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**MEMORANDUM**

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**TO:** MAYOR TERRY WEPPLER  
VILLAGE BOARD OF TRUSTEES  
VILLAGE CLERK

**FROM:** NICHOLAS MOSTARDO, DIRECTOR OF FINANCE

**SUBJECT:** STORMWATER ORDINANCE REVISIONS

**DATE:** 3/9/2021

**CC:** KELLY AMIDEI, VILLAGE ADMINISTRATOR

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Background

On February 23, 2021, staff presented the Stormwater Utility Rate Study Phase II findings and recommendations to the Village Board. Staff also discussed the draft version of the ordinance enacting the Stormwater Utility Fee. The draft ordinance contemplated both Appeal policies and Credit policies. The Village Board indicated that they would like to see a provision included in the ordinance that would allow an appeal of a property's stormwater utility fee in the event of a unique circumstance that is not explicitly outlined in the ordinance.

Analysis

Village staff reviewed the Village Board's request with the Village Attorney to determine how to best effectuate the desired policy outcome. A third credit was considered; however, a credit must have some sort of objective evidence-based methodology in order to equitably apply it to a property or group of properties. Since the purpose of the Village Board's request is to have a process in place for something unknown in the future, a credit and the associated technical requirements thereof is not the most appropriate strategy in this situation.

Instead, staff investigated revising the Appeal policies to add in a right to appeal for a property possessing unique features or unique circumstances. The first draft of the ordinance included the following appeal types:

1. Errors in the square footage of the impervious surface area of the property.
2. Mathematical errors in calculating the fee to be applied to the property.
3. Errors in the identification of the owner or address of a parcel subject to the fee.

To address the Village Board's policy concern, staff propose adding the following additional appeal type in Sec. 25-136: "Requests for adjustments of the stormwater utility fee" of the Village Code:

4. There are unique features of, or unique circumstances affecting, the property, such that the amount of the stormwater utility fee does not approximately reflect the impact of the property on the Village stormwater system. In order to receive an adjustment under this Section 25-136(a)(4), the unique features or circumstances must not be generally applicable or present to other properties in the Village.

The appeal process for all four appeal types would begin with the Finance Director. The Director's decision would be appealable to the Village Administrator. For appeal types one through three, the Village Administrator's decision is final, given that those items are a matter of fact. For the fourth appeal type, uniqueness, the appellant would have the right to appeal the Village Administrator's decision to the Village Board for final review.

### Recommendation

1. Provide policy direction regarding the inclusion of a fourth appeal type in the draft Stormwater Utility Fee ordinance.
2. Direct staff to prepare a final version of an ordinance enacting a Stormwater Utility Fee for consideration on March 23, 2021.

### Attachment

1. Draft Ordinance Enacting a Stormwater Utility Fee (Changes to Appeal policy on Page 35)