



MAYOR AND COMMISSIONERS OF THE  
TOWN OF NORTH EAST

ORDINANCE NO. 2019-05-01

AN ORDINANCE OF THE MAYOR AND COMMISSIONERS OF THE TOWN OF NORTH EAST FOR THE PURPOSE OF ADDING TO THE TOWN OF NORTH EAST CODE OF ORDINANCES EXISTING CHAPTER 7 PUBLIC MAINTENANCE AND THE ENVIRONMENT, ARTICLE 7. STORMWATER MANAGEMENT ORDINANCE, SECTIONS 7-702 THRU SECTION 7-706 TO ESTABLISH A STORMWATER MANAGEMENT FUND; ADOPTING A STORMWATER MANAGEMENT UTILITY FEE; PROVIDING FOR CERTAIN EXEMPTIONS AND CREDITS; AND GENERALLY PERTAINING TO STORMWATER MANAGEMENT UTILITY FEE AND AMENDING THE TABLE OF CONTENTS.

**WHEREAS,** The Town of North East ("Town") has certain responsibilities with regard to the management of stormwater within its boundaries; and

**WHEREAS,** The Town of North East ("Town") is authorized by State law to adopt a system of charges to fund the implementation of stormwater management programs; and

**WHEREAS,** The Mayor and Commissioners wish 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 Town, including property owned by the public and tax-exempt entities, contributes to runoff and either uses or benefits from the stormwater system; and

**WHEREAS,** a stormwater management program will reduce the amount of runoff, which contributes to nonpoint source pollution of waterways within the Town; and

**WHEREAS,** the imposition of a stormwater management utility fee offers additional financial management options that could assist the Town in improving stormwater and drainage services; and

**WHEREAS,** it is in the best interests of the residents of the Town that stormwater management be funded by the imposition of a stormwater management utility fee that

equitably allocates the costs of stormwater management to all property owners, based on the extent to which a parcel of land contributes to the need for stormwater management.

**NOW THEREFORE,** BE IT ENACTED BY THE Mayor and Commissioners of the Town of North East, Cecil County, Maryland that the following sections to Article 7. **Stormwater Management Ordinance** of the Code are added:

**Section 7-702. Stormwater Management Utility Program**

**1. Authority:**

**This section is enacted pursuant to the Annotated Code of Maryland, Environment Article § 4-204(d) which authorizes municipalities to adopt a system of charges to fund the implementation of stormwater management programs.**

**2. Purpose:**

**To protect the public health, safety and welfare, the Town's stormwater management, storm drainage, and water quality programs must be supported by an adequate, sustainable source of revenue. All real property in the Town, including property owned by public and tax-exempt entities, benefits from these Town programs and services. Those with higher amounts of impervious surface area contribute greater amounts of stormwater or pollutants to the Town's stormwater management facilities, storm drains, and streams, and therefore should carry a proportionate burden of the cost. The Town has determined that it is in the interest of the public to enact a stormwater management utility fee that allocates program costs to all property owners based on impervious surface area measurement.**

**3. Definitions:**

**For the purposes of this Section, the following terms have the meanings given:**

**“2000 Design Standards”** means the standards established in the 2000 Maryland Stormwater Design Manual.

**“Community Association”** means a mandatory membership organization created for the maintenance of commonly owned real estate and improvements where the members are required to adhere to a set of rules and to pay certain assessments. **“Community Association”** includes homeowners’ associations and commercial property owners’ associations.

**“Commercial lot”** means any lot that is used for a non-residential purpose and that is located in an RO, R-4, VC, VM, GC, LC, L1 or HI zoning district, or within the commercial component of any mixed use development.

**“Condominium”** means a residential property that is subject to a condominium regime established under the Maryland Condominium Act.

**“ESD to the MEP”** environmental site design implemented to the maximum extent practicable, as defined in the Stormwater Management Ordinance Section 7-701 of this Article.

**“Impervious surface”** means a surface that 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 other oiled, graveled, graded, compacted or similar surfaces that impedes the natural infiltration of surface water and from which stormwater runoff will be produced.

**“Impervious surface area”** means the number of square feet of horizontal surface covered by buildings and other impervious surfaces.

**“Multifamily dwelling”** means a building containing three or more dwelling units.

**“Percent Impervious factor of PIF”** means average percent impervious surface area as defined in this Section.

**“Single family dwelling”** means a dwelling unit designed and used exclusively by one family and surrounded on all sides by yards or other open space.



**“Structural management facilities” include facilities that include recharge storage as a portion of the full water quality treatment volume if they are subject to routine structural maintenance.**

**“Townhouse dwelling” means one a series of two or more attached dwelling units separated from one another by continuous party walls, which are without openings from the lowest floor level to the highest point of the roof.**

**“Unit rate” means the stormwater management utility fee for 1,180 square feet of impervious surface area, as established by the fee schedule ordinance in effect at the time the fee is calculated.**

**Section 7-703. Stormwater Management Fund**

- 1. Establishment. The Town’s Stormwater Management Fund is a dedicated enterprise fund. It will be used only to fund stormwater management, storm drainage, and water resources programs and services.**
- 2. Revenue. The following revenue will be deposited into the Stormwater Management Fund:**
  - a. All fees established by the Mayor and Commissioners to cover the cost of administering the provisions of the Town’s Stormwater Management Ordinance (Section 7-701. Of this Article), including but not limited to application and permit fees and fines and waiver fees;**
  - b. All revenue collected from the imposition of the utility fee pursuant to this Section;**
  - c. Any other revenue as may be determined by the Mayor and Commissioners, including but not limited to grants and special appropriations.**
- 3. Expenses. The Town may use the Stormwater Management Fund only for the following expenses:**
  - a. Regulatory review and inspection of stormwater management, sediment control, and storm drainage for development permits;**

- b. Watershed, stormwater management, floodplain, and storm drainage conveyance studies and planning.**
- c. The study, design, purchase, construction, expansion, retrofit, repair, maintenance, landscaping, operation or inspection of stormwater management facilities, storm drainage, and other watershed improvements;**
- d. Land acquisition (including easements and rights-of-way) for stormwater management facilities or storm drainage;**
- e. Water quality programs related to State or Federal laws, including requirements for the Town's National Pollution Discharge Elimination System permits;**
- f. Water quality monitoring, inspection, and enforcement activities, including illicit discharge and illicit connection investigations;**
- g. Water quality and pollution prevention education and outreach activities;**
- h. Program administration and implementation, including reasonable operating and capital reserves to meet unanticipated or emergency requirements for stormwater management, storm drainage and water quality; and**
- i. Other stormwater management, storm drainage, and water quality programs that are reasonable required to protect safety or meet applicable regulatory requirements.**

**4. Applicability:**

Except as otherwise provided in this Section, this Section applies to all improved real property in the Town, including but not limited to government-owned real property and real property that is tax exempt from property tax by Title 7 of the Tax Property Article of the Annotated Code of Maryland.

**5. Administrative regulations:**

The Mayor and Commissioners may develop and implement administrative regulations as needed to implement the provisions of

**this Section, including but not limited to procedures for the application for and granting of credits.**

**Section 7-704. Stormwater Management Utility Fees**

- 1. Establishment. The Town shall charge a quarterly stormwater management utility fee on all improved real property in the Town based on the amount of impervious surface area on each property and the cost of implementing the Town's stormwater management, storm drainage, and water quality programs. Except as otherwise provided in this Section, the owner of each lot is responsible for paying the stormwater management utility fee imposed for that lot. Any real property added to the State assessment role after July 1 or annexed into the Town after July 1 may be subject to a prorated charge.**
- 2. Single family dwellings, townhouse dwellings and condominiums. The utility fee for single family dwellings, townhouse dwellings and condominiums will be calculated on an equivalent residential unit of 1180 square feet of impervious surface regardless of the actual amount of impervious surface.**
- 3. Apartment complexes. The utility fee for apartment complexes, will be calculated by dividing the actual square footage of impervious surface by 1180 square feet, rounded to the next whole number.**
- 4. Commercial, Institutional and Industrial. The utility fee for commercial, institutional and industrial lots, will be calculated by dividing the actual square footage of impervious surface by 1180 square feet, rounded to the next whole number.**
- 5. Other improved lot fees. The utility fee for other improved lots for which a calculation is not provided in this section will be calculated by**



dividing the actual square footage of impervious surface by 1180 square feet, rounded to the next whole number.

6. **Common areas.** Common areas owned by a community association will be charged based on the total impervious surface area of the common area.
7. **Roads and other rights of way.** The Town will not charge a stormwater utility fee for public roads or other property within a public right of way. The Town will charge a stormwater utility fee to owners of private rights of way, meaning those rights of way that have not been dedicated to public use and are not maintained by the Town or other government agency.

#### **Section 7-705. Impervious Surface Area Measurements**

##### **1. Methods.**

- a. For the purpose of calculating stormwater management fees for residential development, all residential units comprised of single family, condominium and townhouses shall be based on an equivalent residential unit of 1180 square feet of impervious surface regardless of the actual amount of impervious surface.
- b. For the purpose of calculating equivalent residential units for all other properties comprised of apartment complexes, commercial, institutional and industrial units, the stormwater management fee shall be calculated by dividing the actual square footage of impervious surface by 1180 square feet rounded to the next whole number.

##### **2. Exemptions.** An impervious surface area is exempt from measurement for purposes of this Section if the area is:

- a. Less than 100 square feet and located within an unimproved lot;  
and
- b. Located within a public right of way.

- 3. Credits.** The Mayor and Commissioners may adopt by Resolution a policy for granting credits to Commercial, Institutional, Industrial and other tax exempt properties as the need arises.

**Section 7-706. Collection**

- 1. Means of collection.** The stormwater management fee will be billed and collected quarterly. The fee will be included as a separate line item from the quarterly water bill for each property subject to the fee. Payments received will first be applied to the stormwater management fee before any amount is applied towards the water bill.
- 2. Common areas.** Except as otherwise provided in this subsection, the utility fee for common areas owned by community associations will be billed directly to the community association.
- 3. Delinquency.** Any unpaid stormwater management utility fee will be a lien against the property to be collected in the same manner as unpaid municipal taxes are collected.
- 4. Adjustments.**
  - a. Submission of request.** Within 30 days after a bill is mailed or issued to a property owner, the property owner may request an adjustment of the utility fee. A request for an adjustment must be submitted to the Director of Finance in writing, stating the grounds for the request. Additional submittal requirements may be set forth in the administrative regulations.
  - b. Criteria.** The Director of Finance may adjust the utility fee if:
    - (i) The property was incorrectly classified under Section 7-704;
    - (ii) The impervious surface area was measured incorrectly;
    - (iii) There is a mathematical error in calculating the utility fee; or
    - (iv) The property owner invoiced for the fee was identified in error.



- c. **Appeals.** The decision of the Director of Finance on a utility fee adjustment in a final decision from which an aggrieved party may appeal, within 30 days after the decision, to the Circuit Court of Cecil County in accordance with Title 7, Chapter 200 of the Maryland Rules.

**BE IT FURTHER ENACTED AND ORDAINED** by the Mayor and Commissioners of the Town of North East that in the event any provision, section, sentence, clause, or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of this Ordinance. It being the intent of the Town that such remainder shall be and shall remain in full force and effect.

**BE IT ALSO ORDAINED AND ESTABLISHED THAT** this Ordinance is adopted this 22<sup>ND</sup> day of May, 2019 and all become effective July 1, 2019.

**Bold Denotes New Text**

**Ordinance No. 2019-05-01**

MAYOR AND COMMISSIONERS  
OF THE TOWN OF NORTH EAST

Attest: Melissa Cook-MacKenzie  
Melissa Cook-MacKenzie  
Town Administrator

Robert F. McKnight  
Robert F. McKnight, Mayor

Absent  
Cynthia G. Billig, Commissioner

DATE INTRODUCED: 05-08-2019

DATE PASSED: 05-22-2019

EFFECTIVE DATE: 07-01-2019

Hilary A. Crothers-Moore  
Hilary A. Crothers-Moore, Commissioner

Michael Kline  
Michael Kline, Commissioner

Raymond N. Mitchell  
Raymond N. Mitchell, Commissioner