.

## **Section X Enforcement and penalties**

- A. The County Engineer/Public Works Director, or such other official(s) as the Council shall designate, shall be the enforcement officer(s) for the provisions of this Chapter.

- B. In addition to any other penalties provided in this article, The County Engineer/Public Works Director may assess a civil penalty not to exceed \$200 against any person violating any provision of this Chapter. In setting the amount of the civil penalty, the County Engineer/Public Works Director shall consider the type, duration, and severity of the violation and the responsiveness of the person against whom the penalty is assessed in remedying the violation. Each day a violation continues constitutes a separate violation that may be the subject of such a penalty. The County Engineer/Public Works Director, with the assistance of the County Attorney, shall make a written demand for payment of the civil penalty upon the person, including an explanation of the basis of the violation and penalty. If full payment of the penalty is not made within thirty (30) days after such demand is mailed or delivered to the person, the County Attorney may commence a civil action in the appropriate court to recover the penalty.
- C. In addition to any other penalties or remedies provided in this Chapter, The County, upon the recommendation of the County Attorney and approval of the Administrator, may institute a civil action in the appropriate court to obtain compliance with the provisions of this Chapter or remedy or prevent the violation or threatened violation of any provision of this Chapter.

### **Section XI County Liability**

Nothing in this article and no action or failure to act under this article shall or may be construed to:

- (a) impose any liability on the County, or its departments, agencies, officers or employees for the recovery of damages; or
- (b) relieve any person engaged in a land disturbing activity of duties, obligations, responsibilities, or liabilities arising from or incident to operations associated with such activity or imposed by the provisions of this article or the laws and regulations pursuant to which it was adopted.

### **Section XII Request for Reconsideration**

- A. A property owner may request a reconsideration of any determination or interpretation by the County Engineer in the Stormwater Management Utility. Such request must be in writing specifically explaining the grounds for the request and filed with the County Engineer.
- B. The County Engineer shall review the application and make a decision on the request within thirty (30) working days.
- C. The request shall be made upon such forms and be accompanied by such information as the County Engineer, by written policy, shall require.
- D. In cases where the applicant believes the fee to be inappropriate based on the actual impervious area of the property in which he has interest, the applicant shall submit a site survey of said property. The survey shall include, at a minimum:

Property Boundaries

Parking Areas

Driveway (s)

Building (s)

Storm Drainage Facilities

Any Other Surface Improvements

Calculation of Total Impervious Area

Calculation of Total Pervious Area



The survey shall be prepared by a licensed Land Surveyor and shall contain the name and license number of the Surveyor and date when the field survey was conducted.

### Section XIII Appeals

Any person aggrieved by the stormwater management utility fee charged with respect to property in which he has an interest or against whom a civil penalty is imposed may appeal the fee or penalty by filing a written explanation of the grounds of the appeal with the County Engineer/Public Works Director within thirty (30) days of the mailing or delivery of the notification of the fee or penalty to the utility customer, real property owner, or person. The County Engineer/Public Works Director shall render his decision on the appeal in writing within twenty (20) days after receipt of the written appeal. Any person aggrieved by the decision of the County Engineer/Public Works Director may appeal, pursuant to the foregoing procedures, to the County Council, whose decision is final with respect to utility fees and civil penalties. At each level of appeal, the reviewing official or body 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.

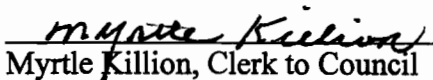
### Section XIV Severability

It is declared the intent of County Council that the sections, subsections, paragraphs, sentences, clauses and phrases of this article are severable; and if any such provision 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 provisions of this article, and it is the intent of County Council that such provisions shall continue in full force and effect.

All ordinances or parts ordinances in conflict with this ordinance are hereby repealed.

Ratified this 5th day of August, 2002

  
Randy Scott, Chairman

  
Myrtle Killion, Clerk to Council

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