

STORMWATER UTILITY ORDINANCE

Takoma Park, MD

Department of Public Works

(301) 585 - 8333

ORDINANCE NO. 1996-15

(Establishing a Stormwater Management Fee System)

WHEREAS, the City of Takoma Park is responsible for stormwater management in the City; and

WHEREAS, the governing body of a municipality is authorized by Section 4-204(d), Environmental Article, Annotated Code of Maryland to adopt a system of charges to fund the implementation of stormwater management programs; and

WHEREAS, the City wishes to enact a stormwater management fee system based on factors that influence runoff, including land use and the amount of impervious surface on the property, as an alternative to an *ad valorem* tax; and

WHEREAS, all real property in the City, including property owned by public and tax-exempt entities, contributes to runoff and either uses or benefits from the stormwater system; and

WHEREAS, stormwater runoff contributes to nonpoint source pollution to the streams of the City's watersheds and a stormwater management program can reduce this type of pollution; and

WHEREAS, a stormwater management fee system offers additional financial management options that could assist the City to improve stormwater and drainage services; and

WHEREAS, it is in the interests of the public to fund stormwater management with a user fee system that allocates the costs of stormwater management to all property owners in the City and that further seeks to base the amount of the stormwater management fee on the extent that each parcel of real property contributes to the need for stormwater management.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND.

SECTION 1. The Takoma Park Code is amended by adding a new Chapter 10D, Stormwater Management Fee System, as follows:

CHAPTER 10D - STORMWATER MANAGEMENT FEE SYSTEM

Sec. 10D-1. Findings

(a) The City maintains a system of storm and surface water 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.

(b) The stormwater system in the City needs regular maintenance and improvements.

(c) Water quality is degrading due to erosion and the discharge of nutrients, metals, oil, grease, toxic materials, and other substances into and through the stormwater system.

(d) The public health, safety, and welfare is adversely affected by poor ambient water quality and flooding that results from inadequate management of both the quality and quantity of stormwater.

(e) All real property in the City either uses or benefits from the maintenance of the stormwater system.

(f) The extent of use of the stormwater system by each property is dependant on factors that influence runoff, including land use and the amount of impervious surface on the property.

(g) The costs of improving, maintaining, operating, and monitoring the stormwater system should be allocated, to the extent practicable, to all property owners based on the impact of runoff from the impervious areas of their property on the stormwater management system.

(h) Management of the stormwater system to protect the public health, safety, and welfare requires adequate revenues and it is in the interest of the public to finance stormwater management adequately with a user charge system that is reasonable and equitable so that each user of the system pays to the extent to which he contributes to the need for it.

Sec. 10D-2. Authority.

Authority for the adoption of a system of charges to fund the implementation of stormwater management programs is conferred on the City by Section 4-204(d), Environmental Article, Annotated Code of Maryland, as amended.

Sec. 10D-3. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings indicated:

(a) *Assessment Roll* means the official listing of assessments of real property maintained by the State Department of Assessments and Taxation of Maryland.

(b) *Base Rate* means the Stormwater Management Fee charges on a base unit. The annual (fiscal year) Stormwater Management Fee for a single family residential property in the City equals the base rate.

(c) *Base Unit* means the median impervious surface area associated with a single family residential property in the City.

(d) *Board* means the Stormwater Management Board for Takoma Park established under Article XII of the Municipal Charter. In accordance with the Municipal Charter, the Council of the City of Takoma Park has been designated the Stormwater Management Board.

(e) *City Administrator* means the City Administrator for the City of Takoma Park, Maryland or his or her designee.

(f) *Developed Property* means real property which has been altered from its natural

state by the addition of any improvements such as buildings, structures, or other impervious area.

(g) *Fee or Stormwater Management Fee* means the charge established under this Chapter and levied on owners of parcels or pieces of real property to fund the costs of stormwater management and of operating, maintaining, and improving the stormwater system in the City.

(h) *Fiscal Year* means July 1 of a calendar year to June 30 of the next calendar year, both inclusive.

(i) *Impervious Surface Area* means the number of square feet of horizontal surface covered by buildings and other impervious surfaces. All building measurements shall be made between exterior faces of walls, foundations, columns or other means of support or enclosure.

(j) *Impervious Surface* means a surface area which is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded, compacted, or other surface which impedes the natural infiltration of surface water.

(k) *Multi-Family Dwelling* means a building with more than two dwelling units.

(l) *Other Developed Property* means developed property other than single-family residential property. Such property shall include, but not be limited to, multi-family dwellings, commercial properties, industrial properties, parking lots, hospitals, schools, recreational and cultural facilities, hotels, offices, and churches.

(m) *Property Owner* means the property owner of record as listed in the State assessment roll. A property owner includes any individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, or personal representative.

(n) *Single Family Residential Property* means a developed property which serves as the primary purpose of providing a permanent dwelling unit and which is classified as residential in the State assessment rolls. A single family detached dwelling or a townhouse containing an accessory apartment or second dwelling unit is included in this definition.

(o) *Stormwater Management Fund or Fund* means the Fund created by this Chapter to operate, maintain, and improve the City's stormwater system.

(p) *Stormwater Management* means the planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to water, flood plains, flood control, grading erosion, tree conservation, and sediment control.

(q) *Stormwater System* means the system or network of storm and surface water management facilities including but not limited to inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basin, infiltration facilities and other components as well as all natural waterways.

(r) *Undeveloped Property* means any non-single family residential property which has one-third or less of the base unit of impervious surface area.

- (s) *Water* means any storm water, surface water, snow melt or ground water.

Sec. 10D-4. Establishment of Stormwater Management Fund.

(a) The stormwater management program is established and the stormwater system is provided to protect the waterways and land in the City by controlling flooding and to protect the natural environment. The costs of designing, developing, improving, operating, maintaining, and monitoring the stormwater system required in the City should, therefore, be allocated, to the extent of practicable, to all property owners based on their impact on the stormwater system. In order to provide revenue to fund those costs and to fairly allocate those costs, a Stormwater Management Fund ("the Fund") is established.

(b) All revenues collected from the Stormwater Management Fee from grants, permit fees and other charges collected under Chapter 10C, Stormwater Management, shall be deposited to the Fund. The Council and the Board may make additional appropriations to the Fund. All disbursements from the Fund shall be for the purposes of the Fund as set forth in Section 10D-5.

Sec. 10D-5. Purposes of the Fund.

The Fund shall be used for the following purposes:

(a) The acquisition by gift, purchase or condemnation of real and personal property, and interests therein, necessary to construct, operate, and maintain stormwater control facilities.

(b) All costs of administration and implementation of the stormwater management program, including the establishment of reasonable operating and capital reserves to meet unanticipated or emergency stormwater management requirements.

(c) Engineering and design, debt service and related financing expenses, construction costs for new facilities, and enlargement or improvement of existing facilities.

(d) Operation and maintenance of the stormwater system.

(e) Monitoring, surveillance, and inspection of stormwater control devices.

(f) Water quality monitoring and water quality programs.

(g) Retrofitting developed areas for pollution control.

(h) Inspection and enforcement activities.

(i) Billing and administrative costs.

(j) Other activities which are reasonably required.

Sec. 10D-6. Stormwater Management Fee.

An annual service charge is imposed upon all real property in the City, as of July 1 of each fiscal

year, beginning July 1, 1996, to fund stormwater management programs. This service charge shall be known as the Stormwater Management Fee ("Fee"). Any real property completed or added to the State assessment role after July 1 or annexed into the City after July 1 may be subject to a partial year charge. The Fee is based on: (1) The extent to which each property creates a need for the stormwater management program; (2) the amount of impervious area on each property; and (3) the cost of implementing a stormwater management program.

Sec. 10-7. Classification of Property for Purposes of Determination of the Stormwater Management Fee.

(a) For purposes of determining the Stormwater Management Fee, all properties in the City are classified into one of the following classes:

- (1) Single family residential property; or
- (2) Other developed property.

(b) *Single Family Residential Fee.* The Council finds that the intensity of development most parcels of real property in the City classified as single family residential is similar and that it would be excessively and unnecessarily expensive to determine precisely the square footage of the improvements (such as buildings, structure, and other impervious area) on each such parcel. Therefore, all single family residential properties in the City shall be charged a flat Stormwater Management Fee, equal the base rate, regardless of the size of the parcel or the improvements.

(c) *Other Developed Property Fee.* The Fee for other developed property (i.e., non-single-family residential property) in the City shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area (square feet) of the property by one base unit. The impervious surface area for other developed property is the square footage for the buildings and other improvements on the property as listed in the State assessment roll. Alternatively, at the sole discretion of the City Administrator, the impervious surface area of other developed property may be determined through site examination, mapping information, aerial photographs, and other available information. The minimum Stormwater Management Fee for other developed property shall equal the base rate for single family residential property.

Sec. 10D-8. Base Rate.

The Council acting as the Board shall, by Ordinance, establish the annual (fiscal year) base rate for the Stormwater Management Fee. The base rate shall be calculated to insure adequate revenues to fund the costs of stormwater management and to provide for the operation, maintenance, and capital improvements of the stormwater system in the City.

Sec. 10D-9. Charges for Tax-Exempt Properties; Exemptions.

(a) The Council finds that all real property in the City contributes to runoff and either uses or benefits from the maintenance of the stormwater system. Therefore, except as otherwise provided in this Section, all real property in the City, including property that is tax exempt from property tax by Title 7 of the Tax-Property, Annotated Code of Maryland, as amended, shall be charged with the Fee.

- (b) Property which is owned by the City shall be exempt from the Fee.
- (c) Undeveloped Property shall be exempt from the Fee.

Sec. 10D-10. Assessment Notices.

- (a) The City Administrator may, but is not be required to, send assessment notices for the Fee to property owners prior to the billing for the Fee.
- (b) If assessment notices are sent, the notice shall include the following information:
 - (1) The classification of the property for purposes of the determining the Fee;
 - (2) For property classified as Other Developed Property:
 - (i) The impervious surface area of the property; and
 - (ii) The method by which the impervious surface area of the property was determined; that is, whether the computation of the impervious surface area of the property is based on information in the State assessment role, site examination, mapping information, aerial photographs, or other available information.
 - (3) The amount of the base rate (i.e., the Single Family Residential Fee) and, for Other Developed Property, the number of base units on the property.

Sec. 10D-11. When Stormwater Management Fee Payable; Interest and Penalties; Lien on Real Property; Abatement of Small Amounts Due.

- (a) The Fee that is due for a fiscal year must be paid within 30 days after the bill is mailed or issued to the property owner and is overdue after that date. An overdue Fee bears interest and penalties at the rate of 1.67% for each month or fraction of a month that the fee is overdue.
- (b) The Fee, including interest and penalties, when overdue is a lien on real property and may be collected in the same manner as delinquent real property taxes or by a suit against the property owner.
- (c) The City Administrator may abate the Fee, including interest and penalties, if the cost of collection is reasonably estimated to exceed the amount of the Fee, including any interest and penalties, due and payable.

Sec. 10D-12. Requests for Correction of the Stormwater Management Fee.

- (a) A property owner may request correction of the Fee by submitting the request in writing to the City Administrator within 30 days after the date the assessment notice or the bill is mailed or issued to the property owner. Grounds for correction of the Fee include:
 - (1) Incorrect classification of the property for purposes of determining the

Fee;

- (2) Errors in the square footage of the impervious surface area of the property;
- (3) Mathematical errors in calculating the Fee to be applied to the property; and
- (4) Errors in the identification of the property owner of a property subject to the Fee.

(b) The City Administrator shall make a determination within 30 days after receipt of the property owner's completed written request for correction of the Fee. The City Administrator's decision on a request for correction of the Fee shall be final.

(c) A property owner must comply with all rules and procedures adopted by the City when submitting a request for correction of the Fee and must provide all information necessary for the City Administrator to make a determination on a request for correction of the Fee. If a property owner alleges an error under Section 10D-12(a) (2), the request for correction must include a certification by a registered engineer or professional land surveyor of the impervious surface area of the property. Failure to comply with the provisions of this subsection shall be grounds for denial of the request.

Section 2. This Ordinance shall be effective immediately.