



## Takoma Park City Council Meeting – March 17, 2021 Agenda Items 3 and 4

### **Voting Session**

Resolution and First Reading Ordinance Amending the Stormwater Code Regarding the Fee System

### **Recommended Council Action**

Approve Resolution and City Code Amendment

### **Context with Key Issues**

On January 9, 2019, City Council received an overview of the Impervious Area Review Study completed by Black & Veatch. Work Session discussions were held on September 11, 2019, and February 5 and February 19, 2020 and April 22, 2020 to discuss possible changes to the stormwater utility fee structure. Additional Council Work Sessions were held Feb 10 and Feb 24, 2021, as well as a Public Hearing on February 24, 2021. On March 10, staff presented a detailed Frequently Asked Questions document, a draft Resolution on Stormwater Policies and Goals, as well as draft City Code changes. The draft Code changes are now incorporated into a Draft Ordinance for consideration.

If the Stormwater Fee structure is to be changed, a decision is needed promptly as the detailed information on charges is needed to be received by the County in April. The FY22 budget schedule will require any fee amount changes to be made prior to the adoption of the budget ordinances that will occur on May 13 and May 20.

Background: The results of the Black & Veatch study illustrated that many single-family residential properties had greater square footage of impervious surface than had been previously assumed when the fee was implemented in 1996. As a result, it became clear that the fee could be levied more equitably based on the amount of impervious area. The staff recommendation is to move to a tiered charge of \$25 per 500 square feet of impervious surface rather than the flat fee for single family properties. The City already charges all multi-family, commercial, and institutional property based on the amount of impervious area on the property. The current system for those property types applies an average unit (the Equivalent Residential Unit – ERU) as the basis for the fee. This average unit (ERU) was increased, based on the Black & Veatch study, for FY21 stormwater billing on all non-single-family properties.

Prior to the Public Hearing, the City mailed a notice to all single-family properties informing them of the proposed change to the Stormwater Fee structure. An article was also included in the February Newsletter and the Stormwater Management page on the City's website was updated with an interactive map to show the proposed fee on each single-family property. If these changes move forward, property owners will receive a mailing of information regarding their property, the charge that would apply to their property, and the process to appeal a charge that is believe to be incorrect.

The Stormwater Utility Fee generates \$700,000 annually to be used for system inspection, monitoring and water quality testing, repairs and maintenance of the existing system, design and construction of new facilities, and engineering oversight.

### **Council Priority**

Environmentally Sustainable Community; Fiscally Responsible Government

### **Environmental Impact of Action**

All stormwater management programs are funded through revenue generated by the Stormwater Utility Fee. These programs include maintenance of existing systems as well as construction of new infiltration and treatment facilities for stormwater management. These programs are mandated by State and Federal law.

### **Racial Equity Considerations**

As the Council considers various stormwater fee options, racial equity impacts should be considered. For example, if there is an association between race and properties with less square footage of impervious surfaces, choosing an option that charges by amount of impervious surface could be more equitable than one that charges based on an average of all residential properties.

### **Fiscal Impact of Action**

The Stormwater Utility Fee funds all activities the City undertakes for the management and treatment of stormwater. Ensuring that the fee structure is equitably assessed is essential to ensure the ongoing revenue necessary to provide that service.

### **Attachments and Links**

- Draft Resolution on Stormwater Management Policies and Goals
- Draft Stormwater Ordinance
- Stormwater FAQ's

Introduced by:

**CITY OF TAKOMA PARK, MARYLAND**

**RESOLUTION 2021-**

**STORMWATER MANAGEMENT POLICIES AND GOALS**

WHEREAS, in 1990 Maryland passed a law that ruled against continued ownership of the stormwater system by the water utility WSSC, and the City of Takoma Park accepted the transfer of ownership of the stormwater system from WSSC after a deliberative process compared the options of County versus City ownership; and

WHEREAS, the City decided to take over the system to ensure local control over the infrastructure within the City and to oversee maintenance, as well as ensure that new system needs would be most effectively addressed; and

WHEREAS, Takoma Park's municipal government is responsible for managing stormwater within the City, and does so as a stormwater utility under Title 16 of the City's Municipal Code; and

WHEREAS, the City is required by Maryland State law to meet water quality requirements of a state NPDES stormwater management permit, which currently requires the City to develop and implement a workplan to treat stormwater from 20 percent of the impervious surfaces in the City by 2025, and the city has chosen to most cost-effectively meet this requirement by managing stormwater in the public space; and

WHEREAS, as a municipality responsible for water discharge from our jurisdiction, the City is required to have programs in place to address 6 minimum control measures, which include:

- Public Education and Outreach
- Public Involvement and Participation
- Illicit Discharge Detection & Elimination
- Construction Site Stormwater Runoff Control
- Post Construction Stormwater Management
- Pollution Prevention and Good Housekeeping; and

WHEREAS, the City established a precedent-setting Stormwater Utility Fee in 1996 as way to establish a dependable system of funding and enable charges to be levied on all property owners, including those that were tax exempt. Takoma Park was the first jurisdiction in Maryland to set up such a fee. Many other jurisdictions followed suit; and

WHEREAS, the City has established a 5-year Capital budget for major stormwater projects in addition to an annual budget for specific repairs or improvements to the existing system to continue meeting state stormwater quality requirements; and

WHEREAS, the City's stormwater infrastructure includes over 17 miles of storm drain pipes (some over 100 years old) and since 2006, the City has installed 72 bioretention and treatment facilities and is on track to meet the State mandate of treating 20% of the existing impervious area of the City by 2025; and

WHEREAS, property owners in the City are assessed an annual Stormwater Utility Fee, which raises approximately \$700,000 annually, funds which are used to continue meeting state water quality permit requirements through system inspection and repairs, monitoring and water quality testing, repairs and maintenance of the existing system, design and construction of new facilities, and engineering oversight; and

WHEREAS, under the current annual stormwater fee structure, single family homeowners currently pay a flat rate of \$92 while commercial, industrial, institutional and multi-family property owners pay a fee based on the amount of impervious surface on each property; and

WHEREAS, the City Council is adopting a new fee structure that is aimed at more accurately reflecting the contribution of the City's single-family properties to untreated stormwater flows, based on an analysis of the amount of impervious surface on each property; and

WHEREAS, the new fee structure is expected to reduce the annual stormwater fee paid by approximately 20 percent of residents, with around 24 percent paying \$100, and about 55 percent paying a higher amount; and

WHEREAS, in recent years because of significant rainfalls from more frequent and more severe rain storms, many property owners have experienced flooding and other damage to their properties due to increased stormwater flows across both private and public properties in locations throughout the City; and

WHEREAS potential actions to remediate or prevent such stormwater flow problems can be very costly or ineffective for individual property owners, and may be more complex because the most appropriate solutions could involve multiple private properties as well as public land; and

WHEREAS numerous scientific bodies have noted an increase in the frequency and severity of rainstorms in recent decades because of increases in Greenhouse Gas emissions, and it is a consensus of scientists active in the environmental and climate change fields that it's highly likely this trend will continue for the foreseeable future; and

WHEREAS, the City Council has publicly expressed its support for taking action to address the impact of increased stormwater flows through our Climate Change Framework (Resolution 2020-6); the annual Council Priorities document, and by supporting State stormwater management legislation.

NOW, THEREFORE, BE IT RESOLVED THAT given the recent experiences of residents, the forecasts of environmental scientists, and the City Council's publicly stated commitments, it is in the interest of the Council as it moves to adopt the new stormwater fee structure to also take steps aimed at responding to the challenges of increased stormwater flows facing property owners, as well as increasing the City's resilience to increased stormwater flows; and

BE IT FURTHER RESOLVED THAT the City Council will explore taking actions to address these stormwater challenges for private property owners and ways to address their costs in the context of this year's budget cycle and future budgets, consistent with budgetary prudence and aligned with our ongoing work on the Climate Change Framework.

OR

BE IT FURTHER RESOLVED THAT the City Council will explore taking actions to address these stormwater challenges in the context of this year's budget cycle and future budgets, such as the possible establishment of a Climate Resilience Fund, consistent with budgetary prudence and aligned with our ongoing work on the Climate Change Framework.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2021.

Attest:

1 Introduced by: Councilmember \_\_\_\_\_  
2  
3

First Reading: March \_\_, 2021  
Second Reading:  
Effective Date:

4  
5 **CITY OF TAKOMA PARK, MARYLAND**  
6 **ORDINANCE 2021-\_\_**  
7

8 **AMENDING THE TAKOMA PARK CODE, TITLE 16,**  
9 **STORMWATER MANAGEMENT, CHAPTER 16.08 STORMWATER**  
10 **MANAGEMENT FEE SYSTEM**  
11

12 **WHEREAS,** the Maryland Code, Local Government Article, Section 5–202, as amended,  
13 authorizes the legislative body of each municipal corporation in the State of  
14 Maryland to pass ordinances that such legislative body deems necessary to assure  
15 the good government of the municipality, to protect and preserve the  
16 municipality’s rights, property and privileges, to preserve peace and good order,  
17 to secure persons and property from danger and destruction, and to protect the  
18 health, comfort, and convenience of the citizens of the municipality;  
19

20 **WHEREAS,** Section 401(a) of the City Charter authorizes the Council to pass all such  
21 ordinances not contrary to the Constitution and laws of the State of Maryland or  
22 this Charter as it may deem necessary for the good government of the City; for  
23 the protection and preservation of the City’s property, rights, and privileges; for  
24 the preservation of peace and good order; for securing persons and property from  
25 violence, danger, or destruction; and for the protection and promotion of the  
26 health, safety, comfort, convenience, welfare, and happiness of the residents of  
27 and visitors in the City;  
28

29 **WHEREAS,** Section 401(b)(18) of the City Charter authorizes the Council to provide for the  
30 protection, promotion and preservation of the natural environment including  
31 rivers, streams and watersheds;  
32

33 **WHEREAS,** Section 401(b)(19) of the City Charter authorizes the Council, subject to the  
34 limitations imposed by the Constitution and laws of the State of Maryland to  
35 establish and collect reasonable fees associated with the exercise of any  
36 governmental or proprietary function authorized by law to be exercised by a  
37 municipal corporation;  
38

39 **WHEREAS,** Section 401(b)(20) of the City Charter authorizes the Council to levy, assess and  
40 collect fees, assessments, and charges against property;  
41

42 **WHEREAS,** the Council conducted a comprehensive review of Chapter 16.08 of the Takoma  
43 Park Code and overarching stormwater management principles and goals and  
44 discussed the same during the following work sessions: February 10, 2021,  
45 February 24, 2021, and March 10, 2021; and  
46

1 **WHEREAS,** the Council, after having reviewed the proposed revisions and upon making  
2 further modifications, desires to amend Chapter 16.08 of the Takoma Park Code.  
3

4 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**  
5 **TAKOMA PARK, MARYLAND, THAT** Chapter 16.08, Stormwater Management Fee System,  
6 of the Takoma Park Code is hereby amended as follows:  
7

8 **Chapter 16.08**  
9 **STORMWATER MANAGEMENT FEE SYSTEM**

10 Sections:

- 11 16.08.010 Findings.
- 12 16.08.020 Statutory authority.
- 13 16.08.030 Definitions.
- 14 16.08.040 Establishment of Stormwater Management Fund.
- 15 16.08.050 Purposes of Fund.
- 16 16.08.060 Imposition of stormwater management fee.
- 17 16.08.070 Classification of property—Establishment of fee.
- 18 16.08.080 Base rate.
- 19 16.08.090 Charges for tax-exempt properties—Exemptions for undeveloped property and for  
20 government property used for public purposes.
- 21 16.08.100 Assessment notices.
- 22 16.08.110 When fee is payable—Interest and penalties—Lien on real property—Abatement of  
23 small amounts due.
- 24 16.08.120 Requests for correction.

25  
26 **16.08.010 Findings.**

27  
28 A. The City maintains a system of storm and surface water management facilities, including but  
29 not limited to inlets, conduits, manholes, channels, ditches, drainage easements, retention and  
30 detention basins, infiltration facilities and other components as well as natural waterways.

31 B. The stormwater system in the City needs regular maintenance and improvements.

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

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

36 E. All real property in the City either uses or benefits from the maintenance of the stormwater  
37 system.

38 F. The extent of use of the stormwater system by each property is dependent on factors that  
39 influence runoff, including land use and the amount of impervious surface on the property.

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

1 H. Management of the stormwater system to protect the public health, safety and welfare requires  
2 adequate revenues and it is in the interest of the public to finance stormwater management  
3 adequately with a user charge system that is reasonable and equitable so that each user of the  
4 system pays to the extent to which he or she contributes to the need for it. (Ord. 2001-29 § 2 (part),  
5 2001: prior code § 10D-1)

6  
7 **16.08.020 Statutory authority.**

8  
9 Authority for the adoption of a system of charges to fund the implementation of stormwater  
10 management programs is conferred on the City by Article 29, Section 3-205, and by Section 4-  
11 204(d) of the Environment Article of the Annotated Code of Maryland, as amended. (Ord. 2001-  
12 29 § 2 (part), 2001: prior code § 10D-2)

13  
14 **16.08.030 Definitions.**

15  
16 For purposes of this chapter, the following words and phrases shall have the meanings indicated:

17 “Base rate” means the stormwater management fee charged on a base unit. ~~The annual (fiscal year)~~  
18 ~~stormwater management fee for single family residential property in the City equals the base rate.~~

19 “Base unit” ~~means the median impervious surface area associated with a single family residential~~  
20 ~~property in the City. is equal to five hundred (500) square feet of impervious surface for property~~  
21 ~~types.~~

22 “Board” means the Stormwater Management Board for Takoma Park established under the  
23 Municipal Charter. In accordance with the Municipal Charter, the Council of the City has been  
24 designated the Stormwater Management Board.

25 “Developed property” means real property which has been altered from its natural state by the  
26 addition of any improvements, such as buildings, structures or other impervious area.

27 “Fee” or “stormwater management fee” means the charge established under this chapter and levied  
28 on owners of parcels or pieces of real property to fund the costs of stormwater management and  
29 of operating, maintaining and improving the stormwater system in the City.

30 “Fiscal year” means July 1st of a calendar year to June 30th of the next calendar year, both  
31 inclusive.

32 “Impervious surface” means a surface that is compacted or covered with material that is resistant  
33 to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs,  
34 sidewalks, patios, driveways, parking lots and any other oiled, graveled, graded, compacted or  
35 other surface that impedes the natural infiltration of surface water.

36 “Impervious surface area” means the number of square feet of horizontal surface covered by  
37 buildings and other impervious surfaces. All building measurements shall be made between  
38 exterior faces of walls, foundations, columns or other means of support or enclosure.

39 “Multifamily dwelling” means a building with more than two dwelling units.

1 “Other developed property” means developed property other than single-family residential  
2 property. Such property shall include, but not be limited to, multifamily dwellings, commercial  
3 properties, industrial properties, parking lots, hospitals, private schools, private recreational and  
4 cultural facilities, hotels, offices and churches.

5 “Property owner” means the property owner of record as listed in the State assessment roll. A  
6 property owner includes any individual, corporation, firm, partnership or group of individuals  
7 acting as a unit and any trustee, receiver or personal representative.

8 “Single-family residential property” means a developed property the primary purpose of which is  
9 providing a permanent dwelling unit and that is classified as residential in the State assessment  
10 roll. A single-family detached dwelling, or a townhouse, containing an accessory apartment or  
11 second dwelling unit is included in this definition.

12 “State assessment roll” means the official listing of assessments of real property maintained by the  
13 State Department of Assessments and Taxation of Maryland.

14 “Stormwater management” means the planning, design, construction, regulation, improvement,  
15 repair, maintenance and operation of facilities and programs relating to water, floodplains, flood  
16 control, grading, erosion, tree conservation and sediment control.

17 “Stormwater Management Fund” or “Fund” means the fund created by this chapter to operate,  
18 maintain and improve the City’s stormwater system.

19 “Stormwater system” means the system or network of storm and surface water management  
20 facilities, including but not limited to inlets, conduits, manholes, channels, ditches, drainage  
21 easements, retention and detention basins, infiltration facilities and other components as well as  
22 all-natural waterways.

23 “Undeveloped property” means any non-single-family residential property which has one-third or  
24 less of the base unit of impervious surface area.

25 “Water” means any stormwater, surface water, snow melt or groundwater. (Ord. 2016-9 § 1,  
26 2016/Ord. 2001-29 § 2 (part), 2001: prior code § 10D-3)

27

28 **16.08.040 Establishment of Stormwater Management Fund.**

29

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

37 B. All revenues collected from the Stormwater Management Fee and from grants, permit fees  
38 and other charges collected under this chapter, shall be deposited to the Fund. The Council, acting  
39 as the Board, may make additional appropriations to the fund. All disbursements from the fund

1 shall be for the purposes of the fund as set forth in this chapter. (Ord. 2001-29 § 2 (part), 2001:  
2 prior code § 10D-4)

3  
4 **16.08.050 Purposes of fund.**

5  
6 The fund shall be used for the following purposes:

7 A. The acquisition by gift, purchase or condemnation of real and personal property, and interests  
8 therein, necessary to construct, operate and maintain stormwater control facilities;

9 B. All costs of administration and implementation of the stormwater management program,  
10 including the establishment of reasonable operating and capital reserves to meet unanticipated or  
11 emergency stormwater management requirements;

12 C. Engineering and design, debt service and related financing expenses, construction costs for  
13 new facilities, and enlargement or improvement of existing facilities;

14 D. Operation and maintenance of the stormwater system;

15 E. Monitoring, surveillance and inspection of stormwater control devices;

16 F. Stormwater quality monitoring programs;

17 G. Retrofitting developed areas for pollution control;

18 H. Inspection and enforcement activities;

19 I. Billing and administrative costs;

20 J. Study the impact of stormwater on any property within the City limits; and

21 K. Other activities which are reasonably required. (Ord. 2001-29 § 2 (part), 2001: prior code §  
22 10D-5)

23  
24 **16.08.060 Imposition of stormwater management fee.**

25  
26 A. An annual service charge is imposed upon all real property in the City, as of July 1st of each  
27 fiscal year, beginning July 1, 1996, to fund stormwater management programs. This service charge  
28 shall be known as the “stormwater management fee” (fee). Any real property completed or added  
29 to the State Assessment Roll after July 1st or annexed into the City after July 1st may be subject  
30 to a partial year charge. The fee is based on:

31 1.A The extent to which each property creates a need for the stormwater management  
32 program;

33 2.B. The amount of impervious area on each property; and

34 3.C. The cost of implementing a stormwater management program. (Ord. 2001-29 § 2 (part),  
35 2001: prior code § 10D-6)

1 B. The fee charged to the owners of single-family residential properties between July 1, 2021,  
2 and June 30, 2022, shall not exceed \$275.00. Beginning July 1, 2022, the fees charged to the  
3 owners of single-family residential properties shall not be so limited.

4 **16.08.070 Classification of property—Establishment of fee.**

5  
6 A. For purposes of determining the stormwater management fee, all properties in the City are  
7 classified into one of the following classes:

- 8 1. Single-family residential property; or  
9 2. Other developed property.

10 ~~B. Single-Family Residential Fee. The Council finds that the intensity of development of most~~  
11 ~~parcels of real property in the City classified as single family residential is similar and that it would~~  
12 ~~be excessively and unnecessarily expensive to determine precisely the square footage of the~~  
13 ~~improvements (such as buildings, structures and other impervious area) on each such parcel.~~  
14 ~~Therefore, a~~ All single-family residential properties in the City shall be charged a flat stormwater  
15 ~~management fee, equal to the base rate, regardless of the size of the parcel or the improvements. a~~  
16 ~~rate based on dividing the total impervious surface area (square feet) of the property by one base~~  
17 ~~unit and multiplying that result by the base rate.~~

18 C. Other Developed Property Fee.

19 1. The fee for other developed property (i.e., non-single-family residential property) in the  
20 City shall be the base rate multiplied by the numerical factor obtained by dividing the total  
21 impervious surface area (square feet) of the property by one base unit. The impervious surface  
22 area for other developed property is the square footage for the buildings and other  
23 improvements on the property as listed in the State assessment roll. Alternatively, at the sole  
24 discretion of the City Manager, when evidence suggests that the impervious surface on the  
25 property listed in the State assessment roll is inaccurate, the impervious surface area of other  
26 developed property may be determined through site examination, mapping information, aerial  
27 photographs, and other available information. The minimum stormwater management fee for  
28 other developed property shall equal the base rate for single-family residential property.

29 2. If the other developed property is a condominium, the fee for each condominium unit will  
30 be calculated by dividing the total fee for the condominium property by the number of  
31 condominium units in the development and will be billed to each condominium unit owner.  
32 (Ord. 2016-9 § 1, 2016/Ord. 2001-29 § 2 (part), 2001: prior code § 10D-7)

33 D. Stormwater Management Fee Credit Program.

34 1. There shall be a stormwater management fee credit program that is designed to recognize  
35 specific actions a property owner has taken to reduce the quantity or improve the quality of  
36 stormwater discharged from a particular property.

37 2. Approved credits shall not exceed 50% of the total fee assessed to a property owner and  
38 shall be applied to the next annual billing cycle provided the reasons for granting the approval  
39 remain for the duration of the billing cycle.

1 3. The City Manager shall adopt regulations implementing the stormwater management fee  
2 credit program.

3 4. At a minimum, the stormwater management fee credit program regulations shall:

4 a. Define potential credits related to stormwater remediation efforts undertaken on private  
5 property;

6 b. Consistent with best management practices, define the structural and non-structural  
7 qualifications for the credit;

8 c. Establish approval criteria for credits;

9 d. Establish approval periods for each type of credit in order to promote maintenance of  
10 the stormwater management practice and ensure that the practice provides intended water  
11 quality improvement;

12 e. Permit property owners who were previously awarded a credit to reapply for a credit  
13 for the next approval period;

14 f. Establish all necessary forms;

15 g. Establish a review process for applications that, when feasible, will be complete within  
16 thirty (30) days upon receipt of a completed application; and

17 h. Provide a methodology for rescinding the approval of a credit if the reasons for granting  
18 the credit no longer exist and changing the amount credited on a pro rata basis.

19 **16.08.080 Base rate.**

20  
21 The Council, acting as the Board, shall, by ordinance, establish the annual (fiscal year) base rate  
22 for the stormwater management fee. The base rate shall be calculated to ensure adequate revenues  
23 to fund the costs of stormwater management and to provide for the operation, maintenance and  
24 capital improvements of the stormwater system in the City. (Ord. 2016-9 § 1, 2016/Ord. 2001-29  
25 § 2 (part), 2001: prior code § 10D-8)

26  
27 **16.08.090 Charges for tax-exempt properties—Exemptions for undeveloped property and**  
28 **for government property used for public purposes.**

29  
30 A. The Council finds that all real property in the City contributes to runoff and either uses or  
31 benefits from the maintenance of the stormwater system. Therefore, except as otherwise provided  
32 in this section, all real property in the City, including property that is exempt from property tax by  
33 Title 7 of the Tax-Property Article, Annotated Code of Maryland, as amended, shall be charged  
34 the fee.

35 B. Undeveloped property shall be exempt from the fee. (Ord. 2015-49 § 1, 2015/Ord. 2001-29  
36 § 2 (part), 2001: prior code § 10D-9)

37

1 **16.08.100 Assessment notices.**

2  
3 A. The City Manager may, but is not required to, send assessment notices for the fee to property  
4 owners prior to the billing for the fee.

5 B. If assessment notices are sent, the notice shall include the following information:

6 1. The classification of the property for purposes of determining the fee;

7 2. For property classified as other developed property:

8 a. The impervious surface area of the property; and

9 b. The method by which the impervious surface area of the property was determined;  
10 that is, whether the computation of the impervious surface area of the property is based on  
11 information in the State Assessment Roll, site examination, mapping information, aerial  
12 photographs, or other available information;

13 3. The amount of the base rate (i.e., ~~the single family residential fee~~) and, for other developed  
14 property, and the number of base units on the property. (Ord. 2016-9 § 1 (part), 2016/Ord.  
15 2001-29 § 2 (part), 2001: prior code § 10D-10)

16  
17 **16.08.110 When fee is payable—Interest and penalties—Lien on real property—**  
18 **Abatement of small amounts due.**

19  
20 A. The fee that is due for a fiscal year must be paid within 30 days after the bill is mailed or  
21 issued to the property owner and is overdue after that date. An overdue fee bears interest and  
22 penalties at the rate of 1.67% for each month or fraction of a month that the fee is overdue.

23 B. The fee, including interest and penalties, when overdue is a lien on real property and may be  
24 collected in the same manner as delinquent real property taxes or by a suit against the property  
25 owner.

26 C. The City Manager may abate the fee, including interest and penalties, if the cost of collection  
27 is reasonably estimated to exceed the amount of the fee, including any interest and penalties, due  
28 and payable. (Ord. 2016-9 § 1, 2016/Ord. 2001-29 § 2 (part), 2001: prior code § 10D-11)

29  
30 **16.08.120 Requests for correction.**

31  
32 A. A property owner may request correction of the fee by submitting the request in writing to  
33 the City Manager within 30 days after the date the assessment notice or the bill is mailed or issued  
34 to the property owner. Grounds for correction of the fee include:

35 1. Incorrect classification of the property for purposes of determining the fee;

36 2. Errors in the square footage of the impervious surface area of the property;

37 3. Mathematical errors in calculating the fee to be applied to the property; and

38 4. Errors in the identification of the property owner of a property subject to the fee.

1 B. The City Manager shall make a determination within 30 days after receipt of the property  
2 owner's completed written request for correction of the fee. The City Manager's decision on a  
3 request for correction of the fee shall be final.

4 C. A property owner must comply with all rules and procedures adopted by the City when  
5 submitting a request for correction of the fee and must provide all information necessary for the  
6 City Manager to make a determination on a request for correction of the fee. If a property owner  
7 alleges an error in the square footage of the impervious surface area of the property, then the  
8 request for correction must include a certification by a registered engineer or professional land  
9 surveyor of the impervious surface area of the property. Failure to comply with the provisions of  
10 this subsection shall be grounds for denial of the request. (Ord. 2016-9 § 1, 2016/Ord. 2001-29 §  
11 2 (part), 2001: prior code § 10D-12

12 D. At the City Manager's discretion, the fee for single-family residences may be modified if the  
13 property owner is able to establish, through a reasonably reliable method, that the City's  
14 calculation of square footage of impervious surface area on the property is erroneous.

15 THIS ORDINANCE IS ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK,  
16 MARYLAND, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021, AND SHALL BE EFFECTIVE  
17 BEGINNING ON JULY 1, 2021, BY ROLL-CALL VOTE AS FOLLOWS:

- 18  
19 AYE:  
20 NAY:  
21 ABSTAIN:  
22 ABSENT:  
23

24 **Explanatory Note:**

- 25  
26 1. Underlining indicates language being added to the Code.  
27 2. ~~Strikethrough~~ indicates language being deleted from the Code.  
28

## **TAKOMA PARK STORMWATER MANAGEMENT**

### **FREQUENTLY ASKED QUESTIONS**

#### **Why Does Takoma Park Have its Own Stormwater Authority?**

Takoma Park accepted the transfer of ownership of the stormwater system from the Washington Suburban Sanitary Commission (WSSC) in 1990. At that time Maryland passed a law banning continued ownership by the utility. The city deliberated and compared the options of County versus City ownership and decided to take over the system to secure control of the infrastructure and to ensure that maintenance and new system needs would be most effectively addressed.

If the City were to transfer the management of stormwater system to Montgomery County, Takoma Park would no longer get the attention to its stormwater system that it has in the past. The stormwater fee currently goes directly into the City's program. If the program was managed by the County, the fee paid by residents would be used for the County wide program, of which Takoma Park would be a small piece.

#### **When was the Stormwater Utility Fee Established?**

The City established the Stormwater Utility Fee in 1996 as way to establish a stable system of funding and enable charges to be levied on all property owners, including those that were tax exempt. Takoma Park was the first jurisdiction in Maryland to set up such a fee (we received a grant from the EPA to develop the program). Many other jurisdictions followed suit.

#### **What Does the City Do with The Funds Generated by the Stormwater Utility Fee?**

The revenue generated by the Stormwater fee can only be used on the stormwater program. It is a dedicated utility fee with a separate budget. The City is required to meet State and Federally mandated conditions associated with our discharge permit (known as NPDES – see details in next bullet)

In the 1990's and early 2000's, the main activity was the maintenance and cleaning of the existing system of pipes, inlets and outfalls. Currently the program addresses that routine inspection and maintenance through video inspection, cleaning and repair, but also undertakes water quality testing, new system design and construction and engineering oversight. In addition to the traditional system of inlets, pipes and outfalls, which channel run-off into the nearby creeks and streams, the City must also implement a program to provide water quality treatment for 20% of the existing impervious area by 2025.

Currently, the City has established a 5-year Capital budget for major stormwater projects in addition to an annual budget for specific repairs or improvements to the existing system. Because the City oversees street and sidewalk repairs we are also

able to respond to stormwater problems that are identified when doing that work. The City's stormwater infrastructure includes over 17 miles of storm drain pipes (some over 100 years old). Since 2006, the City has installed 72 bioretention and treatment facilities.

### **What are the Permit Requirements for the City's NPDES Discharge Permit?**

As a municipality responsible for water discharge from our jurisdiction, the City is required to have programs in place to address 6 minimum control measures, which include:

- Public Education and Outreach
- Public Involvement and Participation
- Illicit Discharge Detection & Elimination
- Construction Site Stormwater Runoff Control
- Post Construction Stormwater Management
- Pollution Prevention and Good Housekeeping

In addition, the City is required to develop and implement an Impervious Area Restoration Workplan to provide water quality treatment for 20% of existing impervious area by 2025

### **Why Doesn't the City Have a Rainscapes Program like Montgomery County?**

Montgomery County has a program to give rebates to property owners who install water quality improvements like raingardens, permeable pavement or pavement removal, and conservation landscaping to slow and filter water [Montgomery County Rainscapes Program](#).

The County program offers rebates up to a capped amount on a first come, first served basis for available funds. Each type of improvement has its own rebate amount. Once a property owner has received the cumulative maximum rebate (generally \$7,500), they may no longer use the program. The program is not available to Takoma Park residents because they do not pay into the County system.

The program currently offered as a rebate in the City is the bi-annual bulk buy tree program, in which the City provides a \$115 reduction in the cost for a tree planted on private property.

The City has focused its stormwater program and staffing on public infrastructure improvements to meet the State and Federal requirements for water treatment. It is more efficient for the City to meet those environmental requirements using larger scale public projects than by monitoring individual projects on private property. The administrative time needed to review individual applications and inspect the completed work is significant. If City funds are spent on this program, we would need to count

these projects towards our treatment program which also requires verification every three years of their operation.

Rebates and funds to establish a Rainscapes type program would require additional funding, which would require higher fees. The primary beneficiaries of a rebate program are property owners who have the funds to make landscape improvements and have the time and resources to prepare the plans and apply for the rebates. Between the higher Stormwater fees, and the disproportionate benefit to wealthier property owners, a Rainscapes type program would run counter to the City's Racial Equity goals.

### **Why is the Stormwater Management Program not Funded by Tax Revenues?**

The City's stormwater management services were funded by tax revenues until fiscal year 1997; however, tax revenues were not a reliable source of funding for the program as the budget needs had to compete annually with all other City programs. The stormwater utility fee creates a more stable funding source, ensuring that the stormwater system receives adequate funding, independent of tax revenue fluctuations. The utility fee approach is also a more fair and equitable revenue source than a tax based on the assessed value of property because:

- The fee is based on each property's actual contribution to stormwater runoff
- Each property, including tax exempt ones, contributes a fair and equitable share towards the overall cost of the stormwater management program

### **Does that Mean I Pay Less Tax?**

Yes. The dedicated portion of the property tax that was used for the stormwater program was eliminated in 1998. When the funds for the program came through the property tax base, the rates varied from 3 cents to 8 cents per \$100 of assessed value. About 80 percent of single-family homeowners pay less for stormwater management under the fee system than they paid when the program was funded through the property tax system.

### **How is the Rate Established and Residential Property Fees Determined?**

The rate is set by the City Council annually during the budget process. The rate is based on the funding level required for the program. Currently the annual funding level to maintain the program and fund new capital projects is about \$700,000.

Since the program was established, the rate for single family properties has been billed at a flat rate, based on the average amount of impervious area on those property types. Multi-family properties and all non-residential properties are billed at a rate based on their actual impervious area. The base rate in FY1996 was \$24, it increased to \$48 in 2007 and has been at \$92 since FY2018.

### **How are Non-Residential or Multi-Family Property Fees Determined?**

Currently, the annual fee is determined for multi-family and non-residential properties by dividing the total impervious area on the property by the ERU (“Equivalent Residential unit” or the average impervious area of single-family properties which is 2,116 sf) and then multiplying that result by the stormwater base fee.

### **Why is the City Council Considering Changing the Fee Structure?**

A tiered system is being considered to provide a fairer fee structure. The amount of impervious surface on single-family property in the City ranges from 500 to 10,500 square feet. Those properties with a larger impervious surface generate more run-off and, as a result, would pay more towards the maintenance of the system.

The proposed tier structure would be based on a rate of \$25 per 500 square feet of impervious area on a property. The current flat fee is \$92 per single family property. Under the tiered system, the charge for single family property would range from \$25 to \$525, and would be based on the amount of impervious area of the property. Under the proposed tier system 20% of single-family property owners would pay less, 24% would pay \$100 and 55% would pay more than with the current flat rate.

The City has created an interactive map to show what the proposed fee would be for single-family properties. This map is also available on the City’s website at -

<http://takomaparkmd.gov/government/public-works/stormwater-management-program/stormwater-fees-frequently-asked-questions-faq/>.

### **How is the Amount of Impervious Area on a Property Determined?**

When the stormwater utility fee was created, impervious areas were determined by analyzing aerial photographs and the Maryland National Capital Park and Planning Commission's mapping data to identify the amount of impervious surfaces on each property.

The City commissioned the Black & Veatch study in 2018 to update the impervious area information. Advances in GIS and LIDAR enabled the consultant to have a much clearer view of the land cover on each property. Black & Veatch utilized **parcel data from tax records**, to identify parcel boundaries, **planimetric data from GIS** to identified impervious area information such as roofs, roads, parking lots, and Aerial imagery from MD iMAP, ESRI and Google Maps.

The study can be found here –

<https://takomaparkmd.gov/government/public-works/stormwater-management-program/>

### **How Often Will the City Re-Evaluate Impervious Areas on Private Property?**

Revaluation of the city-wide impervious area per property type should be done every 10 years.

## **What is the Definition of Impervious Surface?**

*City Code 16.08.030:* Impervious surfaces means a surface that is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaces streets, roofs, sidewalks, patios, driveways, parking lots and any other oiled, graveled, graded, compacted or other surface that impedes the natural infiltration of surface water.

For the calculation of the amount of impervious area on a private property, the City does not include public streets and sidewalks, even if located within a private property.

## **Is a Gravel Surface Considered Impervious?**

In regard to gravel surfaces, the City follows the general guidance supported by Maryland Department of the Environment:

Gravel surfaces are considered impervious when used in a way that compacts the gravel over time, such as:

- Storage of equipment
- A driveway or road
- A parking lot for vehicles, boats or trailers

However, if the gravel surface meets specific criteria, it may qualify as a BMP (best management practice) and be credited accordingly. The surface must be at least 8 inches thick with a layer or geotextile fabric separating the gravel from the ground, covered by at least six inches of number 2 stone, then at least two inches of number 6 or 7 stone gravel surface.

## **Are Tax-Exempt Properties Exempt from the Stormwater Fee?**

No, because it is a fee, not a tax. Taxes are based on the value of the property. The stormwater fee is assessed based on the amount of impervious surfaces on a property.

## **Can I appeal the Impervious Area Calculation for my Property?**

A property owner may request correction to the impervious area total for their property or to their property boundary designation, if they believe it to be in error. Current Code requires submitting a request in writing to the City Manager within 30 days after the date of assessment notice is issued to the property owner. The property owner must provide specific details why they believe the calculation is in error and should include documentation of the measurements of impervious surfaces on the property, or property boundary survey.

If a property owner undertakes a project to reduce the amount of impervious surfaces on their property, they should request an appeal of their impervious area total or apply for a credit for stormwater measures installed prior to the annual billing cycle.

## **Why do I have to Pay When I do not have any Drainage Problems?**

Everyone in the City benefits from the Stormwater Management Program. Rain generates run-off and these waters must be managed to keep it off private property and provide safe conveyance into our area creeks and streams. The City must have a program and funding to manage the runoff and reduce pollutants. Direct benefits may include protecting your property from upstream runoff, protecting property downstream from your runoff, and improving water quality in Sligo Creek.

## **My Neighborhood has Drainage Problems. Who do I call to get Some Action on These Problems?**

You can call the Public Works Department at 301.891.7633. The issue will be investigated and if the problem is City responsibility, we will add it to our maintenance and repair schedule.

The City Council is currently considering establishing a program to assist private property owners who are experiencing flooding and erosion issues on their property. The details of the program are still under consideration, as is the funding source. The program would be in recognition of the impacts of climate change and increasing frequency and severity of storms, as well as the complexity of the solutions that may likely involve multiple properties.

## **What Can I do To Reduce Stormwater Run-Off from My Property?**

There are many things that you can do to reduce run-off from your property. Some are low or no cost, while others can be major projects. Some examples of simple measures include –

- Redirect or extend downspouts into grassy areas or garden beds
- Mow your lawn less often
- Plant water loving shrubs and trees, especially in areas where water collects
- Avoid using pesticides or fertilizers to reduce pollutants in the run-off
- Avoid washing your car on a paved surface, instead park it on the lawn or better still use a commercial car wash that captures and treats the water at a wastewater treatment plant.
- Cover areas of bare soil with grass seed or ground cover or mulch

Some more ambitious measures include –

- Add a planting bed or rain garden (especially beneficial if it replaces hardscape or grass)
- Install a French drain to capture and funnel water away from building foundations and driveway and to areas of the yard where it can be absorbed
- Install a dry well or cistern and route your roof drains or sump pump to it
- Remove existing pavement and/or replace with permeable pavement
- Install a green roof

- Consider altering your lawns layout; change slope to reduce run-off as much as possible, provide low areas to encourage water to pond and soak into the ground, terraced slopes to slow the flow of run-off (please keep in mind existing trees and not increasing run-off to neighboring properties)

### **Can I get Credit or Reduce My Stormwater Fee If I have (or Will) Implement These Measures?**

The City will develop a credit program to recognize efforts already taken by private property owners as well as encourage others to reduce stormwater run-off from their properties. The details of the credit program are still under development, but will include an application form and list of documentation required for the review and evaluation of the measures to be claimed. The program will likely recognize, rain gardens, drywells and cisterns, permeable pavement and green roofs.

Since all properties directly or indirectly utilize and benefit from the stormwater system, and funding is necessary to maintain functional operation of the system, the maximum credit available will be up to a certain percent and will not eliminate payment of the stormwater fee.

### **Want more information?**

If you would like additional information on the stormwater management utility or have specific concerns about stormwater management issues, please visit the [Maryland Stormwater Management page](#) or contact:

Public Works Director, [DarylB@takomaparkmd.gov](mailto:DarylB@takomaparkmd.gov), 301-891-7615