

STATE OF GEORGIA  
HENRY COUNTY GEORGIA  
CITY OF STOCKBRIDGE

ORDINANCE NO. OR19-498

AN ORDINANCE TO AMEND CHAPTER 8.30 OF THE STOCKBRIDGE MUNICIPAL CODE; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**WHEREAS**, the governing authority of the City of Stockbridge is the Mayor and Council thereof;

**WHEREAS**, the governing authority of the City of Stockbridge, Georgia desires to adopt a revised ordinance pertaining to stormwater management; and,

**WHEREAS**, the health, safety, and welfare of the citizens of Stockbridge, Georgia, will be positively impacted by the adoption of this Ordinance.

NOW THEREFORE, THE COUNCIL OF THE CITY OF STOCKBRIDGE HEREBY ORDAINS:

**Section 1.** That Chapter 8.30 of the Stockbridge Municipal Code is hereby deleted in its entirety and replaced with the provisions attached hereto as Exhibit A.

**Section 2.** The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

**Section 3.** (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby

further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

**Section 4.** All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

**Section 5.** Penalties in effect for violations of the City of Stockbridge at the time of the effective date of this Ordinance shall be and are hereby made applicable to this Ordinance and shall remain in full force and effect.

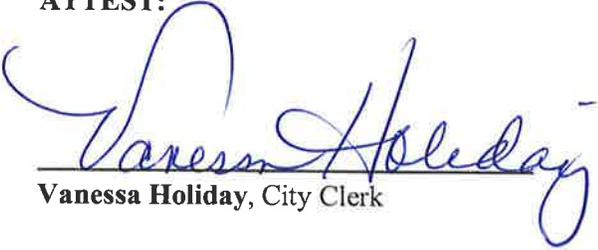
**Section 6.** The effective date of this Ordinance shall be the date of its enactment.

ORDAINED this 29<sup>th</sup> day of October, 2019.

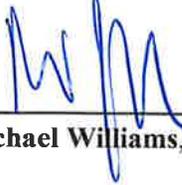
CITY OF STOCKBRIDGE, GEORGIA

  
\_\_\_\_\_  
Anthony S. Ford, Mayor

ATTEST:

  
\_\_\_\_\_  
Vanessa Holiday, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael Williams, City Attorney

Date Presented to Mayor: 11-1-2019

Date Received from Mayor: 11-1-2019

## EXHIBIT "A"

### Chapter 8.30 - STORMWATER MANAGEMENT

#### 8.30.010 – Purpose.

The city 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 the incorporated areas of the city, 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 the city. The Federal Clean Water Act, as amended by the Water Quality Act of 1987 (33 USC 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 mayor and council have determined that development in the city to date, and the outlook for continued development at an increasing rate in the future, has created and will continue to create a need for stormwater management services, systems and facilities within the city. The city engaged a consultant to perform professional engineering and financial analysis of the city's stormwater management needs and the alternatives available to the city 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 the city for providing such services and facilities and project the rate base available within the city to support such costs. The mayor and council 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 the city. The mayor and council finds and concludes from the professional engineering and financial analyses that a fair and equitable rate structure for those receiving the benefits of stormwater management services, systems and facilities, the proceeds of which will be dedicated to the city stormwater utility for carrying out its purposes, will be essential if the city 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 the city.

#### 8.30.020 - Findings.

The City Council makes the following findings:

- (1) The professional engineering and financing analysis, known as the Stormwater Management Action Plan, prepared by Arcadis G & M, Inc., properly assesses and defines the stormwater management problems, needs, goals, program priorities and funding opportunities of the city.
- (2) Given the problems, needs, goals, priorities and operational opportunities identified in the professional engineering and financial analyses submitted to the city, it is appropriate to authorize the establishment of an accounting unit which shall be dedicated specifically to the management, maintenance, protection, control, regulation, use and enhancement of stormwater management services, systems and facilities in the city in concert with water resource management programs.
- (3) The stormwater needs in the city include, but are not limited to, protecting the public health, safety, and welfare. Provisions 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 the city, and to all properties, property owners, citizens and residents of the city concurrently in a variety of ways as identified in the professional engineering and financial analyses.

- (4) 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 the city's stormwater management services, systems and facilities which render or result in services and benefits to such properties and the owners thereof.
- (5) The city 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 the city, and of future additions and improvements thereto, rests on the ability of the city to effectively manage, protect, control, regulate, use and enhance the stormwater management systems and facilities in the city in concert with the management and regulation of other water resources in the city. In order to do so, the city must have adequate and stable funding for its stormwater management services, systems, and facilities.
- (6) The mayor and council finds, concludes and determines that a stormwater utility provides the most practical and appropriate means of properly delivering stormwater management services, systems and facilities throughout the city, and the most equitable means to regulate the use of a higher level of stormwater management services, systems and facilities in the city through stormwater service charges, user fees and other mechanisms as described in the professional engineering and financial analyses prepared for the city.
- (7) 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 the city. 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 the mayor and council.
- (8) The existence of privately owned and maintained on-site or off-site systems, facilities, activities or assets which reduce or otherwise mitigate the impact of a particular property on the city 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 the city engineer. Reductions or credits for privately owned and maintained stormwater management systems, facilities, activities or assets shall be generally proportional to the affect that such systems have on the stormwater contribution from the property benefited by such systems.

- (9) 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 the city or to be provided by the city in the future, and that the area of impervious surfaces on each property is therefore the most appropriate parameter for calculating a periodic stormwater service charge.
- (10) 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 directs that such proceeds of service charges and revenues shall therefore be deposited into the enterprise accounting fund of the city stormwater utility and shall remain in that fund and be dispersed only for stormwater management capital, operating and nonoperating costs, lease payments and debt service of bonds or other indebtedness for stormwater management purposes.

#### **8.30.030 - Establishment of a utility and enterprise fund.**

- A. There is hereby established a stormwater management utility within the Stockbridge utility department which shall be responsible for stormwater management throughout the city's corporate limits, and shall provide for the management, protection, control, regulation, use and enhancement of stormwater systems and facilities.
- B. The city manager and city clerk shall establish a stormwater enterprise fund in the city budget and accounting system, separate and apart from its general fund, for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the utility, including but not limited to rentals, rates, charges, fees and licenses as may be established by the mayor and council. All revenues and receipts of the stormwater utility shall be deposited promptly upon receipt into the stormwater enterprise fund, to be held and invested in trust for the purposes dedicated, and expended exclusively for purposes of the utility, including capital project construction. No other funds of the city shall be deposited in the stormwater enterprise fund or commingled with dedicated stormwater revenues, except that other revenues, receipts and resources not accounted for in the stormwater enterprise fund, including, but not limited to, grants, transfers of city funds, loans and bond proceeds may be combined with and applied to stormwater management capital projects as deemed appropriate by the city council, upon recommendation of the city manager.
- C. The mayor and council hereby transfers to the Department of Public Works operational control over the existing stormwater management systems and facilities owned and heretofore operated by the city and other related assets, including but not limited to properties upon which such facilities are located, easements, rights-of-entry and access and certain equipment.

#### **8.30.040 - Definitions.**

"Credit" means a conditional reduction in the amount of a stormwater service charge to an individual property based on the provision and continuing presence of an effectively maintained and operational on-site stormwater system or facility or the provision of a service or activity by property owner, which system, facility, service or activity reduces the stormwater utility's cost of providing stormwater services and facilities. Credits for on-site stormwater systems shall be generally proportional to the affect that such systems have on the peak rate of runoff from the site.

"Customers of the stormwater management utility" includes all persons, properties and entities served by and/or benefiting from the utility's acquisition, management, maintenance, extension and

improvement of the public stormwater management systems and facilities and regulation of public and private stormwater systems, facilities and activities related thereto, and persons, properties and entities which will ultimately be served or benefited as a result of the stormwater management program.

"Detached dwelling unit" means developed land containing one (1) structure which is not attached to another dwelling and which contains one (1) or more bedrooms, with a bathroom and kitchen facilities, designed for occupancy by one (1) family. Detached dwelling units may include houses, manufactured homes and mobile homes located on one (1) 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, or the presence of a commercial use within the dwelling unit so long as such use does not result in additional impervious areas such as parking spaces, playgrounds or structures or additions to the building which are used as offices, storage facilities, meeting rooms, classrooms, houses of worship or similar non-residential uses. Detached dwelling unit shall not include developed land containing structures used primarily for non-residential purposes, manufactured homes and mobile homes located within manufactured home or mobile home parks where the land is owned by others than the owners of the manufactured homes or mobile homes or multiple dwelling unit residential properties.

"Developed land" means all real property altered from its natural state by grading, paving, compaction, construction of structures, impervious services or drainage works so that hydrologic response of the property is changed from that which would occur in the natural undeveloped condition.

"Duplexes and triplexes" means developed land containing two (2) (duplex) or three (3) (triplex) attached residential dwelling units located on one (1) or more parcels of land.

"Equivalent runoff unit (ERU)" is defined to serve as a reference point for comparing dissimilar properties and attaining an equitable distribution of the cost of services and facilities through a stormwater management service charge. The equivalent runoff unit in Stockbridge has been determined through engineering and analysis to include two (2) primary parameters with the following metrics: (1) One (1) acre of gross area, and (2) two thousand (2,000) square feet of impervious area. These units will be used to determine and compute the service charge for all properties within the city.

"Hydrologic response" of a property is the manner and means whereby stormwater collects, remains, infiltrates and is conveyed from a property. It is dependent on several factors including, but not limited to, the presence of impervious area; the size, shape, topographic, vegetative and geologic conditions of a property; antecedent moisture conditions; and groundwater conditions on a property.

"Impervious" means not allowing the passage of water through the surface on the ground or ground covering or a substantial reduction in the capacity for water to pass through the surface of the ground or ground covering as it would under natural conditions. The following types of surfaces will be considered "impervious" for purposes of the stormwater utility: the projected area of buildings; asphalt-, concrete-, brick- or stone-paved areas; improved vehicular drives and parking areas; compacted gravel and soil surfaces; fabric or plastic coverings; and other surfaces that prevent or impede the natural infiltration of stormwater runoff or that change the hydrologic response of the property that existed prior to development.

"Multiple dwelling unit residential properties" means developed land whereon four (4) or more attached residential dwelling units are located and shall include, but not be 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 (4) or more family groups commonly and normally reside or could reside. In the application of stormwater service charge rates, multiple dwelling unit properties shall be treated as other developed lands.

"Other developed land" means, but shall not be limited to, 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, 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.

"Service charges" means the periodic rate, fee or charge applicable to a parcel of land, which charge shall be reflective of the service provided by the city stormwater utility. Service charges are based on measurable parameters which influence the stormwater utility's cost of providing services and facilities, with the most important factor being the amount of impervious area on each parcel of land. The use of impervious area as a service charge rate parameter shall not preclude the use of other parameters, or the 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 (1) or more classes of similarly situated properties whose impact on the stormwater utility's cost of providing stormwater management services and facilities is relatively consistent. Stormwater service charges may also include special charges to the owners of particular properties for services or facilities uniquely related to stormwater management of that property, including but not limited to charges for development plan review, inspection of development projects and on-site stormwater control systems and enhanced level of stormwater services above those normally provided by the city.

"Stormwater management systems" includes facilities, operations and programs that address the issues of drainage management (flooding) and environmental quality (pollution, erosion and sedimentation) of receiving rivers, streams, creeks, lakes, ponds and reservoirs through improvements, maintenance, regulation and funding of plants, works, instrumentalities and properties used or useful in the collection, retention, detention and treatment of stormwater or surface water drainage.

"Undeveloped land" means land in its unaltered natural state or which has been notified to such minimal degree as to have a hydrologic response comparable to land in an unaltered natural state shall be deemed undeveloped. Undeveloped land shall have no pavement, asphalt or compacted gravel surfaces or structures which create an impervious surface that would prevent infiltration of stormwater or cause stormwater to collect, concentrate or flow in a manner materially different than that which would occur if the land was in an unaltered natural state.

#### **8.30.050 - Scope of responsibility for the city stormwater system.**

- A. The stormwater management utility shall be responsible for stormwater management throughout the corporate limits of the city government. The utility shall provide for the conservation, management, protection, control, use and enhancement of stormwater through planning, acquisition, construction, installation, management, operation, maintenance, regulation, extension and improvement of the public stormwater systems to collect, control, convey, store, detain, retain, recharge and treat stormwater and through regulation of stormwater management systems on private property. It shall be the long-term objective of the city to provide a comparable and consistent level of stormwater service to similarly situated properties throughout the service area.
- B. The city stormwater system consists of all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage ways, channels, ditches, swales, storm sewers, culverts, inlets, catch basins, pipes, head walls and other structures, natural or man-made, within the political boundaries of the city of Stockbridge which control and/or convey stormwater through which the city intentionally diverts

surface waters from its public streets and properties. The city owns or has legal access for purposes of operation, maintenance and improvements to those segments of this system which: (1) are located within public streets, rights-of-way and easements; (2) are subject to easements, rights-of-entry, rights-of-access, rights-of-use or other permanent provisions for adequate access for operation, maintenance and/or improvement of systems and facilities; or (3) are located on public lands to which the city has adequate access for operation, maintenance and/or improvement of systems and facilities.

- C. Operation and maintenance of stormwater systems and facilities which are located on private property or public property not owned by the city and for which there has been no public dedication of such systems and facilities for operation, maintenance and/or improvement of the systems and facilities shall be and remain the legal responsibility of the property owner, or its occupant, or the homeowner's association in the case of a development, except as that responsibility may be otherwise affected by the laws of the state of Georgia and/or the United States of America. Where no dedication has been made and a private individual, entity or homeowner's association becomes responsible for the maintenance of a facility or pond following the expiration of the developer's four (4) year maintenance bond, an easement in favor of the city shall be required. If, at any time, a responsible party fails to maintain a stormwater facility or pond in the manner contemplated by the city in Chapter 8.24, and specifically Section 8.24.140, then the city will act to maintain the facility or pond in a manner provided for under Chapter 8.24. The private party shall remain responsible for all costs incurred for that maintenance provided by the city. For the purpose of the city's conducting such maintenance activities all final subdivision plats that contemplate stormwater facilities or ponds shall provide for, at minimum, a thirty-foot (30') gravel easement from the existing public roadway to the detention facility or pond.
- D. It is the intent of the ordinance codified in this chapter to protect the public health, safety and general welfare of all properties and persons in general, but not to create any special duty or relationship with any individual person or to any specified property within or without the boundaries of the City of Stockbridge. The city expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the city, its officers, employees and agents arising out of any alleged failure or breach of duty or relationship as may now exist or hereafter be created. To the extent any permit, plan approval, inspection or similar act is required by the city as a condition precedent to any activity by or upon property not owned by the city, pursuant to the ordinance codified in this chapter or any other regulatory ordinance, regulation or rule of the city or under federal or state law, the issuance of such permit, plan approval or inspection shall not be deemed to constitute a warranty, express or implied, nor shall afford the basis for any action, including any action based on failure to permit or negligent issuance of a permit, seeking the imposition of money damages against the city, its officers, employees or agents.

**8.30.060 - Requirements for on-site stormwater systems; inspections and enforcement methods.**

- A. The appropriate and efficacious management of the stormwater management system by the city on behalf of all its citizens and in compliance with applicable state and federal law places necessary and appropriate obligations on private property owners as well. All property owners and developers of developed real property within the city shall provide, manage, maintain and operate on-site stormwater systems sufficient to collect, convey, detain and discharge stormwater in a safe manner consistent with all city development regulations and the laws of the state of Georgia and the United States of America following the expiration of any existing maintenance bond by a builder or developer. The city shall have the right, pursuant to the authority of the ordinance

codified in this chapter, for its designated officers and employees to enter upon private and public property owned by entities other than the city, upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to assure compliance, as well as to conduct maintenance that has not been properly conducted as contemplated by the city's code.

- B. Any failure to meet the obligations set forth in this chapter shall constitute a nuisance and be subject to an abatement action filed by the city in the municipal court. In the event a public nuisance is found by the court to exist, which the owner fails to properly abate within such reasonable time as allowed by the court, the city may enter upon the property and cause such work as is reasonably necessary to be performed pursuant to the guidelines set out in the city code.
- C. The property owners that are serviced by stormwater facilities and the titleholder to the property upon which the stormwater facilities are located shall be responsible for the continued maintenance and payment of all expenses incurred for the operation, maintenance and repair of facilities.

**8.30.070 - General funding policy.**

- A. It shall be the policy of the city that funding for the stormwater utility is equitably derived through methods that have demonstrable relationships to the varied demands and costs imposed on the stormwater systems and programs and/or the level of service provided as a result of the provision of stormwater services and facilities.
- B. Service charges for stormwater management shall be fair and reasonable and shall bear a substantial relationship to the cost of providing services and facilities. The cost of stormwater services and facilities may include administrative, operating, capital investment, debt service, engineering and planning and reserve expenses, and may also include related regulatory expenses associated with watershed management requirements. Properties shall be charged rentals, rates, charges, fees or licenses in proportion to their related cost of service impact.
- C. Service charge rates shall be designed to be consistent and coordinated with the use of other funding methods employed for stormwater management by the city, whether within or outside the stormwater utility, including but not limited to plan review and inspection fees, special fees for services, fees in lieu of regulatory requirements, impact fees, system development charges and special assessments.

**8.30.080 - Effective date of stormwater charges.**

Stormwater service charges shall accrue beginning August 1, 2004, and shall be billed periodically thereafter to customers, except as specific exemptions and credits may apply.

**8.30.090 - Stormwater management utility service charges.**

- A. There are hereby established stormwater management utility service charges that shall be billed to all properties in the Stockbridge service area, except as specific exemptions or credits may allow for in the ordinance codified in this chapter or shall allow in future ordinances or amendments to this chapter. The stormwater management utility service charges may, but are not required to, include a service rate charge applied to each property. The service rate charge, if applied, shall be related generally to the amount and quality of runoff discharged to the public stormwater systems and stormwater receiving waters and to the costs of services associated with stormwater management. The service charge may also include a base rate charge for certain costs of service common to all

stormwater management accounts, and/or special service charges to persons, entities or properties that require services and/or facilities not commonly needed by all persons, entities or properties.

- B. The service rate charge, if applied, shall be reflective of the cost of providing services and facilities to properly control storm-water runoff quantity and quality. The three (3) most important factors in the city's present cost of providing stormwater management services and facilities to individual properties are: (1) the size of each property; (2) the amount of impervious area on each property; and (3) the number of parcels in the service area.
- C. A base rate charge, if applied, shall be structured to recover those stormwater management costs of service that are not related to the size of individual properties or the amount of impervious area on individual properties, and may include, but are not limited to, the cost of billing and accounting for service charges to each account and other administrative and overhead expenses.
- D. Special service charges, if applied, shall be structured to recover the cost of providing to certain persons, entities and properties types or levels of stormwater management services that are not commonly required by all stormwater service charge ratepayers. Such services may include, but are not limited to, private development plan review and inspection, site inspections to verify the operational condition of on-site stormwater management systems, such as private detention/retention and conveyance facilities, monitoring and mitigative activities related to conditions on individual properties that impact water quality and actions to abate conditions on private properties that do not comply with adopted city standards and/or that interfere with proper stormwater management and have been determined to constitute a public nuisance.
- E. The professional engineering and management analysis conducted for the city determined that properties within the city service area classified as single-family residential property can be equitably and fairly charged based on a two-tier (2) grouping according to the number of ERU's and parcel area. This method greatly simplified the computation of charges and reduces significantly the costs associated with individually unique parcel measurements. Tier 1 properties in this class are all parcels up to ten thousand (10,000) square feet in size; Tier 2 properties are parcels greater than ten thousand (10,000) square feet in size. Tier 1 parcels are assessed one (1) ERU, and Tier 2 parcels are assessed two (2) ERU's. The mayor and city council hereby adopt these values as representative of the conditions of single-family residential property in Stockbridge. These values shall serve as the basis on which service rate charges will be calculated. Each single-family residential property shall be billed a stormwater service rate charge for the number of ERU's and the whole number of acres of parcel area. Tier 1 and Tier 2 parcels are assigned an acreage charge based on the actual acreage to the next whole integer.
- F. Properties classified as nonresidential shall be billed on the basis of the number of ERU's and acres calculated to exist. Each acre or fraction thereof and ERU or fraction thereof shall be charged a service rate charge at the rate per ERU of impervious area and each acre unit as defined below.
- G. The method of calculating the service rate charge for all properties shall be as follows:

$$\text{Parcel Fee} = (\text{IR}) \times (\text{ERU}' \text{ s}) + (\text{AR}) \times (\text{AU}) + (\text{AF})$$

IR is the impervious area rate as established by this chapter or by amendment to this chapter. It is applied to the number of ERU's rounded to the next whole number. An ERU is defined as two thousand (2,000) square feet of impervious area.

AR is the gross area rate as established by this chapter or by amendment to this chapter. It is applied to the number of acre units (AU's) in the parcel rounded to the next whole acre.

AF is the administrative cost factor established by this chapter or by amendment to this chapter. The AF is applied as a fixed uniform flat charge to each parcel.

- H. The annual IR per ERU for the service rate charge applicable to each property shall be as set forth via adoption of a fee schedule on an annual basis by the city unless modified to equitably account for special conditions on an individual property, adjusted for a particular property through the appeal process specified in this chapter, or changed hereafter by ordinance.
- I. The annual AR per AU for the service rate charge applicable to each property shall be as set forth via adoption of a fee schedule on an annual basis by the city unless modified to equitably account for special conditions on an individual property, adjusted for a particular property through the appeal process specified in this chapter, or changed hereafter by ordinance.
- J. The annual base rate charge AF per each billed account shall be as set forth via adoption of a fee schedule on an annual basis by the city unless changed hereafter by ordinance.

**8.30.100 - Exemptions and credits applicable to stormwater service charges.**

Except as provided in this section, no public or private property shall be exempt from stormwater utility service charges or receive a credit or offset against such service charges. No exception, credit, offset or other reduction in stormwater service charges shall be granted based on the age, tax or economic status, race or religion of the customer, or other condition unrelated to the stormwater utility's cost of providing stormwater services and facilities. A stormwater utility service charge credit technical manual will be prepared by the city's consulting engineers specifying the design and performance standards of on-site systems, facilities, activities and services which qualify application of a service charge credit, and how such credits shall be calculated. This manual will be separately approved by the mayor and council and, by reference, incorporated herein.

- A. Undeveloped land as defined in this chapter shall be exempt from stormwater service charges.
- B. Developed land other than individual detached dwelling units, including but not limited to 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, public streets, roads, alleys and byways, parks, recreation properties, 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 may receive a stormwater service charge credit. The stormwater service charge credit shall be determined based on the technical requirements and standards contained in the stormwater utility service charge credit technical manual. The stormwater service charge credit may be up to one hundred percent (100%) 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 reduce or mitigate the stormwater utility's cost of providing services and facilities.
- C. Groups of detached dwelling units represented by an incorporated homeowner's association providing on-site systems, facilities, services or activities which reduce or mitigate the stormwater utility's cost of providing services and facilities may receive a stormwater service charge credit. The stormwater service charge credit shall be determined based on the technical requirements and standards contained in the stormwater utility service charge credit technical manual. The stormwater service charge credit available to groups of detached

dwelling units may be up to one hundred percent (100%) of the service charge applicable to the individual properties, and shall be proportional to the extent that on-site systems, facilities, services and activities provided, operated and maintained by the homeowners association reduce or mitigate the stormwater utility's cost of providing services and facilities.

- D. Any credit allowed against the service charge is conditioned on continuing compliance with the city's design and performance standards as stated in the stormwater utility service charge credit technical manual and/or upon continuing the provision of the systems, facilities, services and activities provided, operated and maintained by the property owner or owners upon which the credit is based. A credit may be revoked by the city at any time for noncompliance.
- E. In addition to the foregoing credits based upon the design and performance of on-site systems, an educational credit shall be available to all public and private schools or school systems which agree to teach the WATER WISE program, an environmental science curriculum approved by the Georgia Department of Education, in grades one (1) through twelve (12). The educational credit may be up to fifty percent (50%) of the service charge applicable to a school property and shall be proportional to the extent the approved curriculum is taught. Educational credits may be taken in conjunction with any other credit available under this section. The superintendent of schools shall certify annually to the stormwater utility director, before August 1, the extent to which the curriculum was taught.

**8.30.110 - Stormwater service charge billing, delinquencies, collections.**

- A. Stormwater management utility service charges shall be billed and collected in the manner and at the interval deemed most efficient by the city and shall be payable in accordance with the rules and regulations of the city finance department as applied generally to all bills. A stormwater service charge bill may be sent through the United States mail or by an alternate means notifying the customer of the amount of the bill, the date the payment is due and the past due date. Failure to receive a bill is not justification for nonpayment. Regardless of the party to whom the bill is initially directed, the owner of each parcel of developed land, as shown from public land records of Henry County, shall be ultimately obligated to pay such fee. If a customer is under billed or if no bill is sent, the city may back bill for a period of up to one (1) year but shall not assess penalties for any delinquency. A one and one-half percent (1.5%) per month late charge shall be billed based on the unpaid balance of any stormwater management utility service charge that becomes delinquent.
- B. The stormwater service charge may be billed through any reasonable method as determined and published by mayor and council. Said methods from which the city may elect to bill a property owner include but are not limited to on a common statement with applicable ad valorem taxes generated through Henry County taxing authority, in conjunction with other utility services provided by the city, or any other method by which the city could bill property owners.
- C. Any stormwater management utility service charge or portion of a service charge not paid when due may be recovered in an action at law or equity by the city.
- D. In addition to any other remedies or penalties provided by the ordinance codified in this chapter or any other ordinance of the city, failure to pay any utility service charge when billed in conjunction with another utility bill may result in a discontinuance of any or all other utility services provided by the city or by other with whom contractual agreements provide for discontinuance of service for nonpayment. The owner of each property, building, premises, lot or house shall be obligated to pay such fee, which shall be enforceable by the city by action at law or equity.

- E. No lien shall be imposed for delinquent collections unless a judgment is first obtained from a court of competent jurisdiction.
- F. Suits for collection shall be commenced by the city in the county of the owner's residence; provided, however, if the owner is not a resident of this state, suit may be filed in the Superior or State Court of Henry County, Georgia. If a suit is instituted by the city for collection, the owner shall pay court costs, litigation expenses and reasonable attorney's fees incurred by the city.
- G. If suit is instituted for the collection of any fees due hereunder or for the enforcement of the provisions of this chapter, the owner shall pay the court costs, litigation expenses and reasonable attorney's fees associated therewith.

#### **8.30.120 - Appeals.**

Any customer who believes the provisions of this chapter have been applied in error may appeal in the following manner:

- A. An appeal must be filed in writing with the city manager. In the case of service charge appeals, the appeal shall include a survey prepared by a registered land surveyor or professional engineer containing information on the total property area, the impervious surface area and any other features or conditions which influence the hydrologic response of the property to rainfall events.
- B. Based on the information provided, a technical review shall be conducted by the city's engineer and a written determination will be issued within thirty (30) days stating whether an adjustment to the service charge is appropriate and, if so, the amount of such adjustment.
- C. In response to an appeal, the city manager or their designee may adjust the stormwater service charge applicable to a property in conformance with the general purpose and intent of this chapter.
- D. A decision of the city's engineer which is adverse to an appellant may be further appealed to the city manager within thirty (30) days of receipt of notice of the adverse decision. Notice of the appeal shall be served on the city manager by the appellant, stating the grounds for the appeal. The city manager shall issue a written decision on the appeal within thirty (30) days. All decisions of the city manager shall be served on the appellant personally or by registered or certified mail, sent to the billing address of the appellant.
- E. If the person or entity seeking adjustment or relief from the service charge desires, the decision of the city manager may be appealed in writing to the mayor and city council. Such appeals must be made within thirty (30) days of the decision of the city manager and include a written basis for the appeal. The decision of the mayor and city council shall be final.
- F. This appeal process shall not interfere with the rights of the person or entity to seek judicial relief in a court of competent jurisdiction but shall be exhausted before judicial relief is pursued. Any appeal to the Superior Court of Henry County must be filed within thirty (30) days of the decision of the mayor and city council.
- G. Notices of the appeal and decisions shall be served personally or delivered by registered or certified mail to the address of record.