CHAPTER 5 Stormwater Management Utility

Sec. 4-5-1 Definitions.

(a) Customers of the stormwater management utility (customers). 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 stormwater management programs, systems, and facilities and regulation of public and private stormwater systems, facilities, and activities related hereto, and persons, properties, and entities which will ultimately be served or benefited by the stormwater management utility.

(b) Detached single-family dwelling unit. Detached single-family dwelling unit shall mean 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 single-family 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 single-family 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 areas of impervious surfaces such as parking spaces, playgrounds, or structures or additions to the building which are used as offices, storage facilities, meeting rooms, classrooms, houses or houses of worship, or similar non-residential uses. Detached single-family dwelling units shall not include developed land containing: structures used primarily for non-residential purposes, 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, except semi-detached single-family dwelling unit as defined herein.

(c) Developed land. Developed land shall mean property altered from its natural state by construction or installation of more than 200 contiguous square feet of impervious surfaces as defined in this chapter.

(d) Equivalent residential unit (ERU). For the purposes of this chapter, an equivalent residential...
unit shall mean 2,700 square feet of impervious surfaces. The equivalent residential unit shall be used as the basis for determining stormwater management fees for detached single-family dwelling unit properties, semi-detached single-family dwelling unit properties and other properties.

(e) Hydrologic response. The hydrologic response to a property is the manner 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 the size and overall intensity of development of each property, its impervious area, shape, topographic, vegetative, and geologic conditions, antecedent moisture conditions, and groundwater conditions. Extremely large properties naturally attenuate the discharge of stormwater during and following rainfall events.

(f) Impervious surfaces. Impervious surfaces are those areas which prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings, and other surfaces, which prevent or impede the natural infiltration of stormwater runoff which existed prior to development.

(g) Other developed lands. Other developed lands shall be all properties other than detached and semi-detached single-family dwelling unit properties as defined in this chapter.

(h) Stormwater management services. Stormwater management services are those activities and functions conducted by the city that together result in the collection, conveyance, and disposal of stormwater runoff, including support activities and functions necessary to accomplish the mission of the stormwater management program, and shall include but not be limited to the administration, engineering, operation and maintenance, regulation and enforcement, and improvement of systems and facilities, review of development proposals and of the installation and maintenance of stormwater systems on private properties, provision of stormwater quality management programs to eliminate or mitigate the impact of pollutants contained in stormwater runoff, and flood emergency response and recovery measures.

(i) Stormwater management systems and facilities. Stormwater management systems and facilities are those natural and man-made channels, swales, ditches, swamps, rivers, streams, creeks, branches, reservoirs, ponds, drainage ways, inlets, catch basins, pipe head walls, storm sewers, lakes and other physical works, properties, and improvements which transfer, control, convey or otherwise influence the movement of stormwater runoff.

(j) Stormwater management fees. Stormwater management fees shall mean the periodic service charge imposed pursuant to this chapter by the city for the purpose of funding costs related to stormwater management services and stormwater management systems and facilities. The use of the area of impervious surface on each property as a stormwater management fee rate parameter shall not preclude the use of other parameters, or of grouping of properties having similar characteristics into classes or categories, grouping of properties having similar characteristics through the use of ranges or rounding up or down to the nearest whole number using conventional rounding methods with a minimum of one (1.0) ERU, or the use of flat-rate charges for one (1) or more classes of similarly-situated properties whose impact on city’s cost of providing stormwater management services and stormwater management systems and facilities is relatively consistent. Stormwater management fees may also include special charges to individual properties or persons for service, systems, 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 and beyond the levels normally provided by the city.

(k) Semi-detached single-family dwelling unit. A one (1) family dwelling attached to another one (1) family dwelling by a common vertical wall, with each dwelling located on a separate lot with frontage on a public street. Each individual unit must be independently owned. Each unit must
contain one (1) or more bedrooms, with bathroom and kitchen facilities, designed for occupancy by one (1) family. (Ord. No. 2004-06-28(D), 6/28/04; Ord. No. 2006-09-25(F), 9/25/06)

Sec. 4-5-2 Establishment of a stormwater management utility; administration; duties and powers.

(a) City council hereby establishes a stormwater management utility (utility) to operate as part of city government with the purpose and functions as herein set forth. The city administrator shall establish a stormwater enterprise fund in the city budget and implement a system of accounting procedures and controls for the purpose of protecting and dedicating all revenues applicable to the stormwater enterprise fund to their intended use toward meeting the goals of the stormwater management program.

(b) The city administrator, or his designee as approved by city council, shall be responsible for administering the duties, functions and programs of the utility as approved by city council.

(c) The duties and powers of the utility are as set forth below:

1. Stormwater management planning;
2. Administration of the City of Conway stormwater management and sediment and erosion control ordinance, when adopted;
3. Regular inspection of public and private stormwater management improvement and facilities;
4. Plan, design and construct stormwater capital improvements as approved by council;
5. Operate and maintain the stormwater management system and facilities owned by the city; and those systems and facilities to which the city has legal access;
6. Acquire fee simple properties; rights-of-way, and easements;
7. Acquire equipment;
8. Water quality management measures, including monitoring; and
9. Any and all duties delegated or granted to it as a local government-implementing agency under the laws and regulations of the State of South Carolina and the ordinances of the City of Conway. (Ord. No. 2004-06-28(D), 6/28/04; Ord. No. 2006-09-25(F), 9/25/06)

Sec. 4-5-3 Boundaries and jurisdiction.

The boundaries and jurisdictions of the stormwater management utility shall extend to the corporate limits of the City of Conway, as they may exist from time to time. (Ord. No. 2004-06-28(D), 6/28/04; Ord. No. 2006-09-25(F), 9/25/06)

Sec. 4-5-4 Stormwater management fee.

(a) The stormwater management fee shall be charged to all developed land as defined in this chapter and located within the boundaries and jurisdiction of the utility.
(b) City council shall establish a fee schedule under this section, which sets forth the amounts and classifications of fee to be implemented to recover the costs of maintaining and operating the stormwater system. Fees may be changed from time to time and shall be on file in the city clerk’s office. City council shall consider, among other items, the following criteria in establishing the stormwater management fees:

(1) The fee system shall be apportioned on a reasonable basis with due regard for the benefits conferred. City council recognizes that these benefits, while substantial, in many cases cannot be measured directly;

(2) The overall operation of the stormwater management utility shall be borne proportionally by all classifications of property owners in the city that all will enjoy direct and/or indirect benefits of an improved and maintained system;

(3) In establishing the fee, the following costs may be considered:

a. Stormwater management planning and preparation of comprehensive watershed master plans for stormwater management;

b. Regular inspections of public and private stormwater management facilities during construction and operation;

c. Maintenance and improvement of stormwater management facilities that have been accepted by the city for that purpose;

d. Plan review and inspection of sediment control and stormwater management plans, measures and practices;

e. Retrofitting designated watersheds to reduce existing flooding problems or to improve water quality;

f. Acquisition of interest in land, including easements;

g. General administration, enforcement, billing and collections;

h. Capital outlay, and principal and interest on debt obligations;

i. Water quantity and water quality management including monitoring and surveillance; and

j. Requirements to meet mandates of the federal government and State of South Carolina.

(c) The following stormwater management fee rates shall apply:

(1) The stormwater management fee rate per equivalent residential unit, as defined by this chapter, shall be established periodically by city council.

(2) Detached single-family dwelling units and semi-detached single-family dwelling units as defined by this chapter, shall be billed for one (1.0) equivalent residential units (ERU).

(3) All developed lands as defined in this chapter and not classified as detached single-family dwelling units or semi-detached single-family dwelling units, shall be billed for each ERU based on a declining block rate in accordance with the table below. The first 50 ERU’s will be charged at a rate of one (1) times the ERU rate per month. The next 50 ERU’s will be charged at a rate of nine tenths (0.9) times the ERU rate per month, and so on pursuant to the schedule below.

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<tr>
<th>Range of ERU’s</th>
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<td>251 and above</td>
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(Ord. No. 2004-06-28(D), 6/28/04; Ord. No. 2006-05-22(G), 5/22/06; Ord. No. 2006-09-25(F), 9/25/06)

### Sec. 4-5-5 Billing and payment of stormwater management fees.

The stormwater management fee shall be billed monthly to users by being included on a combined utility system bill. Fees for stormwater management utility shall be due and payable at the same time and in the same manner as fees for water and sewer services as provided in Title 4 Chapter 1 of the City of Conway code of ordinances. Payment received from a customer for the combined utility system bill shall first be applied to the fees and charges for the stormwater management fee, with the remaining sum of said payments applied to the other fees and charges as otherwise prescribed by law or code. Failure to pay said stormwater management fees shall result in penalties and other remedies provided by law. Failure to receive a bill is not justification for non-payment. If a customer is under billed or if no bill is sent for developed land, the City of Conway may back bill for a period of up to one (1) year, but shall not assess penalties for any delinquency during that back billed period. For real properties not having active utility accounts, the fee shall be billed to the owner or other persons listed on the real property tax records on a separate bill for the required fee. (Ord. No. 2004-06-28(D), 6/28/04; Ord. No. 2006-09-25(F), 9/25/06)

### Sec. 4-5-6 Use of funds, investment and reinvestment of funds and borrowing.

Funds generated for the utility from fees, bond issues, other borrowing, and other sources shall be utilized only for those purposes for which the utility has been established, including but not limited to: planning, acquisition or interests in land including easements; design and construction of facilities; maintenance of the stormwater system; billing and administration; and maintenance inspection, construction inspection, and other activities which are reasonably required. Such funds shall be invested and reinvested pursuant to the same procedures and practices established by the city for investment and reinvestment of funds. City council may use any form of borrowing authorized by law to fund capital acquisitions or expenditures for the utility. (Ord. No. 2004-06-28(D), 6/28/04; Ord. No. 2006-09-25(F), 9/25/06)

### Sec. 4-5-7 Appeals.

(a) Any stormwater management utility customer, real property owner or other person aggrieved by the amount of stormwater management fee charged with respect to property, or by any other matter arising out of operation of the utility, may appeal by filing a written explanation of the grounds of the appeal with the city administrator, or his designee, within 30 days of the date of notification of the fee. A decision shall be rendered in writing 20 days after receipt of the written appeal. Any person aggrieved by an adverse decision may appeal that decision by written request to the city council. Any person aggrieved by an adverse decision of the city council may
appeal that decision to the court of common pleas within 30 days of receipt of such decision.

(b) During the pendency of any of the appeal process set forth above, if timely pursued, no enforcement shall be attempted and the appeal shall act as a supersede as staying all enforcement proceedings as set forth in section 4-5-8. (Ord. No. 2004-06-28(D), 6/28/04; Ord. No. 2006-09-25(F), 9/25/06)

Sec. 4-5-8 Enforcement and penalties.

(a) The city administrator or his designee shall be the enforcement officer(s) for the provisions of this chapter.

(b) It is unlawful for any person to violate any provision of this chapter, and any such violation shall be punished as prescribed in section 1-3-48 of the City of Conway code of ordinances.

(c) In addition to any other penalties provided in this chapter, the city administrator may assess a civil penalty not to exceed $200 against any person violating any provision of this chapter. In setting the amount of the civil penalty, the city administrator shall consider the type, duration and severity of the violation and the responsiveness of the person against whom the penalty is assessed in remedying the violation. Each day a violation continues constitutes a separate violation that may be the subject of such a penalty. The city, with the assurance of the city attorney, shall make a written demand for payment of the civil penalty upon the person, including an explanation of the basis of the violation and penalty. If full payment of the penalty is not made within 30 days after such demand is mailed or delivered to the person, the city attorney may commence a civil action in the appropriate court to recover the penalty.

(d) In addition to any other penalties or remedies provided in this chapter, the city, upon the recommendation of the city attorney and approval of the city administrator, may institute a civil action in the appropriate court to obtain injunctive compliance with the provisions of this chapter or remedy or prevent the violation or threatened violation of any provision of this chapter. (Ord. No. 2004-06-28(D), 6/28/04; Ord. No. 2006-09-25(F), 9/25/06)

Sec. 4-5-9 Municipal liability.

Nothing in this chapter and no action or failure to act under this chapter shall or may be construed to:

(a) Impose any liability on the city, or its departments, agencies, officers, or employees for the recovery of damages; or

(b) Relieve any person engaged in a land disturbing activity of duties, obligations, responsibilities, or liabilities arising from or incident to operations associated with such activity or imposed by the provisions of this chapter or the laws and regulations pursuant to which it was adopted. (Ord. No. 2004-06-28(D), 6/28/04; Ord. No. 2006-09-25(F), 9/25/06)

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