

## ARTICLE VI. - STORMWATER UTILITIES

### Sec. 90-500. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*County* means Barrow County, Georgia, and (where applicable in context) its Board of Commissioners and employees.

*County stormwater management system* is defined in Section 90-503.

*County-owned stormwater management system* is defined in Section 90-503.

*Customers* means all persons, properties, and entities in the stormwater service area that are served by and/or benefiting from the stormwater utility's acquisition, management, maintenance, extension, and improvement of the county-owned stormwater management system and facilities, and inspection, maintenance and regulation of other public and private stormwater management systems in the county stormwater management system, facilities and activities related thereto, and persons, properties, and entities in the stormwater service area that will ultimately be served or benefited as a result of the county stormwater management system.

*Developed land* means any parcel that has more than 50 square feet of impervious surface located thereon.

*Fiscal year* means July 1 of a calendar year to June 30 of the next calendar year.

*Hard structures* include, but are not limited to, flumes, catch basins, drop inlets, outlet control structures, head walls, junction boxes, culverts, or curb and gutter used to convey stormwater.

*Impervious surface* means hardened surface areas that either prevent or limit the natural entry of water into the underlying soil, resulting in stormwater runoff. Rooftops, buildings, streets, parking lots, sidewalks, asphalt, concrete, other paving, driveways, decks, patios, and artificial turf include, without limitation, examples of impervious surfaces.

*Stormwater service area* means the unincorporated areas of Barrow County and any incorporated areas that have contractually assigned to Barrow County the responsibility of stormwater management within their boundaries.

*Soft structures* include, but are not limited to, wetlands, bioswales, natural detention areas, used to detain, convey and control stormwater.

*Stormwater management systems* means those systems, as further described herein, which address the issues of stormwater 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.

*Stormwater service fees* means the annual fees established under this Article and imposed on owners of parcels or pieces of developed land to fund the costs of stormwater management services provided by the stormwater utility and the stormwater utility's operation, maintenance, and improvement of the county stormwater management system.

### Sec. 90-501. - Findings.

- (a) Because Barrow County operates under the requirements of the NPDES Phase II Permit as well as federal and state statutory and regulatory mandates, including, but not limited to, the federal Clean Water Act, responsibility falls on the Board of Commissioners to provide function, personnel and means to comply with said requirements and mandates.
- (b) It is appropriate, in order to facilitate the county's compliance with applicable federal and state stormwater laws and regulations, to authorize the formation of an organizational and accounting entity, in the form of a utility to be named the Barrow County Stormwater Utility ("stormwater utility"), dedicated specifically to the management, maintenance, protection, control, regulation, use, and

enhancement of the county stormwater management system in conjunction with other water resource management programs.

- (c) The stormwater management systems located in the stormwater service area include hard structures and soft structures providing conveyance and detention of stormwater in prevention of flooding and assurance of water quality.
- (d) The future usefulness of existing stormwater management systems managed and/or owned by Barrow County rests on the ability to effectively manage, protect, control, regulate, use, and enhance such systems and facilities in the stormwater service area in concert with management of other water resources. In order to do so, the county must have adequate and stable funding for its stormwater utility operating and capital investment needs.
- (e) The stormwater utility's management and regulation of stormwater management systems will assist the county in protecting the public health, safety and welfare of the environment and will result in both service and benefit to individual parcels, parcel owners, citizens and residents of the county in a variety of ways.

Sec. 90-502. - Establishment of a stormwater utility and stormwater enterprise fund.

- (a) There is hereby established a stormwater utility within and under the supervision of the county's Department of Stormwater Management, which stormwater utility shall be responsible for providing stormwater management services, for inspecting and regulating stormwater management systems and related facilities, maintaining, repairing and constructing the county-owned stormwater management system, and for determining labor, material and administrative fees for these services.
- (b) The County Stormwater Enterprise Fund ("Stormwater Enterprise Fund") is hereby designated as a funding mechanism for the stormwater utility and shall operate as a funding mechanism for the stormwater services, inspection and regulation of the county stormwater management system, and maintenance, repair and construction of county-owned stormwater management system.
- (c) The Barrow County Finance Department shall maintain the Stormwater Enterprise Fund in the county 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 stormwater utility, including, but not limited to, rentals, rates, fees and licenses as may be established from time to time by the Board of Commissioners. 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 and expended exclusively for the purposes of the stormwater utility, including but not limited to capital project construction. No other funds of the county shall be deposited in the Stormwater Enterprise Fund or commingled with dedicated stormwater utility funds, except that other revenues, receipts, and resources not accounted for in the Stormwater Enterprise Fund, including grants, loans, and bond proceeds, may be combined with and applied to stormwater utility capital projects as deemed appropriate by the Board of Commissioners, upon recommendation of the stormwater manager.

Sec. 90-503. - Scope of responsibility for the county stormwater management system.

- (a) The county stormwater management system consists of all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage ways, channels, ditches, swales, storm sewers, culverts, inlets, catch basins, pipes, headwalls, and other structures, natural or manmade, that control or convey stormwater within the stormwater service area.
- (b) The county-owned stormwater management system consists of those segments of the county stormwater management system that are located within county property (including streets and rights-of-way), or in dedicated county-accepted drainage easements and stormwater facilities.
- (c) Except as provided in subsection 90-503(d), the stormwater utility shall have responsibility for providing stormwater services, inspecting and regulating the county stormwater management system, and constructing and maintaining the county-owned stormwater management system and other related assets, including related easements, rights-of-entry and access rights.

- (1) With respect to the county-owned stormwater management system, the stormwater utility will have responsibility to perform new construction, inventory, routine inspections, routine maintenance, emergency maintenance, corrective maintenance and retrofitting improvements.
- (2) With respect to elements of the county stormwater management system outside the county-owned stormwater management system, the stormwater utility may, as a stormwater service, where adequate legal access is available, perform inventory, routine inspections, routine maintenance, emergency maintenance, corrective maintenance and retrofitting improvements. The Department of Stormwater Management may adopt policies governing the provision of these services.

(d) The division of responsibility for maintenance of the county-owned stormwater management system in the county road right-of-way (and in drainage easements associated with the right-of-way) is as follows in the table below.

System	Stormwater Utility Responsibility	Roads and Bridges Department Responsibility
Culverts under Roadway (Non-Subdivision)	None	Full Responsibility
Culverts under Roadway (Subdivision)	Full Responsibility	None
Culverts not under Roadway	Full Responsibility	None
Bridges	None	Full Responsibility
Ditches	Drainage Issues	Non-Drainage Issues
Curb & Gutter	Drainage Issues	Non-Drainage Issues
Road Shoulder	None	Full Responsibility
Storm Structures	Full Responsibility	None

(e) In the case of any road sections that the county has agreed to maintain outside the stormwater service area, responsibility for maintaining stormwater facilities in the road right-of-way will be that of the Roads and Bridges Department except to the extent responsibility lies with the local jurisdiction providing stormwater services.

(f) It is the intent of this article to protect the public health, safety and general welfare of all properties and persons in the service area, 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 service area or the county.

Sec. 90-504. - Requirements for commercial on-site stormwater systems; enforcement methods and inspections.

All owners and developers of developed commercial land within the stormwater service area 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 federal, state, and county regulations. Any failure to meet this obligation shall constitute a nuisance and be subject to an abatement action filed by the county in any court of competent jurisdiction. In the event a public nuisance is found to

exist by the court, which nuisance 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 remedial work as is reasonably necessary to be performed, with the actual cost thereof assessed against the property owner. From the date of the filing of such action, the county shall have lien rights which may be perfected, after judgment, by filing a notice of lien on the general execution docket of the Superior Court of the county. The county shall have the right, pursuant to the authority of this article, for its designated officers and employees to enter upon private property, upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to assure compliance with this section.

**Sec. 90-505. - Determination and modification of stormwater service fees.**

Stormwater service fees shall be based upon impervious surface area and shall be determined and modified from time to time by resolution of the Board of Commissioners. In setting or modifying such rates, it shall be the objective of the Board of Commissioners to establish rates and fees that are fair and reasonable, which may include flat fee rates for certain classifications of properties, reflect the value of stormwater management services and facilities to those properties that benefit therefrom and which, together with any other sources of revenue that may be made available to the stormwater utility, will be sufficient to meet the cost of the stormwater utility's budgeted programs, services and facilities including, but not limited to, the payment of principal and interest on revenue bond obligations incurred for construction and improvements to the county-owned stormwater management systems. Future capital investments and necessary reserve accounts, including but not limited to an emergency reserve account, may be included in the calculation of the stormwater service fees.

**Sec. 90-506. - Effective date of stormwater service fees.**

An annual service charge is imposed upon each parcel of developed land in the stormwater service area as of July 1 each fiscal year, beginning October 1, 2008, to fund stormwater utility programs. This annual service charge shall be known as the "stormwater service fee." Stormwater service fees shall be maintained in the Stormwater Enterprise Fund under the Barrow County Board of Commissioners. Purchases by the stormwater utility shall be made through the Department of Stormwater Management for the sole purpose of performing the obligations of the stormwater utility under this ordinance and under applicable state and federal laws and regulations, including but not limited to the county's NPDES Phase II Permit and the conditions outlined therein.

Stormwater service fees supporting stormwater utility needs will be determined for each fiscal year and will be approved by resolution during the budgeting process by the Barrow County Board of Commissioners.

**Sec. 90-507. - Stormwater service fee billing, delinquencies, collections.**

- (a) A stormwater service fee bill shall be attached to and/or included in the annual tax bill generated by the Barrow County Tax Commissioner and issued through the U.S. Postal Service. The stormwater service fees are due as stated on said bill as well as past due late charges. 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 the county, shall be ultimately obligated to pay the stormwater service fee. If a customer is under-billed or if no bill is sent for developed land, the county may back-bill for a period of up to four years, but shall not assess penalties, other than the late charge described in subsection (b), for any delinquency. The inclusion of the stormwater services fee with the annual tax bill is intended for convenience only, such stormwater services fees being fees for utility services provided to customers by the stormwater utility and not a tax or regulatory fee.
- (b) A one percent late charge per month shall be billed based on the unpaid balance of any stormwater service fee that becomes delinquent.
- (c) Suits for collection of unpaid stormwater service fees shall be filed in a court of competent jurisdiction. No lien shall be imposed for delinquent collections unless a judgment is first obtained.

Sec. 90-508. - Requests for modification of the stormwater service fee.

Any property owner may request a review of their stormwater service fee by submitting a request in writing, along with any supporting information, to the stormwater manager within 30 days after the date the tax bill is mailed or issued to the property owner. Grounds for modification of the stormwater service fee include documentation and Barrow County personnel inspection verifying the impervious surface area on the parcel and other factors relevant to the fee calculation. A written response will be provided by the stormwater manager within 30 days of any request. All decisions of the stormwater manager may be appealed to the County Manager and with a copy of the appeal sent to the County Public Works Director. All decisions of the County Manager shall be the final decision of the county. Any decision of the County Manager may be reviewed upon application for writ of certiorari before the Superior Court of Barrow County, filed within 30 days of the date of mailing of the decision.

Sec. 90-509. – Exemptions and Credits Applicable to Service Charges.

- (a) The Barrow County Stormwater Utility Credit Manual, 2020 version, is hereby adopted and incorporated into this ordinance by reference. Copies of the Stormwater Utility Credit Manual shall be maintained by the Department of Stormwater Management and made available to the public upon request. The Stormwater Utility Credit Manual specifies the design and maintenance standards of stormwater detention systems, facilities, assets, services and activities that qualify for application of a credit. The Manual also specifies the procedure for applying for a credit. Properties that qualify for a credit under the Manual shall be eligible for a 40 percent reduction in the stormwater service fee.
- (b) Except as expressly provided in this section, no public or private property located in the stormwater service area shall be exempt from stormwater service fees or receive a credit or offset against such stormwater service fees. No exemption, credit, offset or other reduction in stormwater service fees shall be granted based on the tax status, economic status, race, religion, age or sex of the owner of the property being served, or based on any other condition unrelated to the provision of stormwater management services, systems and facilities.
- (c) Properties not located in the stormwater service area shall be exempt from stormwater service fees.
- (d) Properties not meeting the definition of developed land shall be exempt from stormwater service fees.
- (e) Railroad tracks and railroad rights-of-way shall be exempt from stormwater service fees. However, railroad stations, maintenance buildings or other developed land used for railroad purposes shall not be exempt from stormwater service fees.
- (f) Public and private roadways, taxiways and runways, not including driveways, shall be exempt from stormwater service fees.