

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 INTERIM 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 interim fees to assist in funding the establishment of 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. Upon the completion of the Stormwater Utility Rate Study (Study), County Council will adopt a permanent fee system and rate structure 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 fee for real property throughout the County. County Council recognizes that after the Study has been completed and submitted to it for review, a different approach to the assessment of fees and classifications of real property may result.

D. County Council advises Utility customers of the interim nature and 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 (Forested land, pastures and cultivated fields)
3. Vacant and/or undeveloped property
4. Playgrounds/open park areas (Parks)

Special use properties

6. Multi-use Residential Property
7. Non-residential/Commercial

B. Base Rate:

The base rate shall be thirty-six (\$36.00) 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):

One commonly accepted rate unit for stormwater utilities is the Equivalent Residential Unit (ERU). This is a descriptive value based on the total gross land area 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 non-residential properties are evaluated. In general there are two principal methods used to assign values for impervious surface: Actual amounts of impervious surface on a parcel can be physically measured or accepted land use coefficients can be used to relate imperviousness to intensity of development. The latter method is adopted herein. Pursuant to this Ordinance, an ERU is considered to be a single family lot not less than or equal to 1/3 acre. The runoff coefficient (C-Factor) assigned to the ERU is 0.40.

The runoff coefficients(C-Factor) are assigned to the following categories:

1. Playgrounds/open park areas (Parks) C-Factor = 0.11
2. Special Use Properties (Manufacturing/Mining, Special Purpose Properties, Schools) C-Factor = 0.50
3. Multi-use Residential Property [Apartment Buildings, Condominium (Common area), Residential Commercial] C- Factor = 0.64
4. Non-residential/Commercial Property (Commercial, Hotel/Motel, Office, Restaurant, Retail, Cultural/Entertainment/Recreation) C-Factor = 0.82

D. Annual Fees:

Annual fees for all property, whether occupied or vacant 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 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 Equivalent Residential Unit (ERU), regardless of the size of the parcel or improvements.
3. Vacant and/or undeveloped property – Vacant and/or undeveloped 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. Playgrounds/Parks Property – Pursuant to generally accepted engineering data, the runoff coefficient, or C-factor, for play ground/parks has been determined to be 0.11. An equation is used to relate the runoff coefficient of the playground/park property to base ERU. This equation is then multiplied by the acreage of the property in question. The determined ratio is then multiplied by the Base Rate to determine the annual fee.
5. Special Use Properties - Pursuant to generally accepted engineering data, the runoff coefficient, or C-factor, for Special Use properties has been determined to be 0.50. An equation is used to relate the runoff coefficient of the special use property to base ERU. This equation is then multiplied by the acreage of the property in question. The determined ratio is then multiplied by the Base Rate to determine the annual fee.
6. Multi-use Residential Property - Pursuant to generally accepted engineering data, the runoff coefficient, or C-factor, for Multi-use Residential property has been determined to be 0.64. An equation is used to relate the runoff coefficient of the Multi-use Residential property to base ERU. This equation is then multiplied by the acreage of the property in question. The determined ratio is then multiplied by the Base Rate to determine the annual fee.
7. Non-residential/Commercial Property - Pursuant to generally accepted engineering data, the runoff coefficient, or C-factor, for Non-residential/Commercial property has been determined to be 0.82 . An equation is used to relate the runoff coefficient of the Non-residential/Commercial property to base ERU. This equation is then multiplied by the acreage of the property in question. The determined ratio is then multiplied by the Base Rate to determine the annual fee.

Section 3. Stormwater Management Utility Fee.

- A. Computation of Stormwater Utility Fee:
 1. Determine Base Rate to assign ERU;
 2. Calculate runoff ratio of playgrounds/parks, special use, multi-use residential and non-residential/commercial properties C-factor to ERU C-factor;
 3. Calculate ERU's per acre;

4. Calculate the number of ERU's for the property in question; and
5. Calculate the annual fee.

B. Example Calculation:

Determine monthly fee for 1.50 acre commercial property.

1. ERU = \$36.00 / year
2. C-factor ratio of commercial to ERU = $0.82 / 0.40 = 2.05$.
3. ERU / acre = $2.05 \times 3 = 6.15$ ERU / acre.
4. ERU's for 1.50 acre property = $1.50 \times 6.15 = 9.23$ ERU's.

Utility fee = $9.23 \times \$36.00 = \332.28 / year

The use of real property and the identification of the utility customer for the purpose of determining interim fees shall be determined from the records of the Charleston County Tax Assessor's Computer Assisted Mass Appraisal (CAMA) system. 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 in the CAMA system 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. 1463, Section 10, Written Notice of Objection.

Where an adjustment of the fee is warranted, the Public Works Director shall recalculate and re-determine the fee using a weighted runoff coefficient (or C-Factor) that is based on the total impervious and pervious areas of the real property at issue.

Where deemed appropriate and at the discretion of the Public Works Director, the gross acreage of the real property may be adjusted as a means of recalculating and re-determining the fee. This method is applied in cases where the property is large and the ratio of pervious area to impervious area is low. The Public Works Director and the utility customer shall mutually agree on the general area of improvement. In cases where a mutual agreement cannot be reached, the utility customer may file a notice of objection as referenced above.

Section 5. Duration of Fee.

The 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 6. Billing of Stormwater Management Utility Fee.

The utility fee shall be billed annually with the bill mailed to each owner of record of real property, based on the classification of property, as of January 1, 2006, and to the owner of record of the real property, based on the classification of property, as of January 1 of each year subsequently thereafter.

Section 7. 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.