

Chapter 13.20

DRAINAGE FEE

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13.20.010 Intent and purpose. The town council finds and declares that:

(1) The improved and unimproved drainage ways within the town are not thoroughly mapped, their capacities and states of repair are not completely known, and portions of the drainage system may be inadequate to handle additional construction.

(2) Stormwater runoff and associated landslide hazards, erosion and sedimentation are significant problems in Ross. These problems are the result of the hilly nature of much of town, unstable soils and geology, and inadequate engineering of many of Ross' older roads, drainage facilities and homesites. Flooding may be a problem along Ross Creek and Corte Madera Creek.

(3) The general plan recognizes that construction can contribute to increased runoff, erosion, debris accumulation and resulting slides, flooding, pollution, and sedimentation. These problems are addressed in several ways including policies and adopted ordinances which recommend restricting construction and requiring drainage studies as part of project approval. The general plan contains several policies that directly relate to drainage and creek problems: NE-4, HS-13, HS-14, and Safety Background, pp. 99-108.

(4) A thorough mapping and evaluation of the town's drainage ways (in addition to Federal Emergency Management Act (FEMA) mapping) is needed to determine the capacity and state of repair of the system.

(5) The development of land in the town creates a need for drainage-related studies and improvements which cannot be met by the ordinary revenues of the town.

(6) In order to promote the health, safety and general welfare it is necessary that new construction pay a fee for study and evaluation of the town's drainage system.

(7) Fees collected will be used for a town-wide drainage study, preparation of a drainage master plan, construction, maintenance and implementation of improvements. (Ord. 493 §1(part), 1990).

13.20.020 Definitions. In this chapter, unless the context otherwise requires:

(1) "Drainage master plan" means a survey and mapping of the existing drainage system, development of a master drainage plan and includes the evaluation of: the present capacity of the system; the state of repair of improvements; the capacity and facilities needed to accommodate drainage in the future; the potential impact of new construction on erosion; and possible financing mechanisms. The plan may be done in phases, or for zones within the town.

(2) "Drainage system" means and includes watershed areas and improved and unimproved drainage ways in the town. The term "drainage system" is intended to be interpreted as broadly-based and

may include areas and facilities which are public or private or under the jurisdiction of the Marin County Flood Control District for which the town is not legally responsible.

(3) "New construction" means and includes construction of, alteration of or an addition to a residential or commercial structure or facilities including driveways, parking areas, sports courts, patios or any other construction. (Ord. 493 §1(part), 1990).

13.20.030 Fee requirement. (a) A person who applies for a permit for new construction shall pay to the town a drainage fee established by town council resolution.

(b) The fee shall be collected by the director of public works. (Ord. 493 §1(part), 1990).

13.20.040 Time of payment. The drainage fee shall be paid to the town at the time of the issuance of a building permit. (Ord. 493 §1(part), 1990).

13.20.050 Creation of account--Use of fee. (a) There is created an account entitled "drainage fund". The proceeds from the fee and interest collected under this chapter shall be credited to the account. Money credited to the account shall be used to defray the cost of drainage system studies and developing and implementing the drainage master plan.

(b) The town may advance general funds to pay the cost of drainage system studies and the drainage master plan, construction and maintenance of improvements and reimburse itself for advances from the fees collected. (Ord. 493 §1(part), 1990).

13.20.060 Refund. The fee paid under this chapter shall be refunded on application of the fee payer if he or she shows to the satisfaction of the public works director that the new construction did not occur and that the building permit is cancelled, surrendered or expired. (Ord. 493 §1(part), 1990).

13.20.070 Claims. (a) If the town council rejects a claim for refund in whole or in part, the person who paid the fee, his or her guardian, executor or administrator may, within sixty days after such rejection, commence an action against the town to recover the fee which the town council has refused to refund. No such action shall be commenced or maintained unless a claim for refund of any fee paid shall have been filed in compliance with this section, and no recovery shall be allowed on any such action upon a ground not asserted in the claim for refund of the fee paid.

(b) No order for a refund under this chapter shall be made except on a claim:

(1) Verified under penalty of perjury by the person who paid the fee, his or her guardian, executor or administrator;

(2) Filed within one hundred twenty days after the making of the payment to be refunded; provided, however, that a claim for refund of a fee paid pursuant to this chapter made prior to the adoption of this chapter may be filed within one hundred twenty days after the effective date of this chapter;

(3) Stating the grounds for each such refund sought. (Ord. 493 §1(part), 1990).