

Footnotes:

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**Editor's note—** Ord. No. O-0-16, adopted Sept. 26, 2001, §§ 1—9, enacted Article V, entitled Sebastian Stormwater Utility, designated as §§ 102-100—102-108. Such sections have been redesignated by the editor as §§ 102-121—102-129, in order to reserve sections for future additions.

Sec. 102-121. - Utility established.

There is hereby created and established in the city, in accordance with section 403.0893 of the Florida Statutes, a stormwater management utility entitled the Sebastian Stormwater Utility. This utility shall be responsible for the city's stormwater management.

(Ord. No. O-16-01, § 1, 9-26-01)

Sec. 102-122. - Powers and authority.

The Sebastian Stormwater Utility shall have all powers necessary for the exercise of its responsibility for the drainage from all properties within the city, including, but not limited to, the following:

- (1) Preparation of plans for improvements and betterments to the stormwater management system.
- (2) Construction of improvements and betterments to the stormwater management system.
- (3) Promulgation of regulations for the use of the stormwater management system, including provisions for enforcement of such regulations.
- (4) Review and approval of all new development permits within the city for compliance with stormwater management regulations included in present city ordinances or ordinances later adopted.
- (5) Performance of routine maintenance and minor improvement to the stormwater management system.
- (6) Establishment of charges for connection and use of the stormwater management system.
- (7) Evaluation of water quality concerns for discharges to the stormwater management system.
- (8) Performance of all normal utility functions to include construction, operation, and maintenance of the city's stormwater management system, including, but not limited to, the hiring of staff, the selection of special consultants, the entering into contracts for services and construction of facilities, and the handling of purchase, lease, sale or other rights to property for the stormwater management system.
- (9) Issuance of revenue bonds or other debt instruments for the purpose of performing those duties as described herein.

(Ord. No. O-01-16, § 2, 9-26-01)

Sec. 102-123. - Definitions.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Calculated impervious surface of an ERU* means for purposes of determining a stormwater fee, the calculated impervious surface of an ERU shall be deemed to be 3,285 square feet which is the statistical average of impervious area for one developed residential lot.

*Developed nonresidential property* means property zoned for uses other than for residential purposes upon which improvements have been constructed.

*Developed residential property* means property zoned for residential use upon which is constructed one or more dwelling units. This would include single-family or multi-family dwellings, condominiums and duplexes.

*Equivalent residential unit (ERU)* means the statistical average horizontal impervious area of all residential units in the city.

*Exempt property* means property which shall not be subject to a stormwater fee, which is limited to:

- (1) Common areas within multi-family areas.
- (2) Property, or portions of property, which is perpetually designated for conservation land uses or which, because of its environmentally sensitive character, cannot be developed under present environmental protection regulations.
- (3) Publicly owned road and drainage right-of-way and all city-owned property.

*Undeveloped parcels* means unimproved property zoned for uses other than for single-family residential purposes or property zoned for residential uses upon which no subdivision improvements have been constructed.

*Undeveloped single-family residential property* means property improved and subdivided into single-family residential lots upon which no dwellings have been constructed.

(Ord. No. O-01-16, § 3, 9-26-01; Ord. No. O-19-02, § 2, 2-27-19)

Sec. 102-124. - Stormwater fee; imposition and calculation of.

- (a) Imposition. A stormwater fee is hereby imposed upon all property within the city unless otherwise exempted, for services and facilities provided by the stormwater management system. For purposes of imposing the stormwater fee, the city has obtained the services of a consulting engineer to develop the statistical rationale for providing just and equitable rates, fees, and charges for the facilities and services provided by the system.
- (b) Application and classification.
  - (1) *Developed residential property.* Each dwelling unit shall be billed at a flat fee of one ERU per month.
  - (2) *Undeveloped single-family residential property.* Each undeveloped single-family lot shall be billed for one ERU multiplied by a correction factor of 0.67 to calculate the flat monthly rate.
  - (3) *Undeveloped parcels.* Each undeveloped parcel shall be billed at a rate determined by dividing the total land area of the properties, in square feet, by 11,154 which represents the square footage of a statistically average residential building site in the city, multiplied by a correction factor of 0.67 to arrive at the number of ERUs for that parcel.
  - (4) *Developed nonresidential property.* Each parcel of developed nonresidential property shall be billed at a rate determined by dividing the total impervious area of the parcel by the calculated impervious surface of an ERU to arrive at the number of ERUs for that parcel.
  - (5) *Exempt property.* Exempt property shall not be subject to a stormwater fee.
- (c) Within the guidelines and procedures established by administrative regulations duly promulgated by the utility, a landowner may apply for a Stormwater Utility Fee Credit for constructed stormwater management systems pursuant to St. John's River Water Management District requirements in accordance by resolution adopted by city council. When there is existence of atypical physical features to the site, or alternative stormwater treatment, the city shall reasonably determine said credit based upon the equitable pro-rata decrease in the total services required of the utility in providing the systemic benefits of stormwater management to the property.

(Ord. No. O-01-16, § 4, 9-26-01; Ord. No. O-04-15, § 1, 7-28-04; Ord. No. O-19-02, § 2, 2-27-19)

Sec. 102-125. - Establishment of fee.

There is hereby established as the fee for one equivalent residential unit (ERU) the sum of \$10.00 for each month. Said fee shall continue in effect unless and until the city council, by resolution passed by supermajority, establishes a different rate for any fiscal period following the 2018-2019 fiscal year.

(Ord. No. O-01-16, § 5, 9-26-01; Ord. No. O-19-02, § 2, 2-27-19)

Sec. 102-126. - Collection.

- (a) Fees for the Sebastian Stormwater Utility levied pursuant to the Code shall constitute a non-ad valorem assessment, as set forth in Chapter 197, Florida Statutes, and shall be collected pursuant to the uniform method of assessing, billing and collecting of the same. The stormwater fee is to be henceforth assessed annually to the owner of each parcel which is subject to the stormwater fee. The assessment roll prepared on electronic medium by Camp, Dresser & McKee, September 15, 2001, from records provided by the property appraiser of Indian River County, Florida, and as modified annually hereafter, is hereby adopted for this purpose. The period for which the fee is charged shall coincide with the city's fiscal year.
- (b) The city may utilize any other method available under the law to collect the stormwater utility fee provided herein, including placement of a lien against the subject property and any real or personal property of landowner, effective as of October 1 of each fiscal period and charged until the same has been paid in full, and said lien thereby created shall be co-equal with the lien of all state, county, district and municipal taxes, superior in dignity to all other liens, titles, and claims, until paid and shall be enforceable in accordance with all available provisions of law.

(Ord. No. O-01-16, § 6, 9-26-01)

Sec. 102-127. - Stormwater utility trust fund; use of funds.

- (a) There shall be established a Sebastian Stormwater Utility Fund for the deposit of all fees collected pursuant to this article.
- (b) The stormwater utility fund shall be used exclusively to provide funding for the stormwater management program.

(Ord. No. O-01-16, § 7, 9-26-01; Ord. No. O-04-15, § 2, 7-28-04; Ord. No. O-05-16, § 1, 8-24-05)

Sec. 102-128. - Appeal of fee amount; procedure.

- (a) After having paid in full all utility fees invoiced against his property, any property owner shall have the right to appeal either the utility fee charged, or a credits determination pursuant to section 102-124(c), with respect to his property as follows:
  - (1) Within 30 days of either the initial mailing of the utility fee bill, or the written determination as to credits, whichever date is relevant, the property owner shall have the right to appeal to the city council. The city council shall have 30 days from the receipt of the notice of appeal within which to hold a hearing on the appeal and thereafter shall render a determination.
  - (2) If the appellant prevails and it is decided a refund is due, the refund amount shall be in accordance with the determination on appeal but shall not include any interest on the refunded fee.
  - (3) Upon filing of a proper petition within 30 days of the determination of city council, said determination may be reviewed in the circuit court by writ of certiorari upon the record made before the city council.
- (b) Notwithstanding the provisions set forth above, any property owner shall have until December 1st, to request a review by the city manager of the utility fee bill for the current fiscal year for claims of errors in classification or calculation. As a condition of requesting such review, the property owner must pay the fees due. The city manager may deny the appeal or modify the amount of the fee. The owner may appeal the city manager's determination to city council within 30 days and thereafter follow the procedures set forth in subsections (a)(1) and (3) above. Any claims relating to a credits determination pursuant to section 102-124(c) must be appealed in accordance with the standard procedure set forth above.

(Ord. No. O-01-16, § 8, 9-26-01; Ord. No. O-19-02, § 2, 2-27-19)

Sec. 102-129. - Additional regulations.

The city manager may promulgate reasonable regulations concerning the operation of the Sebastian Stormwater Utility, with said regulations subject to modification or nullification by resolution of the city council.

(Ord. No. O-01-16, § 9, 9-26-01)