

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

WHEREAS, Charleston County Council desires to create and implement fees to assist in funding the Stormwater Management Utility.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF CHARLESTON COUNTY, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED, AS FOLLOWS:

Section 1. Findings.

Charleston County Council makes the following findings that:

- A. By Ordinance No. 1464, Charleston County Council created 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, County Council made certain findings and declarations which findings and declarations are hereby reaffirmed, as if set forth verbatim and incorporated herein by reference.
- C. County Council is aware of the practical difficulty of determining precisely the particular need of each parcel of real property for stormwater management, and the special benefits to be derived by the owners and users of such property. A Stormwater Utility Rate Study (Study) has been completed and through this Ordinance, County Council has adopted a permanent fee system and rate structure so as to equally and reasonably address and relate such needs and benefits to the fees assessed.
- D. County Council advises Utility customers of the basis of the fees and classifications set forth herein.

Section 2. Classification of Property and Determination of Fee.

A. For purpose of determining the fee, all real properties in Charleston County are classified as follows:

- 1. Single Family Residential
- 2. Agricultural
- 3. Vacant
- 4. Commercial

B. Base Rate:

The annual Stormwater Management Utility fee base rate shall be seventy-two (\$72.00) dollars annually. In no case shall a utility customer be billed a fee for less than one half (1/2) the base rate.

C. Equivalent Residential Unit (ERU):

The commonly accepted rate unit for stormwater utilities is the Equivalent Residential Unit (ERU). This is a descriptive value based on the land classification type and the amount of impervious surface. The ERU is used to relate a rate charged for a typical residential property and this becomes the common denominator by which Commercial properties are evaluated. The ERU for Charleston County has been determined to be 3,000 square feet.

D. Annual Fees:

Annual fees for all property shall be as follows:

1. Single Family Residential Property – Single family residential property shall be charged a fee equal to the Base Rate times one (1) Equivalent Residential Unit (ERU), regardless of the size of the parcel or improvements (impervious area).
2. Agricultural Property – Agricultural property shall be charged a fee equal to the Base Rate times one (1) Equivalent Residential Unit (ERU), regardless of the size of the parcel or improvements (impervious area).
3. Vacant Property – Vacant property shall be charged a fee equal to the Base Rate times one half (1/2) Equivalent Residential Unit (ERU), regardless of the size of the parcel.
4. Commercial Property – Commercial property shall be charged the Base Rate multiplied by the numerical factor obtained by dividing the total impervious area of the property, as determined by the Director of Public Works or an authorized designee, by one (1) ERU (3,000 square feet). The numerical factor will be rounded to the nearest tenth (0.1) of a unit. The minimum fee for any Commercial property shall be the Base Rate times one half (1/2) ERU. Those Commercial properties with impervious area greater than one-half (1/2) ERU (1,500 square feet) and less than one (1) ERU (3,000 square feet) shall be charged the Base Rate times one (1) ERU.

Section 3. Stormwater Management Utility Fee.

A. Computation of Stormwater Utility Fee for Commercial properties:

1. Determine the Base Rate to assign ERU;
2. Determine the impervious area on the property;
3. Calculate the numerical factor for the property in question by dividing the impervious area by (1) ERU (3,000 square feet); and
4. Calculate the annual Stormwater Management Utility Fee by multiplying the numerical factor by the Base Rate, if the factor is greater than one (1).

B. Example Calculation:

Calculation of monthly fee for a 1.50 acre Commercial property with a determined impervious area of 32,500 square feet.

1. 1ERU = 3,000 square feet.
2. Property impervious area = 32,500 square feet
3. ERU's for example property = 32,500 square feet of impervious / 1 ERU of 3,000 square feet = 10.8 ERU's
4. Utility fee = ERU's x Base Rate
= 10.8 ERU's X Example Base Rate of \$72.00 = \$777.60 / year

The classification of real property and the identification of the utility customer for the purpose of determining fees shall be determined from the records of the Charleston County Tax Assessor's. The utility customer or person charged the fee is based on the classification of the real property as of January 1 of the year of billing and each year subsequently thereafter.

Where the tax records are incomplete or ambiguous, a physical inspection of the real property shall be made to determine the use of the property. Upon development of the County's database and review of the real properties on a case-by-case basis, the classifications from the records of the Charleston County Tax Assessor's do not preclude an adjustment to the data that the County uses to determine the fee.

Section 4. Adjustment of Utility Fee.

In cases where the utility customer disputes the fee based on the actual impervious area of the real property in which he has interest, a notice of objection may be filed with the Public Works Director as outlined in the Stormwater Management Utility Ordinance No. 1464, Section 10, Written Notice of Objection.

Where an adjustment of the fee is warranted, the Public Works Director or an authorized designee shall recalculate and re-determine the fee using equivalent ERU's that is based on the total impervious area of the real property at issue.

Section 5. Duration of Fee.

The fees established by this Ordinance have been adopted by County Council. This fee will be reviewed, evaluated, and amended as necessary in order to address County stormwater program needs/deficiencies and Small Municipal Separate Storm Sewer System (SMS4) general permit requirements.

Section 6. Billing of Stormwater Management Utility Fee.

The utility fee shall be billed annually and mailed to each owner of record of real property, based on the classification of the property, to the owner of record of the real property as of January 1 of each year subsequently thereafter.

For non-payment of all or any part of the utility fee, the monetary penalty shall be the same penalty set forth in Section 12-45-180 of the South Carolina Code of Laws. If any fee shall remain sixty (60) days after the due date, the County may issue a lien upon the parcel for the stormwater utility 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.

Section 7. Municipalities.

Municipalities located in Charleston County may participate in the County's Stormwater Management Utility program as outlined in this Ordinance. To participate, a municipality must adopt an ordinance requiring at least the forty-eight (\$48) dollars per year minimum fee imposed by the County's Stormwater Management Utility program.

Section 8. Severability.

If any one or more of the provisions or portions of this Ordinance are determined by a court of competent jurisdiction to be contrary to law, then that provision or portion shall be deemed severable from the remaining terms or portions and the invalidity shall in no way affect the validity of the other provisions of this Ordinance. If any provisions of this Ordinance shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid as applied to any particular case in any jurisdiction or in all cases because it conflicts with any constitution or statute or rule of public policy, or for any other reason, those circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions inoperative or unenforceable or invalid to any extent whatsoever.

This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina.

THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON ITS RATIFICATION AT THIRD READING BY CHARLESTON COUNTY COUNCIL.