

ORDINANCE NO. 7498

**AN ORDINANCE TO AMEND THE AUGUSTA, GA CODE ARTICLE FIVE, CHAPTER ONE, RELATING TO STORMWATER MANAGEMENT TO ENACT A STORM WATER USER FEE; TO MODIFY AND/OR ADD TO PARTS OF TITLE 5 (UTILITIES) CHAPTER 1 (STORM WATER MANAGEMENT) TO SUPPORT ENACTMENT AND ADMINISTRATION OF THE STORM WATER USER FEE; TO PROVIDE AN EFFECTIVE DATE AND FOR OTHER PURPOSES.**

WHEREAS, the federal Clean Water Act, as amended by the Water Quality Act of 1987 (33 U.S.C. 1251 et seq.), and rules promulgated by the United States Environmental Protection Agency pursuant to the act emphasizes the role of local governments in developing, implementing, conducting and funding storm water programs which address water quality impacts of storm water runoff and require such storm water management programs;

WHEREAS, storm water management services and storm water management systems and facilities will assist Augusta in meeting the regulatory obligations imposed by its national pollutant discharge elimination system (NPDES) permits by reducing pollution and helping in the protection of water quality within Augusta;

WHEREAS, Augusta is authorized by the state constitution, including, without limitation, Article IX, Section II, Paragraphs I(a) and III(a)(6) thereof and state law to provide storm water management services, systems and facilities, which services, systems and facilities contribute to the protection and preservation of the public health, safety and welfare, and protection of the natural resources of Augusta;

WHEREAS, storm water management services, systems and facilities will assist Augusta in protecting the public health, safety and welfare and the environment; and provision of storm water management services, systems and facilities and regulation of the use thereof renders and/or results in service to individual parcels, parcel owners, citizens and residents of Augusta and to all parcels, parcel owners, citizens and residents of Augusta and Richmond County concurrently and the environment in a variety of ways; and while specific service and facility demands may differ from area to area at any given point in time, a storm water management service area encompassing all lands and water bodies within Augusta and Richmond County is consistent with the present and future needs of the community;

WHEREAS, Augusta, GA presently owns and operates storm water management systems and facilities which have been developed over many years; and the future usefulness of the existing storm water management systems and facilities owned and operated by Augusta, and of additions and improvements thereto, rests on the ability of Augusta to effectively manage, protect, control, regulate, use, and enhance storm water management systems and facilities in Augusta in concert with the management of other public utilities in Augusta; and in order to do so, Augusta must have adequate and stable funding for its storm water management program's operating needs and capital program;

WHEREAS, Augusta has undertaken a comprehensive review by staff and professional consultants of the need for, management of, and funding for, a storm water user fee; and Augusta staff reports and the professional engineering analysis submitted to Augusta properly assess and define the storm water management problems, needs, goals, program priorities and funding opportunities of Augusta;

WHEREAS, based on the foregoing, the Augusta, Georgia Commission recommends amending Article Five, Chapter One, of the AUGUSTA, GA. CODE.

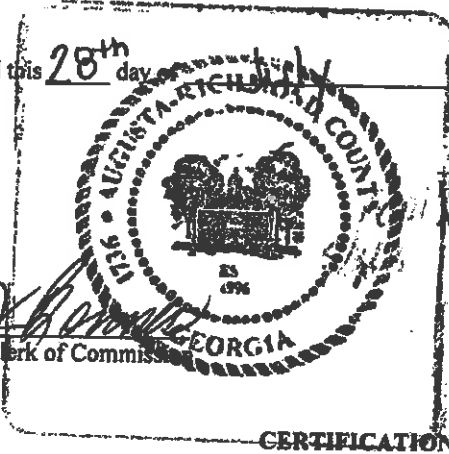
**THE AUGUSTA, GEORGIA BOARD OF COMMISSIONERS** ordains as follows:

**SECTION 1.** Various sections of AUGUSTA CODE TITLE 5 UTILITIES, ARTICLE 1 STORMWATER MANAGEMENT are hereby amended as set forth in "Exhibit A" hereto.

**SECTION 2.** This ordinance shall become effective upon its adoption in accordance with applicable laws.

**SECTION 3.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Adopted this 28<sup>th</sup> day of July, 2015.



Hardie Davis, Jr.  
As its Mayor

Attest:  
Lena J. Bonner  
Lena J. Bonner, Clerk of Commission  
Seal:

**CERTIFICATION**

The undersigned Clerk of Commission, Lena J. Bonner, hereby certifies that the foregoing Ordinance was duly adopted by the Augusta, Georgia Commission on July 28<sup>th</sup>, 2015 and that such Ordinance has not been modified or rescinded as of the date hereof and the undersigned further certifies that attached hereto is a true copy of the Ordinance which was approved and adopted in the foregoing meeting(s).

Lena J. Bonner  
Lena J. Bonner, Clerk of Commission

Published in the Augusta Chronicle.

Date: August 6, 2015

First Reading July 21, 2015

Second Reading July 28, 2015

# Exhibit A

## TITLE 5

### UTILITIES

#### CHAPTER 1

#### STORM WATER MANAGEMENT

##### § 5-1-1. GENERALLY.

This Chapter shall be known as the Storm Water Management Ordinance of Augusta, Georgia.

##### § 5-1-2. FINDINGS.

(a) Authority to collect, treat, and manage storm water is found in Art. IX, Sec. II, Par. 3 of the 1983 Constitution of the State of Georgia, and more expressly at O.C.G.A. §36-82-61, wherein this local government is given the power to own, operate and maintain systems, works, instrumentalities, and facilities used or useful in connection with the collection, storage, treatment, and disposal of storm water.

(b) Uncontrolled storm water drainage/discharge may have a significant, adverse impact on natural resources and the health, safety, and welfare of the citizens of Augusta, Georgia. Surface water runoff can carry pollutants and nutrients into receiving waters.

(c) Uncontrolled storm water drainage can increase the incidence of flooding and the level of floods which occur, endangering roads, other public and private property and human life.

(d) Altered land surfaces can change the rate and volume of runoff.

(e) Adverse water quality and quantity consequences described above could result in substantial economic losses. Potential losses include, but are not limited to, increased water treatment costs, as well as state and federal fines associated with water quality violations.

(f) The Federal Water Pollution Control Act of 1972, as amended, commonly referred to as the Clean Water Act, 33 U.S.C 1251 *et seq.*; the Georgia Water Quality Control Act, O.C.G.A. §12-5-20, *et seq.*, and regulations promulgated pursuant thereto place increase emphasis on the role of local government in developing, implementing conducting, and funding storm water management programs which address water quality impacts of storm water runoff.

(g) Many future problems can be avoided through property storm water management.

(h) Every parcel of real property, both public and private, either uses or benefits from the maintenance of Augusta, Georgia storm water system.

(i) Current and anticipated growth will contribute to and increase the need for improvement and maintenance of the storm water system. The continued economic development depends upon effective solutions to the existing and continuing storm water problems and preservation of the quality of waters in the lakes, streams, and rivers.

##### § 5-1-3. OBJECTIVE

The objectives of this chapter include the following:

(a) To protect, maintain, and enhance the public health, safety, and general welfare. This objective will be achieved by providing for regulation and management of Augusta, Georgia storm water system, including public and private facilities in Augusta, Georgia

(b) To comply with State Department of Natural Resources and Federal Environmental protection Agency storm water regulations developed pursuant to the Federal Clean Water Act. These requirements include:

(1) Control of the contribution of pollutants to the municipal storm sewer system by storm water discharges;

(2) Prohibition of illicit connections to municipal separate storm sewers;

(3) Control of discharge to municipal separate storm sewers of spills, dumping or disposal of materials other than storm water; and

(4) Control, through intergovernmental agreements, of contribution of pollutants from one municipal system to another.

(5) Control of Post-development storm water management through a regulatory program of inspection, monitoring and enforcement of private facilities and implementation of best management practices and policies and procedures promoting the use of Green Infrastructure and Low Impact Development techniques.

#### § 5-1-4 DEFINITIONS.

(a) For the purposes of this chapter, unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most effective application. Words in the singular shall include the plural, and words in the plural shall include the singular. Words used in the present tense shall include the future tense. The word *shall* connote mandatory and not discretionary; the word *may* is permissive.

(b) Unless otherwise specified, or it is apparent from the context, definitions herein will be the same as those in other Augusta, Georgia Ordinances and as used elsewhere this code.

(1) Accidental discharge. A discharge prohibited by this chapter into the municipal storm sewer system which occurs by chance and without planning or consideration prior to occurrence.

(2) Appeals authority. The Augusta Commission, one of whose purpose is to review appeals to this chapter and render decisions and variances.

(3) Best Management Practices (BMPs). A wide range of management procedures, control measures, activities, and prohibitions on practices which control the quality and/or quantity of storm water runoff and which are compatible with the planned land use.

(4) Clean Water Act. The Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.).

(5) Cooling water. Water used exclusively as a cooling medium in an appliance, device or apparatus.

(6) **Conveyance.** Storm water features designed for the movement of storm water through the drainage system, such as concrete or metal pipes, ditches, depressions, or swales

(7) **Credit.** A conditional reduction in the amount of a storm water service charge to an individual property based on the provision and continuing presence of an effectively maintained and operational on-site storm water system or facility or the provision of a service or activity by property owner, tenant, and/or occupant, which system, facility, service, or activity reduces the storm water utility's cost of providing storm water services and facilities.

(8) **Department.** The Department of Engineering responsible for all storm water management activities and implementation of the provisions of this chapter.

(9) **Developed land.** Property altered from its natural state by construction or installation of more than 400 square feet of impervious surfaces as defined in this chapter.

(10) **Development means:**

a. The division of a lot, tract or parcel of land into two (2) or more lots, plots, sites, tracts, parcels or other divisions by plat or deed;

b. The construction, installation, or alteration of a structure, impervious surface, or drainage facility;

c. Clearing, scraping, grubbing, or otherwise significantly disturbing the soil, vegetation, mud, sand or rock or a site; or

d. Adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, dredging or otherwise disturbing the soil, vegetation, mud, sand or rock of a site.

(11) **Detached dwelling unit.** Developed land containing one dwelling or residential structure which is not attached to another dwelling and which contains one or more bedrooms, with a bathroom and kitchen facilities designed for occupancy by one family. It shall also include developed land containing two (duplex) or three (triplex) attached residential dwelling units located on one or more parcels of land and shall be treated as detached dwelling units for the purposes of fee calculations. Detached dwelling units may include houses, manufactured homes, and mobile homes located on one or more individual lots or parcels of land. Developed land may be classified as a detached dwelling unit despite the presence of incidental structures associated with residential uses such as garages, carports, or small storage buildings.

(12) **DIRECTOR.** Either the director of Department of Engineering or any duly authorized representatives of the DIRECTOR.

(13) **Easement.** A right in land, less than fee simple title, for the specific use or limitation of use of the land, or described portion thereof, by one not its owner. The use or limitation of use for which the easement is given is normally subservient to the primary use of the land. Easements may be of limited duration or given in perpetuity.

(14) **Equivalent Residential Unit (ERU).** The typical representative impervious coverage of detached dwelling unit properties in Augusta, Georgia as determined by the DIRECTOR, and shall be used as the basis for determining storm water service charges to detached dwelling unit properties or classes of detached dwelling unit properties and other properties. Two thousand two hundred (2,200) square feet of impervious area shall be one equivalent residential unit.

(15) **Governing body.** The Augusta, Georgia Commission.

(16) **Illicit connection.** A connection to a municipal separate storm system which results in a discharge that is not composed entirely of storm water runoff, except discharges pursuant to a NPDES permit (other than the NPDES permit for discharge from the municipal separate storm sewer).

(17) **Impervious surface.** Developed areas of land that prevent or significantly impede the infiltration of storm water into the soil. Typical impervious surface areas include, but are not limited to: roofs; sidewalks; walkways; patios; swimming pools; private driveways and roads; parking lots; access extensions; alleys and other paved, engineered, compacted or traveled gravel surfaces containing materials that prevent or significantly impede the natural infiltration of storm water into the soil.

(18) **Maintenance.** Any action necessary to preserve storm water management facilities to function as designed, in order to serve the intended purposes set forth in this chapter and to prevent structural failure of such facilities.

(19) **Multiple dwelling unit residential properties.** Developed land whereon four or more attached residential dwelling units are located and shall include, but not limited to, apartment houses, condominiums, town homes, attached single-family homes, boarding houses, group homes, hotels and motels, retirement centers and other structures in which four or more family groups commonly and normally reside or could reside. In the application of storm water service charge rates, multiple dwelling unit properties shall be treated as other developed lands except that individually owned units located on individually owned parcels shall be treated as detached dwelling units.

(20) **Municipal Separate Storm Sewer System or MS4.** A conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains, owned or operated by Augusta, Georgia or other public body, designed or used for collecting or conveying storm water runoff and is not a combined sewer or part of a Publicly Owned Treatment Works.

(21) **National Pollutant Discharge Elimination System (NPDES).** A regulatory mechanism established by the U.S. Environmental Protection Agency pursuant to the Water Quality Act and the Clean Water Act with permit application requirements as set forth in 55FR47990 as implemented by the Georgia Environmental Protection Division of the Department of Natural Resources in accordance with the State Water Quality Control Act, O.C.G.A. § 12-5-21.

(22) **Other developed land.** All developed lands not classified as detached dwelling units, including but not limited to, quadraplexes and larger multiple dwelling unit residential properties, manufactured home and mobile home parks, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, churches, public and private schools and universities, research stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, water reservoirs, and water and wastewater treatment plants that have four hundred (400) square feet or more of impervious area.

(23) **Person.** Any and all persons, natural or artificial and includes any individual, firm, corporation, government agency, business, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, or any other legal entity.

(24) **Pollutant.** Means dredge spoil, solid waste, incinerator, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial municipal and agricultural waste discharged into water.

(25) **Pollution.** The contamination or other alteration of any water's physical, chemical or biological properties, including change in temperature, taste, color turbidity, or odor of such waters or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters

as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

(26) Procedure. A procedure adopted by the utility, by and through the director of engineering, to implement a regulation or regulations adopted under this chapter, or to carry out other responsibilities as may be required by the code or other codes, ordinances or resolutions of Augusta, Georgia.

(27) Redevelopment. A change to previously existing, improved property, including but not limited to the demolition or building of structures, filling, grading, paving, or excavating, but excluding ordinary maintenance activities, remodeling of buildings on the existing footprint, resurfacing of paved areas and exterior changes or improvements that involves the creation, addition or replacement of 5,000 square feet or less of impervious cover and do not materially increase or concentrate storm water runoff or cause additional nonpoint source pollution.

(28) Regulation. Any regulation, rule or requirement prepared by the Department of Engineering and adopted by Augusta, Georgia pursuant to the requirements of this chapter.

(29) Sanitary sewer system. The complete sanitary sewer system of the county which discharges sewage directly or indirectly into the sewage treatment plant, including sanitary sewer pipelines, manholes and flushing inlets and appurtenances to the foregoing, excluding sewage treatment facilities.

(30) Service area. All land within the legal limits of Augusta-Richmond County.

(31) Service charge. The storm water management service charge or charges applicable to a parcel of developed land, which charge shall be reflective of the Augusta, Georgia storm water utility's cost of providing storm water management services and facilities. Service charges will be based on measured or estimated impervious area on each parcel of developed land. Impervious area measurements may be updated using more recent or more accurate information from time to time by Augusta, Georgia. The use of impervious area as a service charge rate parameter shall not preclude the use of other parameters, or of grouping of properties having similar characteristics through the use of ranges or rounding up or down to a consistent numerical interval, or the use of flat-rate charges for one or more classes of similarly-situated properties whose impact on the storm water utility's cost of providing storm water management services and facilities is relatively consistent. Storm water service charges may also include special charges to individual customers for services or facilities related to storm water management, including but not limited to charges for development plan review, inspection or development projects and on-site storm water control systems, and enhanced levels of storm water services above those normally provided by Augusta, GA.

(32) Site. Any lot, plot, parcel or tract of land.

(33) Storm water management. The collection, conveyance, storage, treatment and disposal of storm water runoff in a manner to meet the objectives of this chapter and which shall include a system of vegetative or structural measures, or both, that control the increased volume and rate of storm water runoff and water quality impacts caused by manmade changes to the land.

(34) Storm water management facilities. Constructed or natural components of a storm water drainage system, designed to perform a particular function, or multiple functions, including, but not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, constructed wetlands, infiltration devices, catch basins, oil/water separators, sediment basins, natural systems and modular pavements.

(35) Storm water management Program (SWMP). means the Storm Water Management Program required to be developed and implemented under the terms and conditions of Augusta, Georgia

National Pollution Discharge Elimination System Municipal Separate Storm Sewer System (MS4) permit and refers to a comprehensive program to manage the quantity and quality of storm water discharged from Augusta's MS4.

(36) Storm water runoff. The direct response of a land surface to precipitation and includes the surface and subsurface runoff that enters a ditch, stream, storm drain or other concentrated flow during and following the precipitation.

(37) Variance. The modification of the minimum storm water management requirements for specific circumstances where strict adherence of the requirements would result in unnecessary hardship and not fulfill the intent of this chapter.

(38) Water quality. Those characteristics of storm water runoff that relate to the physical, chemical, biological, or radiological integrity of water.

(39) Water quantity. Those characteristics of storm water runoff that relate to the rate and volume of the storm water runoff.

#### **§ 5-1-5. SCOPE OF RESPONSIBILITY.**

(a) The provisions of this chapter shall apply throughout Augusta, Georgia.

(b) The director of the Department of Engineering shall be responsible for the coordination and enforcement of the provisions of this chapter.

(c) The Department of Engineering shall be responsible for the conservation, management, maintenance, extension, and improvement of the Augusta, Georgia storm water system, including activities necessary to control storm water runoff and activities necessary to carry out storm water management programs included in Augusta, Georgia NPDES storm water permit.

(d) The application of this chapter and the provisions expressed herein shall be the minimum storm water management requirements and shall not be deemed a limitation or repeal of any other powers granted by State statute.

#### **§ 5-1-6. POWERS OF THE DEPARTMENT OF ENGINEERING.**

(a) The Department of Engineering shall have the power to administer and enforce all regulations and procedures adopted to implement this chapter, including the right to maintain an action or procedure in any court of competent jurisdiction to compel compliance with or to restrain any violation of this chapter.

(b) The Department of Engineering shall:

(1) Administer, coordinate and oversee acquisition, design, construction, and operation and maintenance of municipal storm water facilities and conveyances.

(2) Establish or oversee establishment of development standards and guidelines for controlling storm water runoff operated;

(3) Determine the manner in which storm water facilities should be operated;

(4) Inspect private systems which discharge to the Augusta, Georgia storm water system;

(5) Advise the Augusta Commission and other Augusta departments on issues related to storm water;

(6) Protect facilities and properties controlled by the Department of Engineering and prescribe how they are used by others;

(7) Require new, increased, or significantly changed storm water contributions to comply with the terms of this chapter.

(8) Develop programs or procedures to control the discharge of pollutants into the municipal storm sewer system; and

(9) Adopt and implement the storm water management program for Augusta, Georgia.

(10) Adopt and implement the calculation and collection of storm water service charges for Augusta, Georgia.

(11) Establish and implement standard operating procedures for both field and key office or administrative activities to effectively implement the Storm Water Program.

#### **§ 5-1-7 STORM WATER RUNOFF QUANTITY AND QUALITY CONTROLS.**

(a) Water quantity and quality controls will be provided as a part of all new development and redevelopment pursuant to the provisions of the Augusta, Georgia Soil Erosion, Sedimentation and Pollution Control Ordinance (Title 7, Chapter 3), Planning and Zoning Ordinance (Title 8), Water and Wastewater Ordinance (Title 5, Chapter 2) and Subdivision of Land Ordinance (Title 8, Chapter 3), and regulations adopted pursuant to those ordinance and Augusta Storm Water Management Program (SWMP).

(b) Augusta, Georgia may allow storm water runoff that otherwise is of unacceptable quantity or which would be discharged in volumes or at rates in excess of those otherwise allowed by its code and regulations to be discharged into drainage facilities off-site of the development, provided the following conditions are met:

(1) It is not practicable to completely manage runoff on-site in a manner that meets the design and performance standards found in the code and regulations.

(2) Off-site drainage facilities and channels leading to them are designed, constructed and maintained in accordance with requirements of those code and regulations; and

#### **§ 5-1-8 PROHIBITION.**

(a) It is unlawful for any person to throw, drain, run, or otherwise discharge to any component of the municipal separate storm water system or to cause, permit or suffer to be thrown, drained, run, or allow to seep or otherwise discharge into such system all matter of any nature excepting only such storm or surface water runoff as herein authorized.

(b) The DIRECTOR may require controls for or exempt from the above prohibition provision the following, provided he/she determines they are not a significant source of pollutant(s) as defined in the Federal Water Pollution Control Act of 1972, as amended, commonly referred to as the Clean Water Act, 33 U.S.C 1251 *et seq.*; the Georgia Water Quality Control Act, O.C.G.A. §12-5-20, *et seq.*, and regulations promulgated pursuant thereto place increase emphasis on the role of local government in developing, implementing conducting, and funding storm water management programs which address water quality impacts of storm water runoff:

(1) Unpolluted industrial cooling water, but only under the authorization and direction of the director and appropriate NPDES permit. (Per State requirements, the discharge should not raise the temperature of the receiving stream more than five (5) degrees after the discharge has thoroughly mixed with receiving waters. In secondary trout streams, there shall be no elevation in temperature exceeding two (2) degrees above the natural stream temperature).

(2) Water line flushing performed by a government agency, diverted stream flows, rising ground waters, and unpolluted ground water infiltration.

(3) Unpolluted pumped ground water.

(4) Discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, and street wash water.

(5) Discharges or flows from firefighting.

(6) Other unpolluted water.

(c) In the event of an accidental discharge or an unavoidable spill to the municipal storm sewer system of any material or substance other than storm water runoff, the person concerned shall inform Augusta, Georgia 911 and EMA Center immediately and within twenty-four (24) hours the Department of Engineering of the nature, quantity and time of occurrence of the discharge. The person concerned shall take immediate steps to contain the waste, treat the waste or other actions to minimize effects of the discharge on the municipal system and receiving streams. The person shall also take immediate steps to ensure no recurrence of the discharge.

#### § 5-1-9 ILLICIT CONNECTIONS

(a) It is unlawful for any person, to connect any pipe, open channel, or any other conveyance system that discharges anything except storm water or unpolluted water which is approved by the DIRECTOR, based on the exemptions listed in § 5-1-8(b), to Augusta-Richmond County's storm water system.

(b) Improper connections in violation of the Code must be disconnected and redirected, if necessary, to the Augusta, Georgia sanitary sewer system upon approval by the director of the Water and Sewer Department.

#### § 5-1-10 MAINTENANCE AND INSPECTION.

(a) Any storm water management facility or BMP which services a single lot or commercial and industrial development shall be privately owned and maintained. The owner shall maintain a perpetual, nonexclusive easement which allows for access for maintenance.

(b) All other storm water management control facilities and BMPs shall be publicly owned and/or maintained only if accepted for maintenance by Augusta, Georgia.

(c) The DIRECTOR may require dedication of privately owned storm water facilities which discharge to the storm water system to Augusta, Georgia.

(d) The department of engineering director shall determine inspection schedules necessary to enforce the provisions of this chapter.

(e) The DIRECTOR, bearing proper credentials and identification shall be permitted to enter, without hindrance, all properties for regular inspections, periodic investigations, observation, measurement, enforcement, sampling and testing, in accordance with provisions of

this chapter. The DIRECTOR shall duly notify the owner of said property or the representative on site, except in the case of an emergency.

(f) The DIRECTOR bearing proper credentials and identification, shall be permitted to enter, without hindrance, all properties for which Augusta, Georgia holds a negotiated easement for repairs, maintenance and other purposes related to any portion of the storm water management facilities lying within said easement. The DIRECTOR shall duly notify the owner of said property or the representative on site, except in the case of an emergency.

(g) Measurements, tests and analyses performed by the Department of Engineering or required of any discharger to the municipal system shall be in accordance with 40 CFR Part 136, unless another method is approved by the DIRECTOR.

(h) If, after inspection, the condition of a facility presents any immediate danger to the public health, safety or general welfare because of unsafe conditions or improper maintenance, Augusta, Georgia may take action as may be necessary to protect the public and make the facility safe and shall be compensated by the responsible party for the cost of such effort.

(i) Inspection reports shall be maintained in a permanent file located at the Department of Engineering office for a period of three (3) years. All such records shall be open to the public.

#### § 5-1-11 VARIANCES FOR REQUIREMENTS.

(a) The DIRECTOR may grant a variance from requirements of this chapter if exceptional circumstances applicable to a site exist such that strict adherence to the provisions of this chapter will result in unnecessary hardship and will not fulfill the intent of this chapter.

(b) A written request for a variance shall be required and shall state the specific variance sought and the reasons, with supporting data, a variance should be granted. The request shall include all information necessary to evaluate the proposed variance including any potential impact to surrounding properties.

(c) The DIRECTOR will conduct a review of the request for a variance and respond in writing within thirty (30) working days of receiving the request.

#### § 5-1-12 ESTABLISHMENT OF STORM WATER UTILITY ENTERPRISE FUND.

There is established a storm water utility enterprise fund in Augusta, GA, together with budgeting and accounting systems, for the purpose of dedicating and protecting all funding including, but not limited to, rentals, rates, charges, fees and licenses, as may be established and charged by the Augusta Commission from time to time, and other funds that may be transferred or allocated for storm water management related purposes. All storm water management related revenues and receipts shall be placed in the storm water utility enterprise fund, and such revenues and receipts shall be used to pay for the expenses and capital investments of the storm water management program; provided, however, that other revenues, receipts and resources not accounted for in the storm water utility enterprise fund may be applied to storm water management services, systems and facilities as deemed appropriate by the Augusta Commission.

#### § 5-1-13 STORM WATER SERVICE CHARGES.

In order to fully recover the cost of providing storm water services and facilities while fairly and reasonably apportioning the cost among developed properties throughout the service area, the following storm water rates shall apply:

(a) Detached dwellings units. Two classes of detached dwelling units shall be billed, based on the representative amount of impervious area on the individual properties. The class of smaller detached dwelling units shall include all such properties having less than four thousand four hundred (4,400) square feet of impervious area, which shall be charged the rate applicable to one (1.0) equivalent residential unit as

established, or as amended by ordinance in the future. The class of larger detached dwelling units shall include all detached dwelling unit properties having greater than or equal to four thousand four hundred (4,400) square feet of impervious area, which shall be charged the rate applicable to two (2.0) equivalent residential units as established, or as amended by ordinance in the future.

(b) Other developed lands. All developed lands not classified as detached dwelling units shall be billed for one equivalent residential unit (ERU) for each two thousand two hundred (2,200) square feet of impervious surface. Increments above an even number of equivalent residential units shall be rounded to the nearest whole number of equivalent residential units.

(c) The minimum service charge for developed land shall be the charge applicable to one (1.0) equivalent residential unit.

(d) Storm water service charge rate per equivalent residential unit (ERU) or increment thereof. The storm water service charge per equivalent residential unit on the effective date of storm water service charges shall be six dollars and forty cents (\$6.40) per month.

#### § 5-1-14 DETERMINATION AND MODIFICATION OF STORM WATER SERVICE CHARGES.

Storm water service charges may be determined and modified from time to time by the Augusta, Georgia Commission so that the total revenue generated by said charges and any other sources of revenue that will be made available to the storm water utility will be sufficient to meet the cost of services and facilities, including but not limited to compliance cost, the payment of debt service and related costs on revenue bonds or loan obligations incurred for construction and improvements to the storm water system.

#### § 5-1-15 EFFECTIVE DATE OF STORM WATER SERVICE CHARGES.

Storm water service charges shall accrue beginning January 1, 2016 and shall be billed monthly thereafter to customers, except as specific exemptions and credits may apply.

#### § 5-1-16 DISPOSITION OF SERVICE CHARGES AND FEES.

Storm water utility service charge and fee revenues shall be assigned and dedicated solely to the storm water management enterprise fund in Augusta, GA, which shall be and remain separate from other funds, and shall be used only to fund identified storm water management program activities. The service charges and fees paid to and collected by virtue of the provision of this chapter shall not be used for general or other governmental or proprietary purposes of Augusta, GA, except to pay for costs incurred by Augusta, GA in rendering services associated with the storm water management and administration.

#### § 5-1-17 EXEMPTIONS AND CREDITS APPLICABLE TO STORM WATER SERVICE CHARGES.

Except as provided in this Section, no public or private property shall be exempt from storm water utility service charges or receive a credit or offset against such service charges. No exception, credit, offset, or other reduction in storm water service charges shall be granted based on the age, tax, income or economic status, race, or religion of the customer, or other condition unrelated to the Department of Engineering's cost of providing storm water services and facilities. Credits shall be defined and made available on the basis of the ability of a site to reduce its impact on the storm water system. Credits shall be available only to "other developed lands" as defined herein.

(a) Land not containing more than four hundred (400) square feet of impervious area shall be exempt from storm water service charges.

(b) Railroad tracks shall be exempt from storm water service charges. However, railroad stations, maintenance buildings, or other developed land used for railroad purposes shall not be exempt from storm water service charges.

- (c) Public and private roadways, including the portion of private driveways greater than two hundred (200) linear feet, shall be exempt from storm water service charges.
- (d) Ft Gordon, Georgia including contiguous properties owned or operated as part of Fort operations shall be exempt from the storm water service charge. No storm water services shall be provided by Augusta, Georgia to the properties so exempt. If services are provided to the properties so exempt the DIRECTOR is authorized to calculate the proportion of the storm water service charge commensurate with the level and type of services provided by Augusta, Georgia to be charged all, or a portion of, Fort Gordon. Such charges shall be calculated by the DIRECTOR and changed from time to time as overall rates or services are modified.
- (e) Hephzibah and Blythe, Georgia shall be charged a storm water service charge commensurate with the level and type of services provided by Augusta, Georgia. Such charges shall be calculated by the DIRECTOR and changed from time to time as overall rates or services are modified.
- (f) The storm water service charge credit shall be determined based on the technical requirements and standards contained in the Augusta, Georgia Storm Water Credit Manual. The storm water service charge credit may be up to sixty five (65) percent of the service charge applicable to a property, and shall be proportional to the extent that on-site systems, facilities, services, and activities provided, operated, and maintained by the property owner, tenant, and/or occupant reduce or mitigate the storm water utility's cost of providing services and facilities. The director of the Department of Engineering shall make a final determination of credit eligibility.
- (g) Credits for on-site storm water systems shall be generally proportional and related to the affect that such systems have on the: pollution runoff, channel eroding force, and peak rate of runoff from the site. The Augusta Georgia Storm Water Credit Manual shall be prepared by the Department of Engineering specifying the design and performance standards, or sources of such standards, of on-site systems, facilities, activities, or services which qualify for application of a service charge credit, and how such credits shall be calculated and applied for.
- (h) In the first year of the storm water utility, property owners, tenants, and/or occupants seeking service charge credits must apply for storm water service charge credits through completion and submittal to the DIRECTOR of a storm water service charge credit application prior to one calendar year from the effective date of storm water charges. Approved applications shall receive a storm water credit retroactive to the effective date of storm water charges.
- (i) After one calendar year from the effective date of storm water charges credits will be granted upon receipt of a timely, completed application, the DIRECTOR shall review the application and make a determination as to whether the applicable criteria for a credit has been met. All decisions regarding the approval or disapproval of a storm water credit shall be made within forty-five (45) days of the date the completed application was accepted by Augusta, GA.
- (j) Any credit allowed against the service charge is conditioned on continuing compliance with Augusta, GA's design and performance standards in effect at the time of the facility's construction and any required reporting as required in the Augusta Georgia Storm Water Credit Manual. Augusta, GA may revoke any credit at any time for non-compliance with this section.
- (k) Continuing compliance with Augusta, GA's design and performance standards may be verified by Augusta, GA Engineering personnel inspection of the systems or facilities upon which the credit is based. Those systems or facilities determined to no longer comply with Augusta, GA's design and performance standards shall be noted to the property owner, tenant, and/or occupant in writing and sixty (60) days given to remedy the problem. If the deficiencies found in the systems or facilities are not corrected, the property owner, tenant, and/or occupant shall be subject to revocation of all, or a portion of, storm water service charge credits based on Augusta, GA inspectors' estimate of capacity reduction for a period of not less than one (1) year. The DIRECTOR reserves the right to correct deficiencies using Augusta, GA resources and charge the property owner, tenant, and/or occupant the cost of deficiency correction.

(l) Non-residential property owners are eligible to apply for a Storm Water Education Program credit in accordance with the requirements of the Storm Water Education Program in the Augusta, Georgia Storm Water Credit Manual and Augusta, Georgia Management Plan.

**§ 5-1-18 STORM WATER SERVICE CHARGE BILLING, DELINQUENCIES, AND COLLECTIONS.**

The storm water service charge shall be billed and collected along with or on the Augusta Utilities bill in a manner deemed most effective and efficient by the Augusta, GA Commission. All policies of that billing mechanism shall generally be followed.

(a) A storm water service fee charge shall be declared delinquent if not paid within sixty (60) days of the date of billing. Unpaid storm water service fees shall be collected using the methods of the billing mechanism chosen or by filing suit to collect on an unpaid account and by using all methods allowed by Georgia law to collect on any judgment obtained thereby.

(b) A storm water service fee bill may be sent through the United States mail or by alternative means notifying the customer of the amount of the bill, the date the payment is due, and the date when past due. Failure to receive a bill is not justification for non-payment. Regardless of the party to whom the bill is initially directed, the owner of each parcel of developed land shall be ultimately obligated to pay such fee.

(c) If a customer is under-billed or if no bill is correctly sent for developed land, Augusta, Georgia may back-bill for a period of up to three years, but shall not assess penalties for any delinquency due to the failure to send a bill, incorrect address, or an under billing.

**§ 5-1-19 APPEALS.**

(a) Any person aggrieved by a decision of the DIRECTOR relating to the storm water utility fee (including any decision with reference to the granting or denial of a variance from the terms of this chapter and storm water service fee decisions) must make a written request for reconsideration by the DIRECTOR within ten (10) days of the issuance of said decision by the DIRECTOR. A request for reconsideration shall state the specific reasons why the decision of the DIRECTOR is alleged to be in error.

(b) The DIRECTOR may reverse his/her decision giving written reason for reversal. In the event the DIRECTOR does not reverse his/her decision, the DIRECTOR shall prepare and send to the appellant a written response to said request for reconsideration within thirty (30) days of receipt of the request for reconsideration.

(c) If the appellant is dissatisfied with the decision of the DIRECTOR, he/she can appeal said decision to the Augusta, Georgia Commission in accordance with this code section and the Augusta, Georgia Rules of Procedure. A written notice of appeal shall be provided to the DIRECTOR and to the Augusta Georgia Clerk of Commission within thirty (30) days of appellant's receipt of the DIRECTOR's final decision and shall be captioned as follows: "Appeal of Engineering Department director decision relating to Storm Water" and shall contain the following information: appellant's name, a brief description of the storm water issue decided by the DIRECTOR, a copy of the DIRECTOR's final decision and the relief sought by appellant.

(d) Engineering Services Committee hearing procedures and effect of failure to appear at hearing. Appeals appearing on the Engineering Services Committee shall be treated as any other Committee agenda item, except that the appellant, or his or her representative, shall have the right to address the Committee and to present evidence in support of the protest for a maximum of ten (10) minutes. The DIRECTOR, or his or her representative, shall also have the opportunity to present evidence relating to the appeal for a maximum of ten (10) minutes. The Chairman of the Engineering Services Committee may grant additional time equally to each party at his or her discretion.

(e) After considering the evidence presented, the Engineering Services Committee shall make a recommendation to grant or deny the protest, or to send the item to the full Augusta, Georgia Commission without recommendation. Regardless of the action taken by the Committee, the protest shall be forwarded to the full Commission agenda for a final decision. The Clerk of Commission shall make an audio recording of the appeal hearing and shall make such recording available to Commissioners within two (2) business days following the hearing.

(f) **Procedure to Speak to Full Commission Regarding Appeal.**

An appellant seeking to speak to the full Commission regarding his or her protest must submit a request in writing, including his/her address and the name of the procurement being protested, no later than 5:00 p.m. on the Wednesday preceding the next regularly scheduled Commission meeting that follows the Administrative Services Committee protest hearing. Such request shall be provided to the Clerk of Commission with a copy to be provided to the Procurement director. When the protest is heard by the Commission, the appellant and the Procurement director shall each have five (5) minutes to summarize the arguments and evidence presented to the Administrative Services Committee. The Commission will not hold a new hearing and will not accept new evidence. If the appellant has not made a timely request to address the full Commission, the Commission may, at its discretion, dispose of the agenda item via the Consent Agenda.

(g) **Effect of Failure to Appear at Hearing.** Failure on the part of the appellant to appear before either the Engineering Services Committee or the full Augusta, Georgia Commission is considered an abandonment of their right to appeal and a failure on the part of the appellant to exhaust administrative remedies. The DIRECTOR's decision is considered final and the award shall proceed accordingly. However, the Chairman of the Engineering Services Committee or the Mayor, may, at his or her discretion, grant the appellant one continuance to the next regularly scheduled Committee or Commission Meeting. Such continuance may only be granted during the Committee or Commission meeting and shall be recorded on the minutes of such meeting.

(h) If the appellant is dissatisfied with the Commission's decision, he/she can appeal said decision to the Superior Court of Richmond County within thirty (30) days of the date of that decision. Said appeal shall consist of a review of the record in the appeal process.

**§ 5-1-20 COOPERATION WITH OTHER GOVERNMENTS.**

Augusta, Georgia may enter into agreements with the State of Georgia or with other local governments to carry out the purpose of this chapter. These agreements may include, but are not limited to enforcement of provisions, resolution of disputes, cooperative monitoring, and cooperative management of storm water system and management programs.

**§ 5-1-21 PROPERTY OWNER LIABILITY; SUPPLEMENTAL CHARGES.**

Any person in violation of any portion of this chapter shall be responsible for all costs of Augusta, GA associated with the violation, including, but not limited to, containment of spills, cleanup, personal injury, wrongful death, damage or destruction of property, or other related expenses. Collection, and enforcement provision of this section is in addition to collection methods provided in Section 5-1-18 above Augusta, Georgia Code.

**§ 5-1-22 ENFORCEMENT; PENALTIES.**

(a) This chapter shall be enforced by the office of the director of engineering. Citations for violation may be issued by inspectors from the Department of Engineering or Planning & Development Department. Citations shall specify the factual basis of violation(s), cite the specific statutory or code provision involved, and the Court and date and time to which returnable.

(b) Any person, cited for violating this chapter shall upon conviction be subject to the penalties provided in § 1-6-1 to include a fine not exceeding one thousand dollars or by imprisonment not exceeding sixty (60) days, either or both, in the discretion of the judge of the court having jurisdiction. Each day any violation of any provision of this Code or of any such ordinance or rule, regulation or order shall constitute a separate offence. Violation of this chapter may also constitute state or federal laws violation and conviction of this chapter does not prohibit prosecution under state and federal laws.

(c) In addition, Augusta, Georgia may institute appropriate action or proceedings at law or in equity for the enforcement of this chapter or to correct violations of this chapter. Any court of competent jurisdiction may have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief. Each day of noncompliance is considered a separate offense. Nothing herein contained shall prevent Augusta, Georgia from taking such other lawful action as is necessary to prevent or remedy any violation, including application for injunctive relief.

**§ 5-1-23 SEVERABILITY.**

If any term, requirement or provision of this chapter or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this chapter or the application of such terms, requirements and provisions to person or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term, requirement or provision of this chapter shall be valid and be enforced to the fullest extent permitted by law.

**§ 5-1-24 PRIOR INCONSISTENT ORDINANCES.**

Any Code provisions, uncodified ordinances, or parts thereof adopted prior to the date of adoption of this chapter are hereby repealed.

**§ 5-1-25 REVIEW OF PROGRAM.**

The Augusta, Georgia Commission shall review the Storm Water Management Program of Augusta, Georgia and the stormwater fee rate and rate structure at least every five years.