

A Bill Entitled

An ordinance concerning

Stormwater Remediation Fees - Modifications

For the purpose of modifying definitions; modifying the calculation of impervious surface area; modifying the assessment of a base fee for single-family properties; modifying rate calculations of ERU; and providing for an effective date for the law to go into effect.

By repealing and re-ordaining, with amendments

Article 27 - Stormwater Fees

Sections 1-1(e)(2), 1-1(j)(2), 3-2, 3-3(b)(2)(i-iv), 3-4(2), and 3-5

Baltimore City Code

(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 27. Stormwater Remediation Fees

SUBTITLE 1

DEFINITIONS; GENERAL PROVISIONS

§ 1-1. Definitions.

(a) In general.

In this article, the following terms have the meanings indicated.

(b) City stormwater management system.

“City stormwater management system” includes:

(1) the City’s conveyance or system of conveyances designed or used to collect or convey

stormwater through infrastructure, such as gutters, swales, inlets, pipes, manholes, pumping stations, culverts and other man-made channels, and outfalls;

(2) City practices that retain, filter, or infiltrate stormwater for the purpose of reducing pollutant loadings; and

(3) the City’s system of receiving waters, such as streams, wetlands, rivers, and harbors.

(c) Director of Public Works; Director.

“Director of Public Works” or “Director” means the Director of Public Works or the Director’s designee.

(d) Enabling Law.

“Enabling Law” means State Environment Article § 4-202.1 {“Watershed protection and restoration programs”}, which mandates that the City adopt and impose a stormwater management fee.

(e) Impervious surface.

(1) In general.

“Impervious surface” means any surface that does not allow stormwater to infiltrate into the ground.

(2) Inclusions.

“Impervious surface” includes rooftops, driveways, sidewalks, **GRAVEL**, pavement, **OR OTHER MATERIAL DEEMED IMPERVIOUS BY THE DIRECTOR**.

(3) Exclusions.

“Impervious surface” does not include ballasted railroad tracks.

(f) Person.

(1) In general.

“Person” has the meaning stated in § 1-107(a) {“Person: In general”} of the City Code’s General Provisions Article.

(2) Qualified inclusion of governmental entities.

Notwithstanding § 1-107(b) {“Person: Exclusion”} of the General Provisions Article, in this article “person” also includes, except as otherwise provided in this article or by other applicable law, a governmental entity or an instrumentality or unit of a governmental entity.

(h) Professional engineer.

“Professional engineer” means a person licensed to practice engineering under State Code Business Occupations and Professions Article, Title 14 {“Professional Engineers”}.

(i) Professional land surveyor.

“Professional land surveyor” means a person licensed to practice land surveying under State Code Business Occupations and Professions Article, Title 15 {“Professional Land Surveyors”}.

(j) “Single-family property” defined.

(1) In general.

“Single-family property” means a developed lot that contains but 1 dwelling unit and is used exclusively as a single-family dwelling.

(2) Supplemental definitions.

In this subsection, “dwelling”, “dwelling unit”, “lot”, **“MULTI-FAMILY DWELLING”**, and “single-family dwelling” have the meanings stated in the Baltimore City Zoning Code.

(k) Stormwater remediation fee; Fee.

“Stormwater remediation fee” or “fee” means the stormwater remediation fee imposed under this article.

(l) Watershed Protection and Restoration Fund; Fund.

“Watershed Protection and Restoration Fund” or “Fund” means the stormwater enterprise

fund established under City Charter Article VI, § 18 {“Water, sanitary wastewater, and stormwater utilities”}.

### SUBTITLE 3 FEE IMPOSITION AND COLLECTION

§ 3-1. Fee imposed.

(a) In general.

A stormwater remediation fee is imposed on all properties located in Baltimore City and the owners of those properties.

(b) Exemptions.

This subtitle does not apply to any property that is expressly exempted by the Enabling Law.

(c) Fee in addition to other charges.

The stormwater remediation fee is in addition to any other fee or charge that the City has

the right to charge under any other law, rule, or regulation.

(Ord. 13-143.)

### § 3-2. CALCULATION OF ADJUSTED IMPERVIOUS SURFACE AREA.

#### (A) CALCULATIONS.

(1) THE DEPARTMENT OF PUBLIC WORKS MAY USE CURRENT PRACTICES OR MAY UPDATE CALCULATION PRACTICES AS NECESSARY TO CALCULATED ADJUSTED IMPERVIOUS SURFACE AREA.

(2) ANY PROPERTY WHERE THE ASSESSED VALUE OF THE LAND EXCEEDS THE ASSESSED VALUE OF THE IMPROVEMENTS BY GREATER THAN THREE TIMES SHALL BE SUBJECT TO CALCULATION AS ALL OTHER PROPERTIES, REGARDLESS OF OTHERWISE CATEGORIZED AS A SINGLE-FAMILY PROPERTY

(I) EXCEPT IF THERE IS A LAWFULLY INHABITED DWELLING PRESENT ON THE PROPERTY.

#### (B) EXCLUSIONS.

(1) A ROOFTOP ON A SINGLE-FAMILY PROPERTY THAT COVERS A DWELLING UNIT WITH AN AREA LESS THAN ONE ERU IS FORBIDDEN FROM BEING UTILIZED TO CALCULATE IMPERVIOUS SURFACE AREA.

(2) FOR ALL OTHER PROPERTIES, BUILDING ROOFTOPS ARE FORBIDDEN FROM BEING UTILIZED TO CALCULATE IMPERVIOUS SURFACE AREA EXCEPT WHERE

(I) THE ROOFTOP IS MADE OF CONCRETE, ASPHALT, GRAVEL, OR OTHER IMPERVIOUS SURFACE AS DESIGNATED BY THE DIRECTOR AND;

(II) IS USED OR DESIGNED TO BE USED TO PARK AND STORE VEHICLES OR;

(III) THE ROOFTOP IS NOT USED OR DESIGNED TO BE USED TO PARK AND STORE VEHICLES BUT THE AREA OF THE ROOFTOP IS EQUAL TO OR GREATER THAN TEN ERU, IN WHICH CASE THE AREA OF THE ROOF SHALL BE DIVIDED BY 10 TO CALCULATE ADJUSTED IMPERVIOUS SURFACE AREA OR;

(IV) ANY PROPERTY WHERE THE ASSESSED VALUE OF THE LAND EXCEEDS THE ASSESSED VALUE OF THE IMPROVEMENTS BY GREATER THAN THREE TIMES, EXCEPT IF THERE IS A LAWFULLY INHABITED DWELLING PRESENT ON THE PROPERTY.

(3) PRIVATELY OWNED SPACES OPEN TO THE PUBLIC THAT ARE FORBIDDEN FOR VEHICLE ACCESS, OCCUPANCY, OR USE EXCEPTING EMERGENCY AND DELIVERY VEHICLES AND ARE MADE OF CONCRETE, ASPHALT, GRAVEL, BRICK, PAVERS, OR OTHER IMPERVIOUS SURFACE AS DESIGNATED BY THE DIRECTOR ARE FORBIDDEN FROM BEING UTILIZED TO CALCULATE ADJUSTED IMPERVIOUS SURFACE AREA.

§ 3-[2]3. Assessment of base fee – Single-family properties.

(a) Assessment formula.

The fee for a single-family property is the flat rate determined by:

(1) the applicable tier category within which the property falls, as determined under subsection (b) of this section;

(2) the number of equivalent residential units (or “ERUs”) assigned to that tier; and

(3) the rate per ERU set in accordance with § 3-4 {“Initial rates”} or § 3-5 {“Subsequent rates”} of this subtitle.

(b) Tier categories.

(1) The tier categories for single-family properties are based on a property’s **ADJUSTED** impervious surface area, as determined by the Department of Public Works.

(2) The tier categories are as follows:

(i) Tier 1 – property with **AN ADJUSTED** impervious surface area less than or equal to 820 square feet.

(ii) Tier 2 – property with **AN ADJUSTED** impervious surface area greater than 820 square feet and less than or equal to 1,500 square feet.

(iii) Tier 3 – property with **AN ADJUSTED** impervious surface area greater than 1,500 square feet **AND LESS THAN OR EQUAL TO 2,400 SQUARE FEET**.

**(IV) TIER 4 – PROPERTY WITH AN ADJUSTED IMPERVIOUS SURFACE AREA GREATER THAN 2,400 SQUARE FEET.**

(c) Corrections.

If a property owner contests the property's tier assignment and presents plat information, nonaerial photography, or non-aerial videography to support a claim that the property belongs in a

lower tier, the Department must:

- (1) demonstrate that the higher tier is correct; or
- (2) failing to so demonstrate, make the requested correction.

(Ord. 13-143.)

§ 3-[3]4. Assessment of base fee – All other properties.

(a) Scope of section.

This section applies to all properties in the City that are not single-family properties subject

to § 3-2["Assessment of base fee – Single-family properties"] of this subtitle.

(b) Assessment formula.

- (1) The fee for properties subject to this section is the rate per Equivalent Residential Unit

(or "ERU") set in accordance with § 3-4 {"Initial rates"} or § 3-5 {"Subsequent rates"} of this subtitle times the number of ERUs on the property.

- (2) For this purpose, 1 ERU comprises 1,050 square feet of **ADJUSTED** impervious surface area.

(c) Methods of measurement.

- (1) For properties subject to this section, the following methods may be used, at the sole discretion of the Director of Public Works, to determine the impervious surface measurement of a property:

- (i) geographic information systems analysis of aerial photographs;
- (ii) measurement from approved as-built engineering drawings that are signed and sealed by a professional engineer;
- (iii) field surveys that are signed and sealed by a professional engineer or professional land surveyor; and
- (iv) the use of any additional information that can reliably supplement the data derived from the other measures.

- (2) The resultant ERU count shall be rounded to the nearest whole number.

- (3) The computations and back-up materials for all resultant ERU counts shall be maintained by the Department of Public Works and made available to the public, in the Department's main office and on the Department's website.

(d) Minimum assessed fee.

The minimum assessed stormwater fee for all properties subject to this section shall be equal to the fee for 1 ERU.

[(e) Maximum assessed fee.]

[(1) In general.]

[The maximums set by paragraphs (2) and (3) of this subsection do not apply to any property or portion of a property for which a credit or exemption has been applied for under § 3-6 {"Credits; Exemptions"} of this article.]

[(2) Maximum as percentage of property tax.]

[(i) Subject to subparagraph (ii) of this paragraph, the fee for any property that is subject to property tax and is subject to assessment under this section may not exceed an amount equal to 20% of the total of all State and local real property taxes levied on the property.]

[(ii) This paragraph (2) applies only to properties for which each of the following exceeds \$1,000:]

[(A) the net State and local real property taxes levied on the property; and]

[(B) the stormwater remediation fee otherwise assessable under this article.]

(3) Religious organizations.

Notwithstanding § 3-4 {"Initial rates"} and § 3-5 {"Subsequent rates"}, the fee for structures located on property owned by religious groups or organizations is \$12 per ERU per year if:

(1) the property is not subject to State or City property tax; and

(2) the structures on the property are used exclusively for:

(i) places of worship; or

(ii) elementary, middle, or high school education.

[§ 3-4. Initial rates though FY 2017.]

[(a) In general.]

[Through June 30, 2017, the rates are as provided in this section.]

[(b) Single-family properties.]

[For single-family properties assessed under § 3-2 {"Assessment of base fee – Single-family properties"}, the rate per month is the following multiple of the rate-per-month-per-ERU established for properties assessed under § 3-3 {"Assessment of base fee – All other properties"}:]

[(1) Tier 1 properties: 1/2 of the rate per ERU.]

[(2) Tier 2 properties: the rate per ERU.]

[(3) Tier 3 properties: twice the rate per ERU.]

[(c) All other property.]

[For all properties assessed under § 3-3 {"Assessment of base fee – All other properties"}, the rate per month is \$5 per ERU.]

[(Ord. 13-143; Ord. 16-523.)]

## § 3-5. ESTABLISHMENT OF RATES

### (A) IN GENERAL.

### THE RATES ARE AS PROVIDED IN THIS SECTION

### (B) SINGLE-FAMILY PROPERTIES

FOR SINGLE-FAMILY PROPERTIES ASSESSED UNDER § 3-3 {"ASSESSMENT OF BASE FEE – SINGLE-FAMILY PROPERTIES"}, THE RATE PER MONTH IS THE FOLLOWING MULTIPLE OF THE RATE-PER-MONTH-PER-ERU ESTABLISHED FOR PROPERTIES ASSESSED UNDER § 3-4 {"ASSESSMENT OF BASE FEE – ALL OTHER PROPERTIES"}:

(1) TIER 1 PROPERTIES: 1/4 OF THE RATE PER ERU.

(2) TIER 2 PROPERTIES: THE RATE PER ERU

(3) TIER 3 PROPERTIES: TWICE THE RATE PER ERU

(4) TIER 4 PROPERTIES: FOUR TIMES THE RATE PER ERU

(C) ALL OTHER PROPERTY ASSESSED UNDER § 3-4 {"ASSESSMENT OF BASE FEE – ALL OTHER PROPERTIES"}, THE RATE PER MONTH IS SIX TIMES THE RATE PER ERU OF A TIER 2 SINGLE-FAMILY PROPERTY.

(ORD. 13-143; ORD. 16-523.)

#### § 3-[5]6. Subsequent rates.

(a) In general.

For all fiscal years beginning on or after July 1, 2017, the Board of Estimates, on the recommendation of the Director of Public Works and the Director of Finance, may change the rates for the stormwater remediation fee.

(b) Standard.

The rates shall be based on the share of stormwater management services related to a property and provided by the City.

(c) Public notice.

At least 30 days before taking any action on the Directors' recommendation, the Board of Estimates shall:

(1) publish notice of the recommendation;

(2) send the recommendations to the members of the City Council; and

(3) afford an opportunity for Councilmembers and the public to comment at a public hearing.

(d) Adoption of rates.

After the notice and opportunity to comment, the Board of Estimates may:

(1) adopt or modify the Directors' recommendation; and

(2) set the rates accordingly.

(Ord. 13-143.)

#### § 3-[6]7. Credits; Exemptions.

(a) In general.

The rules and regulations adopted by the Director of Public Works under this article shall establish a system of credits and exemptions that may be used to reduce the base fee.

(b) Basis.

(1) The system shall provide credits for:

- (i) specific actions that reduce the quantity or improve the quality of stormwater discharged from the property;
- (ii) specific actions that improve the quality of stormwater discharged to the City stormwater management system;
- (iii) properties subject to an NPDES industrial stormwater discharge permit that requires stormwater management or that have been determined by the Maryland Department of the Environment to be exempt from stormwater permitting due to a condition of no exposure, for a credit equal to 55% of the base fee;
- (iv) any portion of a property that discharges directly to the Baltimore Harbor and not through the City's stormdrain system, for a credit equal to 30% of the base fee

(2) The system shall provide hardship exemptions for:

- (i) any portion of a property where the stormwater is permitted by the Department to connect to the public wastewater system;
- (ii) streets that, in lieu of publicly maintained streets, are privately maintained, but open to the public, in single-family residential communities;
- (iii) any portion of a property where caps or other impervious surfaces are required to encapsulate a recognized Superfund area or to protect subterranean structures, as required by the State of Maryland or the U.S. Environmental Protection Agency; and
- (iv) any other property where a demonstrable and substantial financial hardship exists as a result of the stormwater remediation fee.

(c) Historic cooperative property.

(1) In this subsection, "historic cooperative property" means property owned by a cooperative

housing corporation:

- (i) formed under the Maryland Cooperative Housing Corporation Act, State Corporations and Associations Article, Title 5, Subtitle 6B; and
- (ii) existing on or before 1965.

(2) Residents of an historic cooperative property that maintains an onsite stormwater management system and are experiencing financial hardship because they are subject to dual assessments to fund both a community system and the City stormwater management system shall receive a reduction of its stormwater remediation fee as follows:

- (i) an historic cooperation property that maintains an onsite stormwater management system that conveys stormwater from its property to a public stormwater maintenance system shall receive a 40% credit against its total fee; and
- (ii) an historic cooperative property that maintains an onsite stormwater management system that conveys stormwater from a neighboring community to a public stormwater maintenance facility shall receive a 40% credit against its total fee.

(Ord. 13-143.)



§ 3-[7]8. Collections.

(a) When payment required.

All bills for stormwater remediation fees shall be paid within 20 days after they have been issued.

(b) How billed and collected.

These fees:

(1) shall be billed by the Department of Public Works;

(2) may be included in the same bills rendered for water charges or stated in separate bills; and

(3) may be collected by the Director of Finance, at the same time, in the same manner, and subject to the same interest rates and penalties for late- or nonpayment as provided for charges for supplying water.

(c) Maximum of interest and penalties.

The combined interest and penalties for any property may not exceed 10 times the amount of

the fee imposed for that property.

(d) Scope of section.

This section applies to all properties and the owners of properties that are subject to the payment of the fee imposed under this article.

(Ord. 13-143; Ord. 16-523.)

§ 3-[8]9. Liability and lien for charges, interest, and penalties.

(a) Personal debt.

The stormwater fee imposed under this article and all interest and penalties on the fee are a personal debt owed by the owner of the property subject to the fee.

(b) Lien.

These fees, interest, and penalties are a lien in favor of the City on the property subject to the fee.

(c) Collection and enforcement.

These fees, interest, and penalties may be collected and enforced in the same way that the City collects and enforces debts due to it or liens in its favor.

(Ord. 13-143.)

§ 3-[9]10. Rules and regulations by Finance Director.

(a) Director of Finance may adopt.

Subject to Title 4 {"Administrative Procedure Act – Regulations"} of the City General Provisions Article, the Director of Finance may adopt rules and regulations necessary or proper to fully enforce and collect the charges imposed under this subtitle.

Editor's Note: By authority of Ordinance 20-431, Section 5, the Director of Legislative Reference, in

consultation with the Law Department, has conformed this subsection to refer expressly to and reflect

the requirements of the recently-enacted Administrative Procedure Act that, effective January 15, 2021,

governs the proposal, adoption, and publication of administrative rules and regulations.

(b) Filing with Legislative Reference.

A copy of all rules and regulations adopted by the Director of Finance under this subtitle must

be filed with the Department of Legislative Reference at least 30 days before they take effect.

Editor's Note: Conformance TBA.

(Ord. 13-143.)

**SECTION 2. AND BE IT FURTHER ORDAINED THAT THIS ACT TAKES EFFECT ON JULY 1ST, 2025.**