ORDINANCE NO. 12-19

HENRY COUNTY BOARD OF COMMISSIONERS

ORDINANCE TO AMEND Article III. Stormwater Management, Section 3 - 5-499 through Section 3-5-511 OF THE HENRY COUNTY STORMWATER MANAGEMENT UTILITY

WHEREAS, Henry County Stormwater Management Utility has recently reviewed the existing ordinance in regards to working in the right of way; and,

WHEREAS, it is the intent of this ordinance to promote and enhance the working in Henry County right of way; and,

WHEREAS, this ordinance shall take effect from and after the date of adoption.

NOW, THEREFORE BE IT RESOLVED that the Henry County Board of Commissioners hereby amends Section 3-5-499 through Section 3-5-511 of the Henry County Code as follows:

ARTICLE III. - STORMWATER MANAGEMENT

Sec. 3-5-499. - Findings.
Sec. 3-5-500. - Establishment of a utility and enterprise fund.
Sec. 3-5-501. - Service recipients/beneficiaries.
Sec. 3-5-502. - Definitions of special terms.
Sec. 3-5-503. - Defining the service area, purposes, and powers of the utility.
Sec. 3-5-504. - Requirements for privately-owned stormwater management systems.
Sec. 3-5-505. - General funding policy.
Sec. 3-5-506. - Stormwater management utility service charges.
Sec. 3-5-507. - Billing and collection of services charges.
Sec. 3-5-508. - Exemptions or credits applicable to service charges.
Sec. 3-5-509. - Appeal of stormwater management utility service charges.
Sec. 3-5-510. - Severability.
Sec. 3-5-511. - Conflicts.

Sec. 3-5-499. - Findings.

The Board of Commissioners of Henry County, Georgia finds as follows:

(a) Henry County is authorized by the Georgia Constitution of 1983, including, without limitation, Article IX, Section II, Paragraphs I and III thereof and O.C.G.A. § 36-82-62 to provide stormwater management services, systems and facilities throughout the stormwater management utility service area as defined in this article.

(b) In promulgating the regulations contained in this article, Henry County is acting pursuant to authority granted by the Constitution and laws of the State of Georgia to provide for stormwater management services. A system for the collection, conveyance, storage,
treatment and disposal of stormwater which provides services to all properties within the stormwater service area.

(c) Henry County presently owns and operates stormwater management systems and facilities that have been developed over many years. The future usefulness of the existing stormwater management systems owned and operated by the county, and of additions and improvements thereto, rests on the ability of the county to effectively manage, protect, control, regulate, use, maintain, and construct stormwater management systems and facilities in concert with the management of other water resources in the county. The county must have adequate, stable, and dedicated funding for its stormwater management program operating, planning, maintenance, infrastructure development, and capital investment needs.

(d) Failure to effectively manage stormwater runoff from these systems and facilities may:
   a. Cause erosion of lands, threaten businesses and residences, and other facilities with water damage and may environmentally impair the rivers, streams and other bodies of water within, and downstream of, the County.
   b. Adversely affect the operations of the sanitary sewer system operated by Henry County thereby increasing the likelihood of infiltration and inflow into the sanitary sewer system.
   c. Contribute to the potential degradation of the quality of both surface water and groundwater resources.

(e) Henry County is required under Federal and State regulations [i.e. the Federal Clean Water Act, the county's National Pollutant Discharge Elimination System (hereinafter "NPDES") Phase II Stormwater Permit] to provide enhanced management of stormwater runoff quality to mitigate the impacts of pollutants which may be discharged from the public municipal separate storm sewer system (MS4) and stormwater conveyance system into State of Georgia or United States' waters. Compliance with the regulatory obligations of the county's NPDES Phase II Stormwater Permit, the Metropolitan North Georgia Water Planning District (MNGWPD), the National Flood Insurance Program (NFIP) and the other applicable regulatory programs will affect the cost of providing stormwater management services, systems and facilities above what is currently being spent for stormwater management program implementation, water quality management, drainage system maintenance, floodplain management, capital construction and other program activities.

(f) The professional engineering and financial analysis submitted to the county by ARCADIS properly assesses and defines the stormwater management problems, needs, goals, program priorities, and funding opportunities of the county.

(g) Given the problems, needs, goals, program priorities, and funding opportunities identified in the professional engineering and financing analysis, it is appropriate to authorize the formation of an organizational and accounting entity dedicated specifically to the management, maintenance, protection, control, regulation, use, and enhancement of stormwater management systems in Henry County, Georgia, in concert with other water resource management programs.

(h) Stormwater management is applicable and needed throughout unincorporated Henry County. While specific service and facility demands may differ from area to area at any given point in time, a stormwater management service area encompassing all lands and water bodies within unincorporated Henry County is consistent with the present and future needs of the community.
(i) The stormwater needs in Henry County include, but are not limited to, protecting the public health, safety, and welfare. The provision of stormwater management programs and facilities renders and/or results in both service and benefit to all properties, property owners, citizens, and residents of Henry County in a variety of ways as identified in the professional engineering and financial analysis. The service and benefit rendered or resulting from the provision of stormwater management systems and facilities may differ depending on many factors and considerations, including, but not limited to, location, demands, and impacts imposed on the stormwater management systems and programs, as well as risk exposure.

(j) The Henry County Board of Commissioners finds, concludes, and determines that a stormwater management utility provides the most effective and appropriate means of properly delivering and funding stormwater management services in Henry County in a fair and equitable manner.

(Ord. No. 09-06, § 2, 12-9-09)

Sec. 3-5-500. - Establishment of a utility and enterprise fund.

(a) There is hereby established a stormwater management utility under the operational control of the Henry County Board of Commissioners, which shall be responsible for stormwater management throughout the county's service area, which shall comprise the unincorporated area of the county. The Henry County Stormwater Management Utility shall provide for the management, protection, control, regulation, use, and enhancement of stormwater management systems and facilities in the service area.

(b) The county manager shall establish a stormwater enterprise fund in the county budget and accounting system 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 board of commissioners. Any revenues and receipts of the stormwater management utility shall be placed in the stormwater enterprise fund in trust and be expended solely for stormwater management related purposes and services. Stormwater management utility revenue shall only be used for operating expenses and/or capital investments of the stormwater management program. Other forms of revenue and/or financial resources, not accounted for in the stormwater management utility revenue, may be allocated as deemed appropriate by the Henry County Board of Commissioners, upon recommendation of the county manager, to provide supplemental funding to the county stormwater management program and for the provision of stormwater management services.

(c) The Henry County Board of Commissioners shall place responsibility with the county manager (or his/her designee) for the for the delivery of stormwater management program services as well as for the operation, maintenance and regulation of the existing stormwater management systems and facilities owned and heretofore operated by the county and other related assets, including, but not limited to, county-owned properties upon which such facilities are located, easements, rights-of-entry and access, and certain equipment.

(Ord. No. 09-06, § 2, 12-9-09)

Sec. 3-5-501. - Service recipients/beneficiaries.

The service recipients and beneficiaries of the stormwater management utility shall include all persons, properties, and entities served by or creating a demand and an associated cost for stormwater management services and/or benefiting directly or indirectly from the utility's acquisition, management,
maintenance, extension, or improvement of the public stormwater management systems and facilities, and the regulation of public and private stormwater management systems and facilities, and activities related thereto, and persons, properties, and entities that will ultimately be served or benefited as a result of the stormwater management program.

(Ord. No. 09-06, § 2, 12-9-09)

Sec. 3-5-502. - Definitions of special terms.

(a) **Stormwater management systems:** Stormwater management systems shall include 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.

(b) **Hydrologic response:** The 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.

(c) **Impervious:** Impervious means not allowing the passage of water through the surface of 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 this chapter: the vertical projected area of buildings; asphalt, concrete, brick or stone paved areas; improved vehicular drives and parking areas; compacted gravel 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.

(d) **Undeveloped land:** Land in an unaltered natural state or land that has been modified 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 that 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.

(e) **Developed land:** Developed land shall be all real property altered from a natural state by grading, paving, compaction, construction of structures, impervious surfaces, or drainage works so that the hydrologic response of the property is changed from that which would occur in the natural undeveloped condition.

(f) **Impervious unit (IU):** Given the direct and primary relationship between stormwater runoff and imperviousness, an impervious unit is defined to serve as a common reference point for comparing various properties and attaining an equitable distribution of the cost of services and facilities through a stormwater management service charge. The impervious unit in Henry County has been determined through engineering analyses to be represented by the average area of imperviousness of the developed single-family residential parcels of record in 2005 in Henry County. The unit has been determined to be four thousand seven hundred eighty (4,780) square feet of impervious area. The unit of four thousand seven hundred eighty (4,780) square feet of impervious area is hereinafter referred to as the impervious unit (IU) and is the metric
that shall be used to determine and compute the service charge for all properties within Henry County.

(g) **Credit:** Credit shall mean 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 management utility's cost of providing stormwater services and facilities. Credits for on-site stormwater management systems shall be generally proportional to the affect that such systems have on the stormwater runoff from the site.

(h) **Customers:** Customers of the stormwater management utility shall include 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 management 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.

(i) **Service charges:** Service charges shall mean the periodic rate, fee, or charge applicable to a parcel of land, which charge shall be reflective of the service provided by the Henry County Stormwater Management Utility. Service charges are based on measurable parameters which influence the stormwater management 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 management 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 county.

(Ord. No. 09-06, § 2, 12-9-09)

**Sec. 3-5-503. - Defining the service area, purposes, and powers of the utility.**

(a) The stormwater management utility shall be responsible for stormwater management throughout the unincorporated areas of Henry County. The stormwater management 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 primary objective of the county to provide a level of service that is comparable and consistent to similarly situated properties throughout the service area and the cost to provide those services shall be allocated proportionate to the services received and demands imposed by a parcel on the county stormwater management program.

(b) The county stormwater system consists of all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainageways, channels, ditches, swales, storm sewers, culverts, inlets,
catch basins, pipes, headwalls and other structures, natural or manmade, within the political
boundaries of the county that control and/or convey stormwater through which the county
directs, regulates or otherwise controls surface waters from its public streets and properties. The county owns or has legal access for purposes of operation, maintenance, and improvements to those segments of this system that:

(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 county has adequate access for operation, maintenance, and/or improvement of systems and facilities.

(c) Operation and maintenance of stormwater management systems and facilities that are located on private property or public property not owned by the county 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 shall remain the legal responsibility of the property owner, except as that responsibility may be assumed by the stormwater management utility through written agreement or otherwise affected by the laws of the State of Georgia and/or the United States.

(d) It is the intent of this article 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 outside the boundaries of Henry County. The county expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the county, 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 county as a condition precedent to any activity by or upon property not owned by the county, pursuant to this or any other regulatory ordinance, regulation or rule of the county 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 it 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 county, its officers, employees or agents.

(Ord. No. 09-06, § 2, 12-9-09)

Sec. 3-5-504. - Requirements for privately-owned stormwater management systems.

(a) The appropriate and efficacious management of the stormwater management system by the county on behalf of 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 Henry County shall provide, manage, maintain, and operate on-site stormwater management systems sufficient to collect, convey, detain, and discharge stormwater in a safe manner consistent with all county development regulations and state and federal law. Failure to meet this obligation shall constitute a nuisance and be subject to an abatement action filed by the county in a court of proper jurisdiction.
(b) 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 county may enter upon the property and cause such work as is reasonably necessary to be performed, with the actual cost thereof assessed against the owner in the same manner as a tax levied against the property. From the date of the filing of such action, the county shall have lien rights that may be perfected, after judgment, by filing a notice of lien on the general execution docket of the superior court of Henry County. The county shall have the right, pursuant to the authority of this article, for its designated officers and employees to enter upon private and public property owned by entities other than the county, upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to assure compliance.

(Ord. No. 09-06, § 2, 12-9-09)

Sec. 3-5-505. - General funding policy.

(a) It shall be the policy of the county that funding for the stormwater management utility is fairly and equitably derived through methods that have demonstrable relationships to the varied demands and costs imposed by developed parcels of land on the stormwater management 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, equitable and reasonable and the service charges 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 general 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 county, whether within or outside the stormwater management 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, where applicable.

(Ord. No. 09-06, § 2, 12-9-09)

Sec. 3-5-506. - Stormwater management utility service charges.

(a) There is hereby established stormwater management utility service charges, which shall be billed to all developed properties in the service area, except as specifically exempted by this article or as shall be allowed in future ordinances or amendments to this article. The stormwater management utility user fee charges shall be based primarily on the amount of impervious surface located on each developed property since impervious surface is the most appropriate and equitable means of allocating the cost of stormwater management services throughout the County. Stormwater management utility user fee charges may be designed with specific modifiers to further enhance customer equity, as well as customer understanding of the user fee charge rate structure, while at the same time minimizing the county's customer account management and maintenance efforts.

(b) All developed properties within the service area shall receive a stormwater user fee charge bill
because each parcel receives stormwater management services from the County at varying service levels from which they derive some degree of benefit even through the benefit may be indirect and immeasurable. 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 from the developed parcel to the downstream drainage conveyance systems and/or receiving waters as well as to the cost of providing stormwater management services to that parcel. 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 unique for that parcel of land and are not commonly needed by all persons, entities, or properties.

(c) The "service rate charge," if applied, shall be reflective of the cost of providing services and facilities to manage and control stormwater runoff quantity and quality from developed parcels. The three (3) most important factors in the county'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 because the amount of impervious surface on each improved property is the most important factor influencing stormwater runoff characteristics; and
3. The number of parcels in the service area.

(d) A "base rate charge," if applied, shall be structured to recover 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.

(e) "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 county standards and/or that interfere with proper stormwater management and have been determined to constitute a public nuisance.

(f) The professional engineering and management analysis conducted for the county determined that properties within the service area that are classified as single-family residential property can be equitably and fairly charged based on the average amount of impervious area for all properties within this class. One (1.0) Impervious Unit (IU) has been established as four thousand seven hundred eighty (4,780) square feet of impervious area. This method greatly simplifies the computation of charges and eliminates the significant costs associated with individual parcel measurements while at the same maintaining equity. The Henry County Board of Commissioners hereby adopts one (1.0) IU as representative of the conditions of a typical single-family residential property in the Henry County service area.
(g) Properties classified as non-single-family residential shall be billed on the basis of the number of IUs and acres calculated or measured to exist. Each acre or fraction thereof and IU or fraction thereof shall be charged a service rate charge at the rate per IU of impervious area and each acre unit as defined below.

(h) The method of calculating the service rate charge for all properties shall be as follows:

\[ \text{Fee} = (\text{IR}) \times (\text{IUs}) + (\text{AR}) \times (\text{AU}) + (\text{AF}) \]

IR is the impervious unit rate as established by this article or by amendment to this article. It is applied to the number of IUs rounded to the next whole number. One (1.0) IU is defined as four thousand seven hundred eighty (4,780) square feet of impervious area.

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

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

(i) The annual IR per IU for the service rate charge applicable to each property shall be thirty-nine dollars eighty-three cents ($39.83) unless modified to equitably account for special conditions on an individual property, adjusted for a particular property through the appeal process specified in this article, or changed hereafter by ordinance.

(j) The annual AR per AU for the service rate charge applicable to each property shall be zero dollars ($0.00) unless modified to equitably account for special conditions on an individual property, adjusted for a particular property through the appeal process specified in this article, or changed hereafter by ordinance.

(k) The annual base rate charge AF per each account shall be zero dollars ($0.00) unless changed hereafter by ordinance.

(l) All developed parcels meet the threshold criteria for billing. The minimum annual charge for any developed parcel shall be at least equivalent to the charges for a single-family residential parcel.

(m) Undeveloped parcels shall be considered to not have any impervious area.

(Ord. No. 09-06, § 2, 12-9-09)

Sec. 3-5-507. - Billing and collection of services charges.

(a) Stormwater management utility service charges shall be billed and collected in the manner and at the interval deemed most efficient by the county, and shall be payable in accordance with the rules and regulations of the State of Georgia and the Henry County Finance Department as applied generally to all bills. A stormwater service charge bill may be sent through U.S. mail or by an alternate means notifying the customer of the amount of the bill, the date the payment is due, and the date past due. 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 shall ultimately be obligated to pay such fee. If a customer is underbilled or if no bill is sent, the county 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 (1.5) percent per month late charge shall be billed based on the unpaid balance of any stormwater management utility service charge that becomes delinquent.
(b) Any stormwater management utility service charge or portion of a service charge not paid when due may be recovered in an action at law by the county. Unpaid stormwater management utility service charges shall be collected in any manner permissible by Georgia law, including but not limited to: utilizing the services of a collection agency; by filing suit to collect on an unpaid account; or by using all methods allowed by Georgia law to collect on any judgment obtained, including enforcement of any lien resulting from any such judgment. The county shall assess all costs of collection, including attorneys' fees and court costs, against the property owner.

(c) In addition to any other remedies or penalties provided by this or any other ordinance of Henry County, 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 county or by others with which contractual agreements provide for discontinuance of service for nonpayment.

(Ord. No. 09-06, § 2, 12-9-09)

Sec. 3-5-508. - Exemptions or credits applicable to service charges.

(a) Except as provided in this section or by amendment to this article, no public or private property shall be exempt from stormwater management utility service charges or receive a credit or offset against such service charges. No exemption or reduction in the stormwater management utility service charges shall be granted based on the age, tax or economic status, race, or religion of the property owner, or other condition unrelated to the cost of providing stormwater management services and facilities. The following exemptions shall be allowed:

(1) Lands lying within the cities of Stockbridge, McDonough, Hampton, and Locust Grove shall be exempt from service charges unless the cities adopt an interlocal agreement for stormwater management services with Henry County.

(2) Parcels which meet the definition of undeveloped property shall be exempt from stormwater user fee charges.

(3) Linear railroad rights-of-way (i.e. tracks, rails, roadbed) outside of the defined yard limits shall be exempt from stormwater user fee charges. This exemption is in recognition of routine drainage system maintenance and capital construction activities undertaken by the rail road company associated with rights-of-way and drainage conveyance systems. However, railroad stations, rail yards, maintenance buildings, and/or other improved property used for railroad operations shall not be exempt from stormwater user fee charges.

(4) Henry County roads and rights-of-way shall be exempt from stormwater user fee charges and the stormwater management utility shall not charge the county a user fee charge for the county's impervious surface area resulting from the county's impervious surfaces which are owned and/or maintained by the county within the public rights-of-way. This exemption is in consideration of the county allowing the stormwater management utility to utilize assets of the county general fund including existing roads, curbs, gutters, drainage ways and ditches, storm sewers, culverts, inlets, catch basins, pipes, head walls and other structures, natural and man-made within and owned by the county which controls and diverts surface water for the
purposes of collecting, diverting, transporting and controlling surface and storm waters. All other developed property owned by the county shall be subject to the imposition of stormwater user fee charges in accordance with this Ordinance.

(5) Georgia Department of Transportation (GDOT) roads and rights-of-way shall be exempt from stormwater user fee charges. This exemption is in recognition of routine drainage system maintenance and capital construction activities undertaken by GDOT in association with GDOT rights-of-way road and drainage conveyance systems. However, maintenance buildings and/or other developed property used for GDOT purposes shall not be exempt from stormwater user fee charges.

(b) The stormwater management utility shall grant credits or adjustments based on the technical and procedural criteria set forth in the Henry County Stormwater Utility Fee Credit Manual (Credit Manual), which is incorporated into this article by reference and made a part hereof.

(1) Customers may apply for credits and/or adjustments in accordance with the Credit Manual.

(2) A stormwater management utility service charge credit shall be determined based on the technical requirements, standards and criteria contained in the Credit Manual. The amount of credit, or reduction of the stormwater management utility service charge, shall be in accordance with the criteria contained in the Credit Manual.

(3) Any credit allowed against the stormwater management utility service charge is conditioned on continuing compliance with the county's design and performance standards as stated in the Credit Manual and upon continuing provision of the controls, systems, facilities, services, and activities provided, operated, and maintained by the customer. The stormwater management utility may revoke a credit at any time for noncompliance with applicable standards and criteria as established in the Credit Manual or this Ordinance.

(4) In order to obtain a credit, the customer must make application to the county on forms provided by the stormwater management utility for such purpose, and in accordance with the procedures outlined in the Credit Manual.

(5) 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 be in the format described in the Credit Manual. The customer's stormwater management utility account must be paid and current prior to review and approval of a stormwater management utility credit application by the county. Incomplete applications will not be accepted for consideration and processing.

(c) When an application for a credit is deemed complete by the stormwater management utility, the county shall have thirty (30) days from the date the complete application is received to approve the credit in whole, approve the credit in part, or deny the credit. The stormwater management utility's decision shall be in writing and will be mailed to the address provided on the adjustment request, and service shall be complete upon mailing. Credits applied for by the customer and approved in whole or in part, shall apply to all stormwater user fee charges in accordance with the terms defined in the Credit Manual.

(Ord. No. 09-06, § 2, 12-9-09)
Sec. 3-5-509. - Appeal of stormwater management utility service charges.

(a) Any person or entity seeking adjustment of relief from stormwater management utility service charges may appeal in the following manner: An appeal must be filed in writing with the stormwater management utility and the customer’s stormwater management utility service charge account must be paid and current prior to consideration of an appeal. It shall include a survey prepared by a registered land surveyor or engineer showing the total property area of the parcel and the impervious surface area of the property and other features or conditions that influence the hydrologic response of the property.

(b) Based on the information provided, a technical review shall be conducted by the director of the stormwater management utility 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. This determination may be appealed in writing to the county manager or designee stating and setting forth the basis of the appeal. The county manager or designee shall issue a written decision of the appeal within thirty (30) days.

(c) If the person or entity seeking adjustment or relief from the service charge desires, the decision of the county manager may be appealed in writing to the board of commissioners. Such appeals must be made within thirty (30) days of the decision of the county manager and include a written basis for the appeal. The decision of the board of commissioners shall be final.

(d) 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 court must be filed within thirty (30) days of the decision of the board of commissioners.

(e) Notices of the appeal and decisions shall be delivered personally or by registered or certified mail to the address of record.

(Ord. No. 09-06, § 2, 12-9-09)

Sec. 3-5-510. - Severability.

Should any part of this article be declared invalid by a court of a competent jurisdiction, the remaining portions hereof shall not be affected and shall remain in full force and effect.

(Ord. No. 09-06, § 2, 12-9-09)

Sec. 3-5-511. - Conflicts.

To the extent that any other ordinance of Henry County shall be in conflict with this article, the provisions of this article shall prevail.

(Ord. No. 09-06, § 2, 12-9-09)
NOW, THEREFORE BE IT FURTHER RESOLVED, that all ordinances and part of ordinances in conflict with the above are hereby repealed.

Be is so resolved this 20th day of November, 2012.

HENRY COUNTY BOARD OF COMMISSIONERS

[Signature]

Elizabeth "BJ" Mathis, Chairman

ATTEST:

[Signature]

Shay Mathis, County Clerk