

**ORDINANCE AMENDING THE STORMWATER MANAGEMENT UTILITY AND
ENTERPRISE FUND AUTHORIZING THE IMPOSITION OF STORMWATER
UTILITY CHARGES FOR THE TOWN OF SWANSBORO**

2022-O8

Section 1. Purpose.

This ordinance establishes a stormwater management utility as an identified fiscal and accounting fund for the purpose of addressing stormwater management needs of the Town including to pay for all or part of the construction, reconstruction, repair, enlargement, improvement, acquisition, maintenance, operation, administration and use of the stormwater utility within the jurisdiction.

Section 2. Establishment of a Stormwater Management Utility and Stormwater Enterprise Fund.

(a) There is hereby established a stormwater management utility which shall be responsible for stormwater management programs, and which shall provide for the management, protection, control, regulation, use and enhancement of stormwater and drainage systems owned by the Town.

(b) Just and reasonable charges for use, access, connection, and availability of stormwater drainage facilities shall be calculated and determined based on expected and typical stormwater runoff as may be calculated within reasonable and practical limits.

(c) There is hereby established a Stormwater Enterprise Fund for the Town for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the stormwater management utility, including but not limited to rents, rates, fees, charges, and

penalties as may be established, after notice and a public hearing, by the Governing Body and other funds that may be transferred or allocated to the stormwater management utility. All revenues and receipts of the stormwater management utility shall be placed in the Stormwater Enterprise Fund and all expenses of the utility shall be paid from the Stormwater Enterprise Fund, except that other revenues, receipts and resources not accounted for in the Stormwater Enterprise Fund may be applied to stormwater management programs, and stormwater and drainage systems as deemed appropriate by Governing Body.

Section 3. Jurisdiction.

The boundaries and jurisdiction of the stormwater management utility shall include all areas of the corporates limits of the Town, including all areas hereafter annexed thereto.

Section 4. Definitions.

For the purpose of this Ordinance, the following words, terms, and phrases shall have the meanings given to them in this section, except where the context clearly indicates a different meaning:

Commercial shall mean buildings and or parcels used for non-residential purposes directly or indirectly in connection with any business, or other undertaking intended for profit or non-profit.

Credit shall mean ongoing reductions in the stormwater service charge applicable to a given property in recognition of on-site or off-site systems, facilities, measures, and actions taken by customers to reduce or mitigate the impact of their properties or actions on quantity or quality impacts that would otherwise be managed in the public system. “Credits” shall be conditioned on the continuing performance of the systems, facilities, measures or actions in reference to

standards adopted by the utility upon which the credits are granted ; and may be revised or rescinded.

Developed Land shall mean a land parcel altered from its Natural State that contains impervious surface.

Drainage System shall mean natural and structural channels, swales, ditches, swamps, rivers, streams, creeks, wetlands, branches, reservoirs, ponds, drainage ways, inlets, catch basins, gutters, pipes, culverts, bridges, head walls, storm sewers, lakes, and other physical works, properties, and improvements that transfer, control, convey or otherwise influence the movement of storm water runoff.

Governing Body shall mean the Board of Commissioners for the Town of Swansboro.

Impervious Surface shall mean those areas within developed land which prevent or significantly impede the infiltration of stormwater into the soil. Common “impervious surfaces” include but are not limited to roof tops, sidewalks, walkways, patio areas, roads, driveways, parking lots, storage areas, brick or concrete pavers, compacted gravel surfaces (roads, driveways, walks, parking, and storage areas), and other surfaces which prevent or significantly impede the natural infiltration of stormwater into the soil.

Low Impact Development (LID) shall be defined by NCDEQ’s definition of Low Impact Development. The runoff volume match goal is to keep the volume of stormwater runoff on an annual basis similar both before and after development. This approach helps to protect the receiving stream’s hydrology, structure, and support. Under runoff volume match, the majority of the project must be treated by SCMs (stormwater control measures) that infiltrate and

evapo-transpire stormwater; however, a small portion of the project's stormwater may typically be released without treatment (this helps retain hydrology to the receiving waters). The definition in addition expands upon the NC Low Impact Development Guidebook which states LID maintains and restores the hydrologic regime by creating a landscape that mimics the natural hydrologic functions of infiltration, runoff, and evapotranspiration.

Natural State shall describe existing Undeveloped Land where the soil and vegetation characteristics have not been substantially modified or disturbed by human activities and the hydrologic function is in an unaltered or natural condition.

NCDEQ shall mean North Carolina Department of Environmental Quality.

Residential means buildings and or parcels used for residences such as attached and detached single-family dwellings, apartment complexes, condominiums, manufactured homes, mobile homes, townhouses, cottages, etc., and their associated outbuildings such as garages, storage buildings, gazebos, etc.

Service Area shall mean all land within the corporate limits of the Town of Swansboro.

Service Charge shall mean a Stormwater management service charge, applicable to a land parcel, which generally reflects the impact on or demand for Stormwater management services provided by the Town to properly control and manage Stormwater runoff quantity and/or quality associated with the land parcel. The Service Charge will vary from one land parcel to another based on the total Impervious Surface Area. The Service Charge may vary for the same class of service in different areas of the Service Area and may vary according to classes of service.

Stormwater shall mean the runoff from precipitation that travels over Natural State or Developed Land surfaces and enters a Drainage System.

Stormwater Services Utility Manager. A person working for or on behalf of the Town to administer the Stormwater Management Program. For the purposes of this ordinance, it shall also mean Town Manager and/or his designee.

Stormwater Management Program shall mean an identified set of measures and activities designed to protect, restore and/or manage stormwater quality by controlling and/or reducing pollutants and to reduce and/or manage stormwater quantity by controlling velocity, volume, and rate.

Stormwater Management Utility shall mean an organizational structure that is responsible for funding, administering, and operating the Town's Stormwater Management Program, and that is supported through a rate structure based on the Impervious Surface Area found on land parcels located within the Service Area.

Town shall mean Town of Swansboro.

Undeveloped Land shall mean all land that is not altered from its Natural State.

Section 5. Schedule of Fees and Charges.

(a) *Fee Schedule adopted.* The schedule of fees and charges for use of the stormwater utility shall apply to all land properties within the jurisdiction that contain impervious surface area.

Section 6. Exemptions and Credits Applicable to Stormwater Management Service Charges.

(a) *Statement of Policy.* Except as *provided* in this section, no public or private property shall be exempt from Stormwater Management Service Charges or receive a credit or offset against such Stormwater Management Service Charges. No exemption or reduction in Stormwater Management Service Charges shall be granted based on the age, tax or economic status, race, or religion of the customer, or other condition unrelated to the cost of providing stormwater services and facilities.

(b) *Exemptions.* No public or private property shall be exempt from Stormwater Management Utility Service Charges, with the following exceptions:

1. Publicly dedicated roads, streets, greenways, sidewalks and other publicly dedicated rights of way and easements for vehicular or pedestrian traffic that are available for use by the general public for transportation purposes, shall be exempt from Town Stormwater Management Utility Service Charges. This exemption shall not apply to internal site roadways within public facilities.
2. Railroad rights-of-way used or formerly used for trackage shall be exempt from Town Stormwater Management Utility Service Charges. This exemption shall not be construed to apply to railroad stations, maintenance buildings, or other developed land used for railroad purposes.

(c) *Credits.* The following credits may be allowed upon adoption of a Credit Application Instruction Manual by the Commissioners:

1. Residential parcels that provide measures to mitigate the impacts of runoff by such methods outlined in the Swansboro Watershed Restoration Plan may be eligible for partial credit. Methods can include rain gutter downspout redirect, rain barrel, cistern and permeable pavers equal in square footage to the square footage calculated in determining fee. Other considerations may include homes certified by the U.S. Green Building Council. An additional discount may be applied if payments are made by September 30th. ~~in advanced of quarterly semi-annual installments (i.e. lump sum during the first billing in July).~~
2. Commercial parcels that provide measures to mitigate the impacts of runoff on the Stormwater system may be eligible for partial credit for Impervious Surface Area and may be proportional to the extent those measures address the impacts of peak discharge and total runoff volume from the site (See Low Impact Development). An additional discount may be applied if payments are made by September 30th. ~~in advanced of quarterly semi-annual installments (i.e. lump sum during the first billing in July).~~ Additional credit beyond the one-month credit for an approved stormwater bmp and lump sum payment shall depend upon the site's implementation of Low Impact Development.

3. Additional Credit for Low Impact Development. Commercial properties that have implemented NC State permitted Low Impact Development (LID) tools/practices may qualify for an additional credit beyond the stormwater bmp and lump sum credits noted in 2 above. The LID tool must be an accepted method per the most recently adopted NCDEQ Stormwater Design Manual. Certification by a NC Licensed Professional Engineer and/or an approval from NCDEQ of the LID for the additional credit must accompany the application certifying the LID tool implemented on site and the percentage of stormwater retained, disconnected, and not released into the Town's conveyance system. The credit request shall be reviewed before the Board of Commissioners and on a case by case basis. The credit may be considered on a percentage decrease basis similar and proportional to the percentage of stormwater retained, disconnected, and not released into the Town's conveyance system. The town may request information as necessary to determine the eligible credit.
4. The Credit Application Instruction Manual may be approved by the Commissioners and placed on file with the Town Clerk at which time it shall be followed in establishing applicable credits to a customer's Impervious Surface Area portion of the Stormwater Management Utility Service Charge.
5. Each credit allowed against a customer's Impervious Surface Area Charge portion of the Stormwater Management Utility Service Charge shall be conditioned on continuing compliance with the performance standards set forth in the Credit Application Instruction Manual and/or the applicable standards set out in the Town's Unified Development Ordinance, Swansboro Watershed Restoration Plan and the most recently adopted NCDEQ Stormwater BMP Manual as approved by the NC Department of Environmental Quality, Division of Energy, Mineral, and Land Resources existing at the time of construction of such facilities and may be rescinded for noncompliance with those standards.
6. Each credit for which a customer applies shall be subject to review and approval by the Stormwater Utility Manager. The Stormwater Utility Manager may approve or reject any application for a credit in whole or in part.

Section 7. Billing and Collection

- (a) *Method of billing.* Billing and collection of the Stormwater Management Utility Service Charges for Stormwater management services and facilities shall be billed through the Town of Swansboro's Enterprise Fund Services.
- (b) *Frequency of billing.* Billing of the Stormwater Management Utility Service Charges for Stormwater management services and facilities shall be billed on a semi-annual basis. Opportunity for lump sum payment shall be provided on the first billing cycle in July. Each lump sum payment per account shall reduce the fee by 8.33% or equal to one month of the annual fee.
- (c) *Delinquencies.* Stormwater Management Utility Service Charge billings that are not paid within the time allowed for payment shall be collected by any remedy provided by law for collecting and enforcing private debts or in any other manner authorized by law.
- (d) *Application of payment.* Payment will be applied to a customer's bill in the following order:
1. Interest, to the extent allowed by law.
 2. Civil penalties assessed pursuant to this Ordinance.
 3. Stormwater Management Utility Service Charge.
- (e) *Appeal of disputed bills and adjustments.* If any property owner wishes to dispute a Stormwater Utility Service Charge billing or any other rents, rates, fees, charges, or penalties adopted pursuant to this Article, that property owner must submit a written appeal within 60 days from the date of billing, stating the reasons for the appeal, and providing information pertinent to the calculation of the billed charge. A timely appeal shall stay the penalty deadlines. An appeal of a disputed bill shall be filed with the Stormwater Utility Manager for review and disposition. If the property owner is not satisfied with the disposition of the appeal, the citizen may further appeal the disputed charge to the Town of Swansboro Manager or his designee who shall make the final ruling on the validity of the appeal.

Section 8. Disposition of Service Charges and Fees.

Stormwater Management Utility Service Charge and fee revenues shall be assigned and dedicated solely to the Stormwater Management Enterprise Fund in the Town budget and accounting system, which shall be and remain separate from other funds, and shall be used only to fund identified Stormwater Management Program activities. The services, charges and fees paid to and collected by the provision of this Article shall not be used for general or other governmental or proprietary purposes of the Town, except to pay for costs incurred by the Town in rendering services associated with the Stormwater Management Utility.

Section 9. Supplying Information.

The owner, occupant, or person in charge of any land that contains impervious surface within the jurisdiction shall supply the Town Manager and/or his designee with such information as may be reasonably requested related to the use, development and area of the premises. Willful failure to provide such information or to falsify it is a violation of this ordinance.

Section 10. Severance.

Any part or provision of this Ordinance found by a court of competent jurisdiction to be in violation of the Constitution or laws of the United States or of the State of North Carolina is hereby deemed severable and shall not affect the validity of the remaining provisions of the Ordinance.

Section 11. Miscellaneous.

This Ordinance supersedes all other Town ordinances, or parts of ordinances in conflict herewith.

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Section 11. Effective Date.

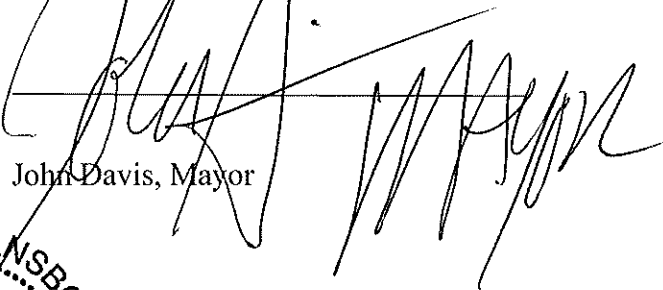
This Ordinance shall become effective July 1, 2022.

Originally adopted June 27, 2017

Amended 6/28/2021

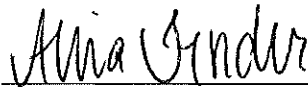
Amended 6/13/2022

TOWN OF SWANSBORO
BOARD OF COMMISSIONERS



John Davis, Mayor

Attest:



Alissa Fender, Town Clerk

