

AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA WITH RESPECT TO ESTABLISHING A STORMWATER UTILITY; AND FOR OTHER PURPOSES.

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. Title 5, entitled "Utilities," of the Code of Athens-Clarke County is hereby amended by adding a new Chapter 5-5, entitled "Stormwater Utility," thereto as follows:

"CHAPTER 5-5. STORMWATER UTILITY.

**Sec. 5-5-1. Purpose.**

Athens-Clarke County 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 stormwater management services, systems and facilities throughout Athens-Clarke County, 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 Athens-Clarke County. The Federal Clean Water Act, as amended by the Water Quality Act of 1987 (33 U.S.C. §1251 *et seq.*), other amendments and rules promulgated by the United States Environmental Protection Agency pursuant to the Act, place increased emphasis on the role of local governments in developing, implementing, conducting and making available to its citizens and property owners stormwater management services which address water quality and volume impacts of stormwater runoff. The Athens-Clarke County Commission has determined that development in Athens-Clarke County to date, and the outlook for continued development at an increasing rate in the future, has created and will continue to create additional needs for stormwater management services, systems and facilities within Athens-Clarke County. Athens-Clarke County has engaged a consultant to perform Professional Engineering and Financial Analyses of Athens-Clarke County's stormwater management needs and the alternatives available to Athens-Clarke County for dealing with stormwater management, and has received, reviewed and considered the results of the consultant's analyses which identify stormwater management needs, propose strategic program goals and priorities, estimate the cost of stormwater management services, systems and facilities, examine reasonable charges by Athens-Clarke County for providing such services and facilities and project the rate base available within Athens-Clarke County to support such costs. The Athens-Clarke County Commission finds and concludes from the Professional Engineering and Financial Analyses that it would be desirable to provide for additional stormwater management services, systems and facilities within Athens-Clarke County. Athens-Clarke County Commission finds and concludes from the Professional Engineering and Financial Analyses that a fair and equitable rate structure for those owners of Developed Property in Athens-Clarke County receiving the benefits of stormwater management services, systems and facilities, the proceeds of which will be dedicated to Athens-Clarke County stormwater utility for carrying out its purposes, will be essential if Athens-Clarke County is to provide the level of stormwater management services, systems and facilities that would be desirable to meet the existing and future stormwater management needs of Athens-Clarke County.

**Sec. 5-5-2. Findings.**

The Athens-Clarke County Commission makes the following findings of fact:

- (a) Athens-Clarke County 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 stormwater management services, systems and facilities throughout Athens-Clarke County.
- (b) The management of stormwater and other surface water discharges within and beyond Athens-Clarke County is a matter that affects the health, safety and welfare of all residents and businesses in Athens-Clarke County.
- (c) Improper management of stormwater runoff may cause erosion of lands, threaten businesses and residences, and other facilities with water damage and may create environmental damage to the rivers, streams and other bodies of water within and adjacent to Athens-Clarke County.
- (d) A system for the collection, conveyance, storage, treatment and disposal of stormwater provides services to all properties within the Athens-Clarke County and surrounding areas.
- (e) Failure to effectively manage stormwater affects the operations of sanitary sewer operated by Athens-Clarke County by, among other things, increasing the likelihood of infiltration and inflow into the sanitary sewer system.

- (f) Failure to effectively manage stormwater contributes to the further degradation of the water quality in area waterbodies which may result higher levels of treatment requirements imposed on Athens-Clarke County's wastewater treatment facilities and increased water treatment cost of potable water supplies.
- (g) The federal Clean Water Act, as amended by the Water Quality Act of 1987 (33 U.S.C. §1251 *et seq.*) (the "Act"), and rules promulgated by the United States Environmental Protection Agency pursuant to the Act imposed by regulatory obligations of its national pollutant discharge elimination system (NPDES) permit require Athens-Clarke County to reduce pollution in its stormwater discharge and increase water quality to the maximum extent practicable.
- (h) Proper management of stormwater is a key element of having clean water with adequate assimilative capacity for treated wastewater discharges and adequate potable drinking water that are essential to support existing and future development in Athens-Clarke County. Athens-Clarke County has several rivers and streams listed on the list of impaired waters produced by the Georgia Department of Natural Resources, Environmental Protection Division, or other appropriate authorities pursuant to Section 303(d) of the Act.
- (i) Compliance with the regulatory obligations of the NPDES permit will substantially increase the cost of stormwater management above that which is currently spent for drainage and flood control.
- (j) The cost of operating and maintaining the Athens-Clarke County stormwater management system and financing necessary repairs, replacements, improvements and extensions thereof should, to the extent practicable, be allocated in relationship to the services received from the system.
- (k) In order to protect the health, safety and welfare of the public, the Unified Government of Athens-Clarke County hereby exercises its authority to establish a stormwater utility and establish rates for stormwater management services.
- (l) In promulgating the regulations contained in this section, Athens-Clarke County is acting pursuant to authority granted by the Constitution of the State of Georgia and the charter of Athens-Clarke County to provide for stormwater collection and disposal. Ga. Const. art. IX, § II, ¶ III(a)(6).
- (m) The Unified Government of Athens-Clarke County fully incorporates by reference into these findings the Stormwater Utility Development and Implementation Plan dated May 2004, the Funding Action Strategy dated September 2003, the Stormwater Areawide Master Plan dated March 2001 (hereinafter collectively referred to as the "Professional Engineering and Financial Analyses"), said documents on file in the Office of the Transportation and Public Works Department.
- (n) The Professional Engineering and Financial Analyses conducted on behalf of and submitted to Athens-Clarke County assess and define the stormwater management issues, needs, goals, program priorities and operational opportunities of Athens-Clarke County.
- (o) Given the issues, needs, goals, priorities and operational opportunities identified in the Professional Engineering and Financial Analyses submitted to Athens-Clarke County, Athens-Clarke County determines to establish a stormwater utility within Athens-Clarke County that is dedicated specifically to the management, maintenance, protection, control, regulation, use and enhancement of stormwater management services, systems and facilities in Athens-Clarke County in concert with other water resource management programs.
- (p) Stormwater management is applicable and needed throughout Athens-Clarke County. Development in Athens-Clarke County has altered the natural hydrology with some natural elements having been replaced or augmented by man-made facilities. Even areas of Athens-Clarke County that remain less densely developed and rural in character with natural stormwater drainage predominating, demand services along roads where ditches and culverts have been installed. As a result, stormwater management services systems and facilities needs apply to all areas of Athens-Clarke County.
- (q) The stormwater needs in Athens-Clarke County include, but are not limited to, protecting the public health, safety and welfare. Provision of stormwater management services, systems and facilities and regulation of the use therefore renders and/or results in both service and benefit to individual properties, property owners, citizens and residents of Athens-Clarke County, and to all properties, property owners, citizens and residents of Athens-Clarke County concurrently in a variety of ways as identified in the Professional Engineering and Financial Analyses.

- (r) The service and benefit rendered or resulting from the provision of stormwater management services, systems and facilities may differ over time depending on many factors and considerations, including, but not limited to, location, demands and impacts imposed upon the stormwater management services, systems and facilities, and risk exposure. It is practical and equitable to allocate the cost of stormwater management among the owners of properties in proportion to the long-term demands the properties owned impose on Athens-Clarke County's stormwater management services, systems and facilities which render or result in services and benefits to such properties and the owners thereof.
- (s) Athens-Clarke County presently owns and operates stormwater management systems and facilities which have been developed, installed and acquired through various mechanisms over many years. The future usefulness and value of the existing stormwater management systems and facilities owned and operated by Athens-Clarke County, and of future additions and improvements thereto, rests on the ability of Athens-Clarke County to effectively manage, protect, control, regulate, use and enhance the stormwater management systems and facilities in Athens-Clarke County in concert with the management and regulation of other water resources in Athens-Clarke County. In order to do so, Athens-Clarke County must have adequate and stable funding for its stormwater management services, systems and facilities.
- (t) A stormwater utility provides the most practical and appropriate means of properly delivering stormwater management services, systems and facilities throughout Athens-Clarke County, and the most equitable means to regulate the use of a higher level of stormwater management services, systems and facilities in Athens-Clarke County through stormwater service charges, user fees and other mechanisms as described more fully herein.
- (u) A schedule of stormwater utility service charges based in part on the area of impervious surface located on each property is the most appropriate and equitable means of allocating the cost of stormwater management services, systems and facilities throughout Athens-Clarke County. Such service charges may be complemented by other types of charges which address specific needs, including, but not limited to, special service fees, special assessments, use of proceeds from special purpose local option sales taxes and other forms of revenue, as deemed appropriate by Athens-Clarke County Commissioners.
- (v) The existence of privately owned and maintained on-site or off-site systems, facilities, activities or assets which significantly reduce or otherwise mitigate the impact of a particular property on Athens-Clarke County's stormwater utility's cost of providing stormwater management services and/or stormwater management systems and facilities should be taken into account to reduce the service charge on that property either in the form of a direct reduction or credit, and that such reduction or credit should be conditional upon continuing provision of such services, systems, facilities, activities or assets in a manner complying with the standards and codes as determined by Athens-Clarke County and as set forth herein.
- (w) The area of impervious surfaces on each property is the most important factor influencing the cost of the stormwater management services, systems and facilities provided by Athens-Clarke County or to be provided by Athens-Clarke County in the future, and the area of impervious surfaces on each property is therefore the most appropriate parameter for calculating a periodic stormwater service charge.
- (x) In addition to impervious area, the amount and types of pollutants that are carried by stormwater runoff is closely tied to the use of the property. Sampling of stormwater runoff from across the United States has demonstrated that the runoff from the more heavily used property, such as commercial and industrial developments, contain greater quantities of pollutants than less intensely developed residential properties. The water quality component of Athens-Clarke County's stormwater program will concentrate more heavily in those areas where the land use of the properties generates the greatest quantity of pollutants and will be reflected in the stormwater quality charge of those properties.
- (y) It is imperative that the proceeds from all service charges for stormwater management services, systems and facilities, together with any other revenues raised or otherwise allocated specifically to stormwater management services, systems and facilities, be dedicated solely to those purposes, and the Commission directs that such proceeds of service charges and revenues shall therefore be deposited into the enterprise accounting fund of the Athens-Clarke County stormwater utility and shall remain in that fund and be disbursed only for stormwater management capital, operating and non-operating costs, lease payments and debt service of bonds or other indebtedness for stormwater management purposes.

**Sec. 5-5-3. Definitions.**

- (a) *Generally*. The following definitions shall apply in the interpretation and enforcement of this chapter, unless otherwise specifically stated or where the context clearly indicates a different meaning:

**Act** means and refers to the Clean Water Act, as amended by the Water Quality Act of 1987 (33 U.S.C. §1251 *et seq.*), as amended, and the rules and regulations promulgated by the United States Environmental Protection Agency pursuant thereto.

**Agriculture** means a Developed Property other than a Single-Family Property that is zoned AR and has 10% or less impervious area on the parcel. If a property is not zoned AR, but the property's primary use is agriculture, the owner may make application for the agriculture customer designation, provided that the agricultural operation has an approved farm plan from the Natural Resource Conservation Service (NRCS).

**Base Charge** means a charge to all Developed Property based on the annual administrative and management costs of the stormwater utility. The Base Charge recognizes that all Developed Property in Athens-Clarke County contributes to the stormwater discharge that Athens-Clarke County must manage and that all Developed Property in Athens-Clarke County receives services from the stormwater management activities that Athens-Clarke County provides.

**Credit** means a reduction in the amount of a stormwater service charge to the owner of a particular Parcel for the existence and use of significantly owner maintained and operated on-site or off-site stormwater systems or facilities, or continuing provision of services or activities that reduce or mitigate the Athens-Clarke County stormwater utility's cost of providing stormwater management services, systems and facilities for that particular Parcel.

**Developed Property** means a Parcel that has been altered from its natural state by the addition of any improvement, such as a building, structure or other impervious surface with a footprint greater than 300 square feet and where a certificate of occupancy has been issued, or upon completion of construction or final inspection if no such certificate is issued; or where construction of an improvement is at least 50 percent complete and construction is halted for a period exceeding 3 months. Developed Property includes but is not limited to, transient rentals (such as hotels and motels), multifamily apartment buildings or condominiums, commercial or industrial developments, institutional schools, hospitals and churches, Federal, State, and local governmental properties, and parking Parcels.

**Director** means the Director of the Athens-Clarke County Department of Public Works and Transportation or his designees.

**Duplex** mean a detached residential structure containing two dwelling units, designed for occupancy by not more than two (2) families living independent of each other.

**Equivalent Runoff Unit (ERU)** means the statistical average horizontal impervious area of a Single family Property between 1,500 and 4,000 square feet of impervious area within the County as of the date of adoption of this Article. The horizontal impervious area includes, but is not limited to, all areas covered by structures, roof extensions, patios, porches, driveways and sidewalk. The average square footage of horizontal impervious surface for a Single Family property is determined to be 2,628 square feet.

**Impervious Area** means those areas which prevent or impede the infiltration of stormwater into the soil in the manner in which it entered the soil, in natural conditions, prior to development.

**Large Single-Family** means a Single Family Property with more than 4,000 square feet of impervious area.

**Medium Single-Family** means a Single Family Property with at least 1,500 square feet but less than 4,000 square feet of impervious area.

**Other Developed Property** means any Developed Property which is not a small, medium or large single family property, a duplex, or a triplex.

**Parcel** means a discrete unit of land created by subdivision, which complies with all applicable laws at the time such parcels were created, as identified in the Athens-Clarke County deed and/or tax records, that is Developed Property.

**Quantity Charge** means a charge that may be imposed on all developed property in Athens-Clarke County based on the impervious area and/or other factors that Athens-Clarke County determines reasonably reflect services provided to manage and/or mitigate the effect of the volume and rate of stormwater runoff.

**Quality Charge** means a charge that may be imposed on all developed property in Athens-Clarke County to reasonably reflect services provided to treat or compensate for the difference in pollutants from properties of different land use.

**Service Area** means those portions of Athens-Clarke County which receive stormwater management services, systems and facilities, and the Commission designates as a service area, or a part thereof. The Commission, from time to time, in its discretion, may add areas of Athens-Clarke County to a service area or remove areas from a service area. Service areas are identified generally and for informational purposes only on the Stormwater Utility Service Area map prepared and maintained by the Director.

**Single-Family Property** means a Parcel containing a detached residential dwelling unit functioning as the only residential unit and designed for and occupied by one family only. A residential unit may include a house, manufactured or mobile home.

**Small Single-Family** means a Single Family Property with less than 1,500 square feet of impervious area.

**Stormwater Management Manual** means the Georgia Stormwater Management Manual Volume II (Technical handbook), dated August 2001, promulgated by the Atlanta Regional Commission, as officially revised and amended by the Atlanta Regional Commission from time to time (hereinafter referred to as the "Georgia Stormwater Management Manual").

**Stormwater Management Services** mean all services provided by Athens-Clarke County which relate to the:

- (1) Transfer, control, conveyance or movement of stormwater runoff through Athens-Clarke County;
- (2) Maintenance, repair and replacement of existing stormwater management systems and facilities;
- (3) Planning, development, design and construction of additional stormwater management systems and facilities to meet current and anticipated needs;
- (4) Regulation of the use of stormwater management services, systems and facilities; and
- (5) Education of the public as to stormwater issues.

**Stormwater Management Services** may address the quality and/or the quantity of stormwater runoff.

**Stormwater Service Charge** means the periodic service charge imposed pursuant to this article by the Athens-Clarke County stormwater utility for providing the stormwater management services, systems and facilities. This term may also include special charges to the owners of particular properties for services, systems or facilities related to stormwater management, including, but not limited to, charges for development plan review, inspection of development projects and on-site stormwater control systems, and enhanced levels of stormwater service above the threshold level.

**Stormwater Management Systems** and facilities mean those natural and manmade channels, swales, ditches, rivers, streams, creeks, branches, reservoirs, ponds, drainageways, inlets, catchbasins, pipes, head walls, storm sewers, lakes and other physical works, properties and improvements which transfer, control, convey or otherwise influence the movement of stormwater runoff, which are owned by Athens-Clarke County or through which Athens-Clarke County has an easement or other legally binding right of use for stormwater drainage, and for which Athens-Clarke County has the obligation of maintenance for stormwater drainage purposes.

**Triplex** mean a detached residential structure containing three dwelling units, designed for occupancy by not more than three (3) families living independent of each other.

**Undeveloped** means a Parcel which does not have any improvements such as a building, structure, or impervious surface and contains no more than 300 square feet of impervious area.

**Water Quality Factor** means a statistically generated modifier to the base charge developed to represent the relative differences in the level of pollutants in stormwater from general categories of land use on an average annual basis. The average annual pollutant loads from the general land use categories were estimated using the Source Loading and Management Model (SLAMM) developed by PV & Associates.

- (b) *Construction of undefined terms.* Terms not herein specifically defined shall be construed in the manner commonly accepted and the interpretation of the same will be furnished by the public works director upon application.

**Sec. 5-5-4. Stormwater Utility Established.**

There is established a stormwater utility to be known as the Athens-Clarke County stormwater utility, which shall be responsible for stormwater management services, systems and facilities throughout Athens-Clarke County, and which shall provide for the management, protection, control, regulation, use and enhancement of Athens-Clarke County's stormwater management services, systems and facilities.

**Sec. 5-5-5. Enterprise Fund Established.**

- (a) Creation.

There is established a stormwater utility enterprise fund in Athens-Clarke County budgeting and accounting systems for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the stormwater utility, including, but not limited to, rentals, rates, charges, fees and licenses, as may be established by the Commission from time to time, and other funds that may be transferred or allocated to the stormwater utility. All revenues and receipts of the stormwater utility shall be placed in the stormwater utility enterprise fund, and all expenses and capital investments of the stormwater utility shall be paid from the stormwater utility enterprise fund; provided, however, that other revenues, receipts and resources not accounted for in the stormwater utility enterprise fund may be applied to stormwater management services, systems and facilities as deemed appropriate by the Commission.

- (b) Funding and Budget.

1. The Commission shall place within the Athens-Clarke County stormwater utility the responsibility for operation, maintenance and regulation of the existing stormwater management services, systems and facilities previously performed, owned and operated or maintained by Athens-Clarke County, and other related assets, including, but not limited to, properties, other than road rights-of-way, upon which such stormwater management systems and facilities are located, easements, rights-of-entry and access and certain equipment used solely for stormwater management. This responsibility shall be placed with the Athens-Clarke County stormwater utility as the Commission has determined that the Athens-Clarke County stormwater utility has been sufficiently organized, staffed and funded adequately to carry out such responsibilities. The Commission shall determine which division of Athens-Clarke County's governing body organization in which to place the stormwater utility, and the Commission may move the stormwater utility to other divisions from time to time as it sees fit.
2. Finance director or designee shall prepare an annual budget, which is to include all operation and maintenance costs, debt service and other costs related to the operation of the stormwater utility. The budget is subject to approval by the County Commission.
3. The costs shall be spread over the rate classifications as determined by the Commission.

**Sec. 5-5-6. Scope of responsibility for systems and facilities.**

- (a) Athens-Clarke County owns or has rights established by written agreements which allow it to operate, maintain, improve and access those stormwater management systems and facilities which are located:
  1. Within public road rights-of-way and easements;
  2. On private property as provided for in Department of Transportation & Public Works Policy and Procedure Statement PW-002 as adopted by the Mayor and Commission January, 1992; or
  3. On public land which is owned by Athens-Clarke County or another governmental entity, and to which Athens-Clarke County has agreements providing for the operation,

maintenance, improvement and access to the stormwater management systems and facilities.

- (b) Operation, maintenance and/or improvement of stormwater management systems and facilities which are located on private or public property not owned by Athens-Clarke County, and for which there has been no written agreement granting easements, rights-of-entry, rights-of-access, rights-of-use or other form of dedication thereof to Athens-Clarke County for operation, maintenance, improvement and access of such stormwater management and systems and facilities, shall be and remain the legal responsibility of the property owner, except as otherwise provided for by the laws of the state and the United States.
- (c) It is the express intent of this article to protect the public health, safety and welfare of people and property in general, but not to create any special duty or relationship with any individual person, or to any specific property within or outside the boundaries of Athens-Clarke County. Athens-Clarke County expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages or equitable remedies upon Athens-Clarke County, its commissioners, officers, employees and agents arising out of any alleged failure or breach of duty or relationship.

**Sec. 5-5-7. Service charges, user fees, etc.**

- (a) It shall be the policy of Athens-Clarke County that service charges and user fees for the stormwater management services, systems and facilities to be provided by the stormwater utility in the service areas shall be equitably derived through methods which have a demonstrable relationship to the varied demands and impacts imposed on the stormwater management services, systems and facilities by individual properties and/or the level of service rendered by or resulting from the provision of stormwater management services, systems and facilities. Stormwater service charge rates shall be structured so as to be fair and reasonable, and the resultant service charges shall bear a substantial relationship to the cost of providing stormwater management services, systems and facilities. Similarly situated properties shall be charged similar rates, charges or fees. Service charge rates shall be coordinated with the use of other rates, charges or fees employed for stormwater management within Athens-Clarke County, whether within or outside the defined service areas, including, but not limited to, plan review and inspection fees, special fees for services, fees in lieu of regulatory requirements and special assessments. In setting the rentals, rates, charges, fees or licenses for stormwater management services, systems and facilities, Athens-Clarke County Commission shall also take into consideration the impact such will have in regulating the use of such services, systems and facilities.
- (b) The cost of stormwater management services, systems and facilities may include operating expenses, capital investments and reserve accounts.
- (c) Service areas shall be established to reflect significant variations in services provided to stormwater utility customers. The boundaries of the service areas are described herein and depicted generally and for informational purposes only on the official map of Athens-Clarke County stormwater utility service areas prepared and maintained by the Director, and amended from time to time, referred to in this section as the "map."
- (d) To the extent practicable, credits against stormwater service charges and/or other methods of funding stormwater management shall be provided for on-site stormwater control systems and activities constructed, operated, maintained and performed to Athens-Clarke County's standards by private property owners which eliminate, mitigate or compensate for the impact that the property or person may have upon stormwater runoff discharged to public stormwater management systems and facilities or to private stormwater management systems and facilities which impact the proper function of public stormwater management systems and facilities.

**Sec. 5-5-8. Service charge rates.**

- (a) Stormwater service charge rates shall be set and may be modified from time to time by Athens-Clarke County Commission. In setting or modifying such rates it shall be the goal of Athens-Clarke County Commission to establish rates that are fair and reasonable, reflect the value of the stormwater management services, systems and facilities to those property owners who benefit therefrom, and which, together with other sources of support available to Athens-Clarke County

stormwater utility, are sufficient to support the cost of the stormwater management services, systems and facilities, including, but not limited to, the payment of principal and interest on debt obligations, lease payments, operating expenses, capital outlays, nonoperating expenses, provisions for prudent reserves and other costs as deemed appropriate by Athens-Clarke County Commission.

- (b) The basis for computation of the charge for stormwater services to all Developed Property within Athens-Clarke County is established under this section. The amount of charge to be imposed, the establishment of formulas for the calculation of charges, the creation of customer classifications for the imposition of charges, and changes in such charges, formulas and customer classifications may be made by further resolution of the Athens-Clarke County Commission. All charges established pursuant to this Section shall be fair and reasonable.
- (c) The Director shall assign a customer classification to all Developed Property within Athens-Clarke County. The Director shall be responsible for determining the impervious area, land area, land use or other factors as may be needed to for the fair, reasonable and equitable allocation of the stormwater fee based on the best available information, including, but not limited to, data supplied by the County Board of Assessors, aerial photography, the property owner, tenant or developer. The Director may require additional information as necessary to make the determination. The billing amount shall be updated by the Director based on any additions to the impervious area as approved through the building permit process.
- (d) Charges shall be imposed to recover all or a portion of the costs of the stormwater utility. Such charges, established herein, may include the following components:
  - 1. Base charge. A base charge may be imposed on all developed property in Athens-Clarke County. The base charge is established in recognition of the fact that all properties in Athens-Clarke County receive services from the stormwater management activities provided by Athens-Clarke County and that all developed property contributes to the stormwater discharge that Athens-Clarke County must manage. The base charge shall be charged to collect the administrative costs of the stormwater utility and may include capital, operating and maintenance costs of the stormwater utility which are not recovered by other means. The Base Charge is based on the ERU and is calculated using the formula identified below.
  - 2. Quantity charge. A quantity charge may be imposed on all developed property in Athens-Clarke County. The quantity charge shall be charged based upon the impervious area and/or other factors affecting the volume and rate of stormwater runoff as reasonably determined by the county. The Quantity Charge is based on ERU and is calculated using the formula identified below.
  - 3. Quality charge. A quality charge may be charged to all developed property in Athens-Clarke County. The quality charge reflects the services provided to treat stormwater or compensate for the difference in pollutants from properties of different land use. The Quality Charge is determined by multiplying the Base Charges by a Water Quality Factor as described below.
- (e) Calculation of Charges. The monthly stormwater utility charges imposed to recover the cost of the stormwater utility program are as follows:

**Base Charge ..... \$ 2.07 x ERU**  
**Quantity Charge..... \$ 0.86 x ERU**  
**Quality Charge..... \$ 0.57 x ERU x Water Quality Factor**

- 1. Base Charges and Quantity Charges.
  - i. The basis of the stormwater utility fee for the base and quantity charges shall be the Equivalent Runoff Unit (ERU).
  - ii. An ERU will represent 2,628 square feet of impervious area.

- iii. The Director shall be responsible for determining the impervious area and other required information for each Developed Property in Athens-Clarke County based on the best available information, including, but not limited to, data supplied by the County Board of Assessors, aerial photography, the property owner, developer or other method as may be required. The number of ERUs that will form the basis of the Base Charge and Quantity Charge shall be established in the following manner:
    - a. SMALL SINGLE FAMILY– the charges shall be equal to 0.6 ERUs
    - b. MEDIUM SINGLE FAMILY – the charges shall be equal to 1.0 ERU
    - c. LARGE SINGLE FAMILY – the charges shall be equal to 1.8 ERUs
    - d. AGRICULTURE – the base and quantity charges shall be equal to 2.0 ERUs. The quality charge ERUs shall be equal to the total impervious area of the property divided by the square footage of an ERU.
    - e. DUPLEX and TRIPLEX - the charges shall be equal to 1.0 ERU
    - f. OTHER DEVELOPED PROPERTY (“OTHER”) – the charges shall be equal to the total impervious area of the property divided by the square footage of an ERU.
    - g. UNDEVELOPED – the charges shall be equal to 0 ERUs and will not receive a stormwater utility bill.
2. The Quality Charge.
- i. The Director shall assign all parcels within Athens-Clarke County one of the following Water Quality Land Use classifications based upon the Athens-Clarke County Comprehensive Plan, as amended:
    - a. Low Density Residential
    - b. Agriculture
    - c. Medium Density Residential
    - d. High Density Residential/ Institutional/Public
    - e. Commercial/Industrial Development
    - f. Undeveloped
  - ii. The Water Quality Factors for each of the Water Quality Land Use classifications are as follows:
 

a. Low Density Residential	0.5	
b. Agriculture		1.0
c. Medium Density Residential		1.0
d. High Density Residential/ Institutional/Public	1.3	
e. Commercial/Industrial Development	1.9	
f. Undeveloped		0.0

**Sec. 5-5-9. Stormwater Service Areas.**

The following Stormwater Service Areas shall be established to reflect significant variations in services provided to stormwater utility customers:

- (a) The Riparian Stormwater Service Area. The Riparian Stormwater Service Area shall be comprised of parcels that drain directly into the hereinafter designated riparian waters or a portion of parcels that drain directly into designated waters without entering Athens-Clarke County’s stormwater system. Designated waters include: North Oconee River, Middle Oconee River, McNutt Creek and the lower portions of Shoal Creek and Cedar Creek. The Director shall be responsible for designating the properties in the Riparian Stormwater Service Area based on the best available information, including, but not limited to, data supplied by the County Board of Assessors, aerial photography, the property owner, developer or other method as may be required. The Director shall designate said properties and provide a map of designated properties in the Department of Public Works and Transportation Office. A parcel owner that wishes to challenge the inclusion or exclusion of a property in the Riparian Stormwater Service Area can file an appeal as provided in Section 1-5-1 of the Athens-Clarke County Code.

- (b) The University of Georgia Stormwater Service Area. The University of Georgia Service Area shall be comprised of those parcels draining directly into designated waters (riparian) or a portion of properties that drain directly to the University of Georgia Stormwater system without entering the Athens-Clarke County's stormwater system. The University of Georgia Stormwater Service Area means that portions of Athens-Clarke County bordered generally by the North Oconee River to the east, Lumpkin Street to the west, College Station Road to the South and Baldwin Street to the North:
  - (i) containing a significant impervious area and stormwater management system owned, maintained and operated by the University of Georgia;
  - (ii) receiving stormwater from non-university properties and facilitated in Athens-Clarke County; and
  - (iii) stormwater from which flows generally to the Oconee River without entering other stormwater management systems in Athens-Clarke County.

The Director shall be responsible for designating the properties in the University of Georgia Stormwater Service Area based on the best available information, including, but not limited to, data supplied by the County Board of Assessors, aerial photography, the property owner, developer or other method as may be required. The Director shall designate said properties and provide a map of designated properties in the Department of Public Works and Transportation Office. A parcel owner that wishes to challenge the inclusion or exclusion of a property in the University of Georgia Stormwater Service Area can file an appeal as provided in Section 1-5-1 of the Athens-Clarke County Code.

- (c) Non-Athens-Clarke County NPDES Stormwater Phase II MS4 Service Areas – These areas represent Parcels at least a portion of which are within the geographic boundaries of Athens-Clarke County that have obtained and are in compliance with a separate NPDES Stormwater Phase II Small Municipal Separate Storm Sewer Systems (MS4) Permit issued by the State of Georgia that requires the permit holder entity to develop and conduct its own stormwater management program similar in requirements to that of Athens-Clarke County and thus reduces the demand of service from Athens-Clarke County's Stormwater Utility.
- (d) The Athens-Clarke County General Service Area. All remaining Parcels located within the jurisdictional boundaries of Athens-Clarke County which have not been designated as Parcels within the Riparian or University of Georgia Stormwater Service Area.

**Sec. 5-5-10. Exemptions.**

Except as provided in this section, no public or private property located in a service area shall receive a credit or offset against such stormwater service charges. No credit, offset or other reduction in stormwater service charges shall be granted based on the tax status, economic status, race, religion, age or sex of the owner of the property being served, or based on any other condition unrelated to the provision of stormwater management services, systems and facilities. There shall be four categories of exemptions as follows:

- (a) TYPE I EXEMPTION – The following parcels shall be automatically exempt from all stormwater service utility charges. Parcel owners do not need to apply for an exemption pursuant to Section 5-5-11.
  - 1. Railroad tracks and the rights-of-way shall be exempt from stormwater service charges. However, railroad stations, maintenance buildings or other developed land used for railroad purposes shall not be exempt from stormwater service charges.
  - 2. Public and private roadways, not including driveways, shall be exempt from stormwater service charges.
- (b) TYPE II EXEMPTION – The following parcels shall be automatically exempt from the Quantity Charges. Parcel owners do not need to apply for an exemption pursuant to Section 5-5-11.
  - 1. Parcels located in the Riparian Stormwater Service Area

2. Parcels located in the University of Georgia Stormwater Service Area.
- (c) TYPE III EXEMPTION – The following parcels shall be automatically exempt from the Water Quality Charges and may be eligible for further reduction in charges by providing in-kind services to Athens-Clarke County that reduce the cost of service for the Athens Clarke-County Stormwater Utility. However, the permittee of the MS4 must first apply for a credit or adjustment pursuant to the procedures identified in Section 5-5-11 and submit a copy of their permit and stormwater management program for review and comparison with county services.
1. Parcels located in a Non-Athens-Clarke County NPDES Stormwater Phase II Service Area.
- (d) TYPE IV EXEMPTION – The following parcels may be exempt from the Quantity and/or Quality Charges. However, Parcel owners must first apply for a credit or adjustment pursuant to the procedures identified in Section 5-5-11.
1. Parcels with on-site stormwater management and treatment facilities that are designed to properly manage the stormwater runoff from impervious surface areas in accordance with (i.) and one or more of the stormwater quantity criteria describe by the Georgia Stormwater Management Manual may be eligible to be exempted from a portion of the Quantity Charge.
    - i. In order to receive this credit, a maintenance plan must be on file with the Department and be in compliance with it.
    - ii. Facilities designed to meet the Channel Protection standard in accordance with the Athens-Clarke County Code and the Georgia Stormwater Management Manual, each as may be updated or amended from time to time will be eligible for one-third reduction in the Quantity Charge for the property.
    - iii. Facilities designed to meet the Channel Protection and the Over Bank standard in accordance with the Athens-Clarke County Code and the Georgia Stormwater Management Manual, each as may be updated or amended from time to time, will be eligible for two-thirds reduction in the Quantity Charge for the property.
    - iv. Facilities designed to meet the Channel Protection, Over Bank and Flood Protection standard in accordance with the Athens-Clarke County Code and the Georgia Stormwater Management Manual, each as may be updated or amended from time to time, will be eligible for total exemption of the Quantity Charge for the property.
  2. Parcels with on-site stormwater management and treatment facilities and Parcels serviced by such facilities that are designed to properly manage the stormwater runoff from impervious surface areas in accordance with the stormwater quality criteria described by the Georgia Stormwater Manual as may be updated or amended from time to time may be eligible to be exempted from a portion of the Quality Charge.
    - i. Facilities designed to remove no less than 40 percent of the average annual sediment load from stormwater runoff from the site may be eligible for a 20 percent reduction in the Quality Charge for the property.
    - ii. Facilities designed to remove no less than 65 percent of the average annual sediment load from stormwater runoff from the site may be eligible for a 60 percent reduction in the Quality Charge for the property.
    - iii. Facilities designed to remove no less than 80 percent of the average annual sediment load from stormwater runoff from the site will be eligible for total exemption of the Quality Charge for the property.

3. The owner of property which is used as a site for a public or private school and which agrees to teach a general environmental science curriculum that includes water protection measures at the primary or secondary level may receive a credit against the stormwater service charge applicable to the property of five percent of the service charge applicable to the property. If a specific water protection program is agreed to be taught in all grades at such school including the Water Wise Program, the River Kids Program, EnviroScape Program, GLOBE (Global Learning and Observation to Benefit the Environment) Program or another such program approved by the Director, which will result in benefits to Athens-Clarke County as a result of teaching such program, the amount of the credit against stormwater service charges which may be received may be increased up to an additional 15 percent of the service charge applicable to the property for a total of a 20 percent total educational credit. The amount of credits given shall be as determined by Director based on the number of contact hours and the curriculum being taught. The educational credit may be taken in addition to any other credit available under this section. Prior to July 1 of each year, the superintendent of the Athens-Clarke County School System or in the case of private schools the chief executive officer of the school, shall certify to Director, the water protection measures curriculum being taught in each school for which an educational credit is being claimed and the extent to which such curriculum is being taught. For purposes of this educational credit a public school shall be any school operated by the Athens-Clarke County School District and a private school shall be a school operated by a private entity teaching some or all of the grades K through twelve at which are taught subject[s] commonly taught in the public schools operated by the Athens-Clarke County School District.
4. Properties classified as agricultural customers that have an approved farm plan from the Natural Resource Conservation Service (NRCS) will be eligible for exemption from the water quality charge. These farm plans require implementation of best farm practices including but not limited to:

<i>Crop Management</i>	<i>Channel Management</i>	<i>Nutrient Management</i>
Contour Plowing	Stream/Channel Stabilization	Manure Management
No Till	Vegetated Buffers	Stream Fencing
Strip Cropping	Grassed Waterways	Barnyard Runoff Control

5. Groups of detached single-family dwelling units or improvements on other developed land which are developed as part of a common development plan which includes within the development, but not on the Parcels on which the detached single-family dwelling units or the improvements on other developed land are located, privately owned, maintained or operated stormwater control systems, facilities, assets, services or activities that reduce Athens-Clarke County stormwater utility's cost of providing stormwater management services, systems and facilities, may receive a credit based on attaining and continuing compliance with the technical requirements and performance standards referenced in 5-5-10 (c) 1 and 5-5-10 (c) 2. Such credits shall be proportionately allocated among all properties using such stormwater control systems or facilities, the owners of which are contributing to their costs of ownership, operation and maintenance.

**Sec. 5-5-11. Procedure for applying for credits and adjustments to service charges.**

- (a) The Director shall establish specified technical and procedural criteria by which credits or adjustments will be granted. Copies of such technical and procedural criteria will be maintained by and available from the Transportation and Public Works Department.
  1. In order to obtain a credit, the property owner must make application to Director on forms provided by Director for such purpose.
  2. Customers must apply for any credits or adjustments that they believe apply.

3. The application for any credit or adjustment must be in writing and must include the information necessary to establish eligibility for the credit or adjustment and, any application fee and be in the format established by the Director. Incomplete applications will not be accepted by the Director.
  4. Stormwater utility fees may be adjusted retroactively to the date the Director received the completed application.
  5. Applicants must have an approved maintenance plan on file with the Director and the Applicant's property must have on-site stormwater management and treatment facilities.
- (b) When an application for a credit is deemed complete by Director, he shall have thirty (30) days from the date the complete application is accepted of either: (a) granting the credit in whole; (b) granting the credit in part, or (c) denying the credit within 30 days thereafter. Credits applied for by the property owner in the year 2005, and granted in whole or in part, shall apply to all stormwater service charges accruing in the year 2005. Beginning January 1, 2006 credits applied for by the property owner, and granted in whole or in part, shall apply from the first day of the calendar month immediately following the date on which a complete application for the credit has been filed with Athens-Clarke County. The property owner may appeal such determination pursuant to section 1-5-1 of the Athens-Clarke County Code.
- (d) A property owner shall not have to reapply annually for the credit granted, but Director may review the credit and the basis therefor no more frequently than annually, and may terminate the credit if the Director finds grounds therefor. If such credit is terminated, the property owner may appeal such determination pursuant to section 1-5-1 of the Athens-Clarke County Code, or may, if possible, correct the deficiencies which caused the termination and reapply for the credit. A property owner with a National Pollutant Discharge Elimination System (NPDES) Stormwater Phase II MS4 permit, however, must submit the report prescribed in the NPDES permit to Director to continue to receive the credit from Athens-Clarke County associated with the NPDES Stormwater Phase II MS4 permit.

**Sec. 5-5-12. Service charge billing, delinquencies and collections, appeals.**

- (a) Billing.
1. Stormwater service charges shall begin to accrue July 1, 2005, and shall be billed in arrears. A bill for stormwater service charges may be sent through the United States Postal Service or by alternative means, notifying the owner of the property being billed of the amount of the stormwater service charge, less credits, the date the payment is due and the date when payment is past due.
  2. The stormwater service charge may be billed and collected separately or along with water and sanitary sewer charges, or along with other fees for services, as deemed most effective and efficient by the Athens-Clarke County Manager.
  3. Frequency of the billing of stormwater service charges shall be specified by the Athens-Clarke County Manager.
  4. Failure to receive a bill shall not be justification for nonpayment. Regardless of the party to whom the bill is initially directed, the owner of each developed property subject to stormwater service charges shall be obligated to pay stormwater service charges and any interest on delinquent stormwater service charge payments.
  5. If a property owner is underbilled, or if no bill is sent for a particular tract of developed land, the county stormwater utility may backbill for a period of up to one year, but shall not be entitled to any interest for any delinquency during the backbilled period.
- (b) Delinquencies and collections.
1. Unpaid stormwater service fees shall be collected 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, including enforcement of any lien resulting from any such judgment. In no instance shall the unpaid service charge constitute a direct lien against the property.

2. A one (1) percent per month late charge shall be assessed against the owner for the unpaid balance of any stormwater utility service charge that becomes delinquent.

(c) Adjustments/Appeals.

1. All requests for adjustments shall be submitted to the Director of the Transportation and Public Works Department, who shall have the authority to develop and administer the procedures and standards for the adjustment of the stormwater fee.
  - i. Customers may seek an adjustment of the stormwater fee allocated to a Parcel at any time by submitting the request in writing and set forth in detail the grounds upon which relief is sought.
  - ii. Customers requesting the adjustments may be required, at his, her or its own expense, to provide supplemental information to the Director, including but not limited to survey data approved by a registered land surveyor (R.P.L.S.) and engineering reports approved by a professional engineer (P.E.). Failure to provide such information within the time limits established by the Director, as may be reasonably extended, may result in denial of the adjustments request.
  - iii. Once a completed adjustments request and all required information are received by the Director, the Director shall have thirty (30) calendar days within which to render a written decision. Concurrent payment of any charges allocated to the property is not required as a condition precedent to this request for review.
  - iv. In considering an adjustment request, the Director shall consider whether the calculation of the stormwater fee for the property is correct.
  - v. The Director's decision shall be mailed to the address provided on the adjustments request and service shall be complete upon mailing.
2. The decision of the Director is final except if the property owner appeals the decision pursuant to Section 1-5-1 of Athens-Clarke County Code.
3. If the result of an appeal is that a refund is due the appellant, the refund will be applied as a credit on the appellant's next stormwater bill."

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.