

018-12

Public Works and Services

**Chapter 2, Article E
Stormwater Management Ordinance**

1 STATE OF GEORGIA
2 COUNTY OF FULTON

AN ORDINANCE

6 **TO AMEND THE CODE OF ORDINANCES OF THE CITY OF EAST POINT,**
7 **GEORGIA; TO AMEND PART 8, PUBLIC WORKS AND SERVICES, OF THE**
8 **CODE OF ORDINANCES; TO REPLACE CHAPTER 2, ARTICLE E,**
9 **STORMWATER, WITH A NEW ARTICLE E, STORMWATER MANAGEMENT;**
10 **TO ESTABLISH A STORMWATER MANAGEMENT UTILITY; TO PROVIDE**
11 **FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; TO REPEAL**
12 **CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.**

14 BE IT ORDAINED AND IT IS HEREBY ORDAINED BY MAYOR AND CITY
15 COUNCIL OF THE CITY OF EAST POINT, a political subdivision of the State of Georgia,
16 as follows:

17 Section 1. The Code of Ordinances, of the City of East Point, Georgia, is hereby
18 amended, by replacing Part 8, Chapter 2, Article E, Stormwater, in its entirety, with the
19 following new Article E to Chapter 2 to Part 8:

21 **ARTICLE E. STORMWATER MANAGEMENT**

23 **Division 1: Introduction**

- 24 § 8-2401 Findings.
- 25 § 8-2402 Definitions.
- 26 § 8-2403 Compatibility with Other Regulations.

28 **Division 2: Stormwater Management**

- 29 § 8-2410 Scope of Responsibility for Stormwater Management within the City of East
30 Point.
- 31 § 8-2411 Requirements for On-Site Stormwater Management Systems.
- 32 § 8-2412 Requirements for New Development and Redevelopment.

34 **Division 3: Stormwater Management System Operation and Maintenance**

- 35 § 8-2420 Operation and Maintenance of Stormwater Management Systems.
- 36 § 8-2421 Declaration of Public Nuisance With Regard to Privately Owned Stormwater
37 Conveyance Systems.
- 38 § 8-2422 Inspections.
- 39 § 8-2423 Violations, Enforcement and Penalties.
- 40 § 8-2424 Administrative Appeal and Judicial Review.

42 **Division 4: Stormwater Management and Community Assistance Programs**

- 43 § 8-2430 Storm Drain Repair/Extension Program.
- 44 § 8-2431 Stream Bank Mitigation Program.

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- 45 § 8-2432 Floodplain Management Program.
- 46 § 8-2433 Major Improvements.
- 47 § 8-2434 Creek Restoration and Channel Maintenance Program.
- 48 § 8-2435 Curb and Gutter Restoration Program.
- 49 § 8-2436 Vacuum Leaf Collection Program.
- 50 § 8-2437 Operation, Maintenance, and Rehabilitation Program.
- 51 § 8-2438 Stormwater Quality Program (NPDES Permit Compliance).

52

53 **Division 5: Stormwater Management Utility**

- 54 § 8-2450 Establishment of a Utility and Enterprise Fund.
- 55 § 8-2451 Funding Policy.
- 56 § 8-2452 Effective Date of Stormwater Charges.
- 57 § 8-2453 Stormwater Management Utility Service Charges.
- 58 § 8-2454 Exemptions and Credits Applicable to Stormwater Service Charges.
- 59 § 8-2455 Stormwater Service Charge Billing, Delinquencies, Collections.
- 60 § 8-2456 Appeals.
- 61 § 8-2457 General Provisions.

62

63 **DIVISION 1. INTRODUCTION**

64

65 **Sec. 8-2401. Findings.**

66

67 The City Council of the City of East Point, Georgia makes the following findings:

68

69 (A) The professional engineering and financing analysis, prepared by experts for the City,
70 properly assesses and defines the stormwater management problems, needs, goals, program
71 priorities and funding sources of the City.

72

73 (B) Stormwater management is applicable and needed throughout the corporate limits of
74 East Point. While specific service and facility demands may differ from area to area at any
75 given point in time, a stormwater management service area encompassing all lands and water
76 bodies within the corporate limits of East Point is consistent with the present and future
77 needs of the community.

78

79 (C) The stormwater needs in the City of East Point include, but are not limited to,
80 protecting the public health, safety, and welfare. Provision of stormwater management
81 programs and facilities renders and/or results in both service and benefit to all properties,
82 property owners, citizens, and residents of East Point in a variety of ways as identified in the
83 professional engineering and financial analyses. However, the service and benefit rendered
84 or resulting from provision of Stormwater Management Systems and facilities may differ
85 depending on many factors and considerations, including but not limited to location,
86 demands and impacts imposed on the stormwater systems and programs, and risk exposure.

87

88 (D) The City of East Point presently owns, operates, and provides regulatory control
89 regarding certain Stormwater Management Systems, which have been developed over many

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90 years and include features such as inlets, conduits, channels, swales, ditches, drainage
91 easements, and other natural waterways. The future usefulness of the existing stormwater
92 systems owned and/or operated and/or regulated by the City, and of additions and
93 improvements thereto, rests on the ability of the City to effectively manage, protect, control,
94 regulate, use, and enhance stormwater systems and facilities in East Point in concert with the
95 management of other water resources in the City. In order to do so, the City must have
96 adequate and stable funding for its stormwater management program operating and capital
97 investment needs.

98
99 (E) Given the problems, needs, goals, program priorities, and funding opportunities
100 identified in the professional engineering and financing analyses, it is appropriate to
101 authorize the formation of an organizational and accounting entity dedicated specifically to
102 the management, maintenance, protection, control, regulation, use, and enhancement of
103 stormwater systems in East Point in concert with other water resource management
104 programs.

105
106 (F) The City Council recognizes that lack of maintenance of a Stormwater Management
107 System creates adverse conditions to both private and public elements of the management
108 and conveyance system and to properties that are dependent upon such conveyances for
109 effective management of stormwater runoff.

110
111 (G) The City Council finds, concludes and determines that a Stormwater Management
112 Utility provides the most practical and appropriate means of properly funding stormwater
113 management services in the City of East Point and implementing all of the City's stormwater
114 management-related ordinances.

115
116 (H) An equitable approach to funding stormwater management services and facilities can
117 be provided by adopting a schedule of service charges upon properties that is related to the
118 burden of stormwater control service requirements and costs posed by properties throughout
119 the City. Such schedule of service charges can be complemented by other funding methods,
120 which address specific needs, including but not limited to, allocations of special purpose
121 local options sales taxes to stormwater drainage improvement projects. A service charge
122 credit is an appropriate means of adjusting service charges in recognition that private
123 stormwater systems and/or actions can effectively reduce or eliminate the burden of
124 stormwater quantity and quality control service requirements and costs that a property or
125 properties pose for the City. Impervious area is the most important factor influencing
126 stormwater service requirements and costs posed by properties throughout the City, and
127 therefore is an appropriate parameter for calculating stormwater service charges and
128 associated credits. In addition, the value to the stormwater management utility of certain
129 actions and practices performed by property owners and other stormwater management
130 utility customers may be recognized by credits.

131
132 **Sec. 8-2402. Definitions.**

133

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134 (A) **Bond** shall mean an evidence of indebtedness including, but not limited to, a bond, a
135 note, an obligation, a loan agreement, a financing lease, a financing agreement or other
136 similar instrument or agreement.

137
138 (B) **Bond Debt Service** shall mean payment of (1) principal, interest, premium, if any, or
139 purchase price of a bond duly authorized by the City Council; (2) amounts due to a credit
140 enhancement provider, trustee, paying agent or remarketing agent; (3) amounts necessary to
141 fund bond debt service reserves; or (4) any obligations lawfully issued or otherwise
142 contracted for by the City as may be provided in any resolution authorizing such obligations
143 or in any trust instrument relating to such obligations.

144
145 (C) **City of East Point Stormwater Management System** shall consist of all rivers,
146 streams, creeks, branches, lakes, reservoirs, ponds, drainage ways, channels, ditches, swales,
147 storm sewers, culverts, inlets, sidewalks, catch basins, pipes, head walls and other structures,
148 natural or man-made, within the political boundaries of the City of East Point which control
149 and/or convey stormwater in and through the City, but shall exclude such stormwater
150 management systems which are located on private property or public property not owned by
151 the City of East Point and for which there has been no public dedication to the City and for
152 which operation, maintenance, and/or improvement responsibilities have not been accepted
153 through action of the City Council in writing.

154
155 (D) **Credit** shall mean a conditional reduction in the amount of a stormwater service
156 charge to an individual property based on the provision and continuing presence of an
157 effectively maintained and operational on-site stormwater system or facility or the provision
158 of a service or activity by property owner, which system, facility, service, or activity reduces
159 the stormwater management utility's cost of providing stormwater services and facilities. The
160 basis of such credits, if granted, will be defined by a specific written agreement at the
161 determination of the Director, Department of Public Works in accordance with the City's
162 *Stormwater Management Credit and Adjustment Manual* approved by action of the Mayor
163 and City Council.

164
165 (E) **Customers of the Stormwater Management Utility** shall include all persons,
166 properties, and entities served by and/or benefiting from the utility's acquisition,
167 management, maintenance, extension, and improvement of the City of East Point Stormwater
168 Management System and regulation of public and private stormwater systems, facilities, and
169 activities related thereto, and persons, properties, and entities which will ultimately be served
170 or benefited as a result of the stormwater management program.

171
172 (F) **Detached Dwelling Unit** shall mean developed land containing one structure which is
173 not attached to another dwelling and which contains one or more bedrooms, with a bathroom
174 and kitchen facilities, designed for occupancy by one family. Detached dwelling units may
175 include houses, manufactured homes, and mobile homes located on one or more individual
176 lots or parcels of land. Developed land may be classified as a detached dwelling unit despite
177 the presence of incidental structures associated with residential uses such as garages,
178 carports, or small storage buildings, or the presence of a commercial use within the dwelling

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179 unit so long as such use does not result in additional impervious areas such as parking spaces,
180 playgrounds, or structures or additions to the building which are used as offices, storage
181 facilities, meeting rooms, classrooms, houses of worship, or similar non-residential uses.
182 Detached dwelling unit shall not include developed land containing: structures used primarily
183 for non-residential purposes, manufactured homes and mobile homes located within
184 manufactured home or mobile home parks where the land is owned by others than the owners
185 of the manufactured homes or mobile homes, or multiple dwelling unit residential properties.
186

187 (G) **Developed Land** shall mean all real property altered from its natural state by grading,
188 paving, compaction, construction of structures, impervious services, or drainage works so
189 that hydrologic response of the property is changed from that which would occur in the
190 natural undeveloped condition.
191

192 (H) **Director, Department of Public Works** is the individual at East Point that has direct
193 responsibility for the management of the City of East Point Stormwater Management System
194 and the Stormwater Management Utility. In the event that the Director is otherwise
195 committed, a designee appointed by Director will be responsible for activities as set forth in
196 this Article.
197

198 (I) **Duplexes and Triplexes** shall mean developed land containing two (duplex) or three
199 (triplex) attached residential dwelling units located on one or more parcels of land.
200

201 (J) **Single Family Unit (SFU)** is defined to serve as a reference point for comparing
202 dissimilar properties and attaining an equitable distribution of the cost of services and
203 facilities through a stormwater service fee. The SFU in East Point shall be determined
204 through engineering and analysis, subject to approval by the City Council. This unit shall be
205 expressed in terms of square feet of impervious area, and will be used to determine and
206 compute the service charge for all developed properties within East Point.
207

208 (K) **Hydrologic Response** of a property is the manner and means whereby stormwater
209 collects, remains, infiltrates, and is conveyed from a property. It is dependent on several
210 factors including, but not limited to, the presence of impervious area; the size, shape,
211 topographic, vegetative, and geologic conditions of a property; antecedent moisture
212 conditions; and groundwater conditions on a property.
213

214 (L) **Impervious** means not allowing the passage of water through the surface of the
215 ground or ground covering or a substantial reduction in the capacity for water to pass through
216 the surface of the ground or ground covering as it would under natural conditions. The
217 following types of surfaces will be considered "impervious" for purposes of the stormwater
218 management utility: the projected area of buildings; asphalt-, concrete-, brick-, or stone-
219 paved areas; improved vehicular drives and parking areas; compacted gravel and soil
220 surfaces; fabric or plastic coverings; and other surfaces that prevent or impede the natural
221 infiltration of stormwater into soil or that change the hydrologic response of the property that
222 existed prior to development.
223

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224 (M) **Multiple Dwelling Unit Residential Properties** shall mean developed land where on
225 four or more attached residential dwelling units are located and shall include, but not limited
226 to, apartment houses, condominiums, townhomes, attached single-family homes, and other
227 structures in which four or more family groups commonly and normally reside or could
228 reside.

229

230 (N) **Other Developed Land** shall mean, but shall not be limited to, commercial and office
231 buildings, public buildings and structures, industrial and manufacturing buildings, storage
232 buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation
233 properties, public and private schools and universities, research stations, hospitals and
234 convalescent centers, airports, churches and agricultural uses covered by impervious
235 surfaces, water reservoirs, and water and wastewater treatment plants.

236

237 (O) **Service Charges** shall mean the periodic rate, fee, or charge applicable to a parcel of
238 land, which charge shall be reflective of the service provided by the City of East Point
239 Stormwater Management Utility. Service charges are based on measurable parameters that
240 influence the stormwater management utility's cost of providing services and facilities, with
241 the most important factor being the amount of impervious area on each parcel of land. The
242 use of impervious area as a service charge rate parameter shall not preclude the use of other
243 parameters, or the grouping of properties having similar characteristics through the use of
244 ranges or rounding up or down to a consistent numerical interval, or the use of flat-rate
245 charges for one or more classes of similarly-situated properties whose impact on the
246 stormwater management utility's cost of providing stormwater management services and
247 facilities is relatively consistent. Stormwater service charges may also include special
248 charges to the owners of particular properties for services or facilities uniquely related to
249 stormwater management of that property, including but not limited to charges for
250 development plan review, inspection of development projects and on-site stormwater control
251 systems, and enhanced level of stormwater services above those normally provided by the
252 City.

253

254 (P) **Stormwater Management Systems** shall include the City of East Point Stormwater
255 Management System and private systems consisting of facilities, operations, and programs
256 that address the issues of drainage management (flooding) and environmental quality
257 (pollution, erosion and sedimentation) of stormwater runoff and receiving rivers, streams,
258 creeks, lakes, ponds, and reservoirs through improvements, maintenance, regulation and
259 funding of plants, works, instrumentalities and properties used or useful in the collection,
260 retention, detention, and treatment of stormwater or surface water drainage. This definition
261 is not intended to supersede more specific definitions that may be found in other stormwater
262 management ordinances in the City's Code of Ordinances, wherein the term's definition is
263 varied in accordance with its use in a particular context.

264

265 (Q) **Undeveloped Land** is land in its unaltered natural state or which has been modified to
266 such minimal degree as to have a hydrologic response comparable to land in an unaltered
267 natural state. Undeveloped land shall have no pavement, asphalt, or compacted gravel
268 surfaces or structures which create an impervious surface that would prevent infiltration of

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269 stormwater or cause stormwater to collect, concentrate, or flow in a manner materially
270 different than that which would occur if the land was in an unaltered natural state.

271
272 **Sec. 8-2403. Compatibility with Other Regulations.**

273
274 The requirements of this chapter are in addition to the requirements of any other
275 ordinance, rule, regulation, or other provision of law, and where any provision of this
276 subdivision imposes restrictions different from those imposed by any other ordinance, rule,
277 regulation, or other provision of law, whichever provision is more restrictive or imposes
278 higher or more protective standards for human health or the environment shall control.

279
280 **DIVISION 2. STORMWATER MANAGEMENT**

281
282 **Sec. 8-2410. Scope of Responsibility for Stormwater Management within the City of**
283 **East Point. [incorporates existing 8-2410]**

284
285 (A) Through its Stormwater Management Utility herein established, the City shall be
286 responsible for overall stormwater management throughout the corporate limits of the City of
287 East Point and specifically for the City of East Point Stormwater Management System as
288 herein described. The utility shall provide for the conservation, management, protection,
289 control, use, and enhancement of stormwater through planning, acquisition, construction,
290 installation, management, operation, maintenance, regulation, extension, and improvement of
291 the public stormwater systems to collect, control, convey, store, detain, retain, recharge, and
292 treat stormwater. With regard to private property or public property not owned or controlled
293 by the City, the utility shall provide for the regulation of Stormwater Management Systems
294 located thereon. It shall be the long-term objective of the City to provide a comparable and
295 consistent level of stormwater service to similarly situated properties throughout the service
296 area.

297
298 (B) The City owns or has legal access for purposes of operation, maintenance and
299 improvements to those Stormwater Management Systems or portions thereof which (1) are
300 located within public streets, rights-of-way, and easements; (2) are subject to easements,
301 rights-of-entry, rights-of-access, rights-of-use, or other permanent provisions for adequate
302 access for operation, maintenance, and/or improvement of systems and facilities; or (3) are
303 located on public lands to which the City has adequate access for operation, maintenance,
304 and/or improvement of systems and facilities.

305
306 (C) Operation and maintenance of Stormwater Management Systems which are located
307 on private property or public property not owned by the City of East Point and for which
308 there has been no public dedication to the City and for which operation, maintenance, and/or
309 improvement responsibilities have not been accepted through action of the City Council in
310 writing shall be and remain the legal responsibility of the property owner, or its occupant,
311 except as that responsibility may be otherwise affected by the laws of the State of Georgia
312 and/or the United States of America. Such privately owned stormwater systems and
313 conveyances must be operated and maintained in accordance with the requirements of this

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314 Article. The City may, in certain instances and in accordance with applicable criteria, partner
315 with private residents to address stormwater management issues that affect the City of East
316 Point Stormwater Management System.

317
318 (D) It is the intent of this Ordinance to protect the public health, safety and general
319 welfare of all properties and persons in general, but not to create any special duty or
320 relationship with any individual person or to any specified property within or without the
321 boundaries of the City of East Point. The City of East Point expressly reserves the right to
322 assert all available immunities and defenses in any action seeking to impose monetary
323 damages upon the City, its officers, employees and agents arising out of any alleged failure
324 or breach of duty or relationship as may now exist or hereafter be created. To the extent any
325 permit, plan approval, inspection or similar act is required by the City as a condition
326 precedent to any activity by or upon property not owned by the City, pursuant to this or any
327 other regulatory ordinance, regulation or rule of the City or under Federal or State law, the
328 issuance of such permit, plan approval, or inspection shall not be deemed to constitute a
329 warranty, express or implied, nor shall it afford the basis for any action, including any action
330 based on failure to permit or negligent issuance of a permit, seeking the imposition of money
331 damages against the City, its officers, employees or agents.

332
333 (E) The City's Director, Department of Public Works shall:

- 334
335 (1) Implement state and federal stormwater requirements in East Point, make
336 inspections, and perform other duties to assure compliance with such
337 requirements;
- 338 (2) Implement and ensure the coordination of the stormwater management
339 programs described in Division 4 of this ordinance;
- 340 (3) Map City-owned storm sewer segments and privately owned storm sewer
341 segments as appropriate;
- 342 (4) Recommend priorities for maintenance of the City of East Point Stormwater
343 Management System;
- 344 (5) Enforce the City's ban on illicit discharges and illegal connections which
345 includes a prohibition on throwing or placing foreign matter in or near water
346 or drainage system, and imposes a duty on property owners to keep ditches
347 free from obstructions;
- 348 (6) Enforce and implement the City's Floodplain Management and Flood
349 Damage Prevention Ordinance in Chapter 5 of Part 10, Planning and
350 Development, as well as any other City Code provisions prohibiting flooding
351 of another's property without the consent of the owner of such property;
- 352 (7) Implement Article D, Section 8-2315, which imposes a duty on the Public
353 Works Department to prevent street surface water from entering private
354 property;
- 355 (8) Implement Article D, Section 8-2317, which addresses changes to land
356 elevations that cause or result in the improper drainage of surface water;
- 357 (9) In coordination with other City departments, agencies, or other non-municipal
358 groups as may be appropriate, address nuisances that can impact stormwater;

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- 359 (10) Enforce the Erosion and Sediment Control Ordinance in Part 10 of Chapter
360 10, Planning and Development, including enforcement of buffer requirements;
361 (11) Conduct follow up inspections on post-construction projects as required by the
362 City's NPDES permit;
363 (12) Enforce the City's stormwater management ordinances, including Post-
364 Development Stormwater Management for New Development and
365 Redevelopment, Stream Buffer Protection, Conservation Subdivision and
366 Open Space, and Litter Control, as well as the Planning and Development
367 Subdivision regulations which prohibit approval of plans that allow disposal
368 of surface water from drains or sewers onto land of another person; and
369 (13) Perform other duties as assigned.
370

371 **Sec. 8-2411. Requirements for On-Site Stormwater Management Systems.**
372 **[incorporates existing 8-2405 in full]**
373

374 (A) The appropriate and effective management of the City of East Point Stormwater
375 Management System in compliance with applicable state and federal law places necessary
376 and appropriate obligations on private property owners as well. All property owners and
377 developers of developed real property within the City of East Point shall provide, manage,
378 maintain, and operate on-site stormwater systems, as appropriate, sufficient to collect,
379 convey, detain, or discharge stormwater in a safe manner consistent with all City of East
380 Point development and post-development regulations and the laws of the State of Georgia
381 and the United States of America.
382

383 (B) Stormwater pollutants must be reduced by owners or operators of facilities or other
384 developed land producing the discharge as necessary to: (a) prevent a nuisance; (b) prevent
385 interference with the legitimate water use of waters of the State of Georgia; and (c) prevent:
386

- 387 (1) Foam or floating, suspended, or deposited macroscopic particulate matter;
388 (2) Bottom deposits or aquatic growths;
389 (3) Alteration of temperature, turbidity, or apparent color beyond present natural
390 background levels;
391 (4) Visible, floating, suspended, or deposited oil, grease, or any products of
392 petroleum origin; or
393 (5) Toxic or deleterious substances present in concentrations or quantities which will
394 cause harmful effects on aquatic biota, wildlife, or waterfowl, or which render
395 any of these unfit for human consumption either at levels created in the receiving
396 waters or as a result of biological concentration.
397

398 (C) On-site Stormwater Management Systems shall be operated and maintained in
399 accordance with Division 3 of this ordinance.
400

401 (D) This section does not serve to eliminate or allow the elimination of pre-existing on-
402 site Stormwater Management Systems unless such elimination is approved in writing by the

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403 Director, Department of Public Works or his designee, based on a finding of no adverse
404 impact to adjoining or downstream properties.

405

406 **Sec. 8-2412. Requirements for New Development and Redevelopment.**

407

408 All new development and redevelopment must be undertaken in compliance with the
409 City of East Point Code of Ordinances for Post-Development Stormwater Management for
410 New Development and Redevelopment.

411

412 **DIVISION 3. STORMWATER MANAGEMENT SYSTEM OPERATION AND**
413 **MAINTENANCE**

414

415 **Sec. 8-2420. Operation and Maintenance of Stormwater Management Systems.**

416

417 The City of East Point shall operate and maintain the City of East Point Stormwater
418 Management System in accordance with its permit issued by the Georgia Environmental
419 Protection Division pursuant to the Clean Water Act. Stormwater Management Systems
420 located on private property or public property not owned by the City of East Point, and for
421 which the City has not accepted through action of the City Council in writing dedication of
422 such systems for operation, maintenance, and/or improvement, shall be operated and
423 maintained in accordance with the following standards:

424

425 (A) Catch basins, culverts, and structural stormwater control facilities should be inspected
426 on a routine basis. A representative of the local government may also inspect private
427 facilities regularly to ensure compliance by the owner of the maintenance requirements and
428 any maintenance agreement(s).

429

430 (B) Damage or deterioration threatening the structural integrity of any component,
431 conveyance or facility should be repaired as soon as possible.

432

433 (C) Catch basins should be cleaned if accumulated sediment, debris or other deposits are
434 equal to or greater than one-third the depth from the basin to the invert of the lowest pipe into
435 or out of the basin. If catch basins are found during annual inspections to significantly exceed
436 this standard, they should be cleaned every six (6) months.

437

438 (D) Storm drain (sewer) pipes should be cleaned if accumulated sediment, debris or other
439 deposits are blocking more than 20% of the pipe diameter.

440

441 (E) Drainage ditches should be cleaned if accumulated sediment, debris or other deposits
442 exceed 25% of the design depth or as necessary to provide positive drainage.

443

444 (F) Woody debris and other blockages should be removed from culverts and other critical
445 conveyance components.

446

447 (G) Stormwater structural control facilities should be maintained, at a minimum,
448 according to the guidelines and procedures detailed for each structural control as provided in

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449 Chapter 3 of the Georgia Stormwater Management Manual: Volume 2, or those guidelines
450 set forth in the most recent version of that chapter.

451

452 **Sec. 8-2421. Declaration of Public Nuisance With Regard to Privately Owned**
453 **Stormwater Conveyance Systems.**

454

455 Lack of maintenance of a Stormwater Management System located on private
456 property creates adverse conditions impacting other private and public properties which are
457 dependent upon these systems for stormwater runoff. The City recognizes that Stormwater
458 Management Systems on private property and private easements which are in neglected
459 condition, with excessive vegetation or blocked pipes, ditches, swales or other conveyances,
460 impede stormwater flow and cause adverse impacts to adjacent and upstream public and
461 private property. The City finds that private Stormwater Management Systems which are not
462 adequately maintained, are collapsing, or otherwise impede or block the flow of stormwater
463 constitute a public nuisance and a threat to public health, safety, and welfare. The City
464 further finds that prompt abatement of inadequate maintenance of such private Stormwater
465 Management Systems is in the public interest. Any blocked conveyance condition or other
466 condition that otherwise impedes or prevents a normal flow or design flow of stormwater
467 into, through, or out of a private Stormwater Management System and which may cause
468 flooding of other properties, public or private, is hereby declared to be a public nuisance and
469 is prohibited. Ditches and swales which are determined to contain excessive vegetation and
470 which may cause flooding of other properties, public or private, are hereby declared to be a
471 public nuisance and are prohibited. Failure of property owners and developers of real
472 property within the City to provide, manage, maintain, and operate on-site stormwater
473 systems sufficient to collect, convey, detain, discharge stormwater in a safe manner and in
474 accordance with this Article shall constitute a nuisance. A determination that such a
475 condition exists shall be made by the Director, Department of Public Works or his designee.

476

477 **Sec. 8-2422. Inspections. [incorporates existing 8-2408]**

478

479 (A) Right of Entry. The City shall have the right, pursuant to the authority of this
480 ordinance, for its designated officers and employees, bearing proper credentials and
481 identification, to enter upon private and public property owned by entities other than the City,
482 upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and
483 engineering tests, including sample collection using state-approved test methodologies,
484 thereon in order to assure compliance with this ordinance. Inspections may be made as part
485 of a neutral inspection scheme or if reasonable cause exists for such inspection(s).

486

487 (B) No Creation of Duty. No affirmative obligation shall exist, nor should one be
488 construed to be created, to address all drainage failures or other malfunctions of the City of
489 East Point Stormwater Management System, whether discovered through an inspection or
490 otherwise. The Mayor and City Council retain sole discretion to determine if the costs to the
491 City for such repair are justified by a corresponding benefit to the public.

492

493 **Sec. 8-2423. Violations, Enforcement and Penalties. [incorporates existing 8-2409]**

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(A) Violations. Any action or inaction which violates the provisions of this ordinance may be subject to the enforcement actions outlined in this Section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

(B) Notice of Violation. Whenever the Director, Department of Public Works finds that a violation of this ordinance has occurred, the Director, Department of Public Works may order compliance by written notice of violation.

- (1) The notice of violation shall contain:
 - (a) The name and address of the alleged violator;
 - (b) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
 - (c) A statement specifying the nature of the violation;
 - (d) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for either the completion of such remedial action or the provision of written permission to the City to enter the site and abate the nuisance at owner's expense; and
 - (e) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed.
- (2) Such notice may require without limitation:
 - (a) The performance of monitoring, analyses, and reporting;
 - (b) That violating discharges, practices, or operations shall cease and desist;
 - (c) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - (d) The removal of debris and/or rehabilitation of defective Stormwater Management Systems;
 - (e) Payment of costs to cover administrative and abatement costs; and
 - (f) The implementation of pollution prevention practices.
- (3) Notice, as required under this provision, shall not be required:
 - (a) When the Director, Department of Public Works determines that the public nuisance presents an imminent endangerment to persons or property; or
 - (b) When a notice of violation has been sent to the same property owner or owners for the same violation within the previous three months; or
 - (c) When notice by certified mail cannot be effected on the owners of record.

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538 (C) Penalties. In the event the remedial measures described in the notice of violation
539 have not been completed by the date set forth for such completion in the notice of violation,
540 any one or more of the following actions or penalties may be taken or assessed against the
541 person to whom the notice of violation was directed in accordance with this section. Before
542 taking any of the following actions or imposing any of the following penalties, the Director,
543 Department of Public Works shall notify the owner of the property and/or other alleged
544 violator in writing of its intended action, and shall provide a reasonable opportunity, of not
545 less than ten days (except that in the event the violation constitutes an immediate danger to
546 public health or public safety, 24 hours notice shall be sufficient) to cure such violation. In
547 the event the property owner or other alleged violator fails to cure such violation after such
548 notice and cure period, the Director, Department of Public Works may take any one or more
549 of the following actions or impose any one or more of the following penalties.
550

551 (1) Abatement by the City.

552 (a) If the Director, Department of Public Works concludes that abatement
553 is necessary or appropriate, then representatives of the Director,
554 Department of Public Works may enter upon the subject private
555 property and are authorized to take any and all measures necessary to
556 abate the violation and/or restore the property as well as those adjacent
557 to, upstream, or downstream from the site of noncompliance that have
558 been adversely impacted by such noncompliance. It shall be unlawful
559 for any person, owner, agent or person in possession of any premises
560 to refuse to allow the government agency or designated contractor to
561 enter upon the premises for the purposes set forth above.

562 (b) Within thirty (30) days after abatement of the violation, the owner of
563 the property shall be notified of the cost of abatement, including
564 administrative costs. If the amount due is not paid within thirty (30)
565 days after receipt of the notice, the charges shall become a special
566 assessment against the property and shall constitute a lien on the
567 property for the amount of the assessment.
568

569 (2) Civil Penalties. In the event the alleged violator fails to take the remedial
570 measures set forth in the notice of violation or otherwise fails to cure the violations
571 described therein within ten days (or such greater period as the Director, Department
572 of Public Works shall deem appropriate) (except that in the event the violation
573 constitutes an immediate danger to public health or public safety, 24 hours notice
574 shall be sufficient), the Director, Department of Public Works may impose a penalty
575 not to exceed \$1,000 (depending on the severity of the violation) for each day the
576 violation remains unremedied after receipt of the notice of violation.
577

578 (3) Criminal Penalties. For intentional and flagrant violations of this ordinance,
579 the Director, Department of Public Works may issue a citation to the alleged violator
580 requiring such person to appear in municipal court to answer charges for such
581 violation. Upon conviction, such person shall be punished by a fine not to exceed

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582 \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon
583 which any violation shall occur shall constitute a separate offense.
584

585 (D) Remedies Not Exclusive. The remedies listed in this ordinance are not exclusive of
586 any other remedies available under any applicable Federal, State or local law and the
587 Director, Department of Public Works may seek cumulative remedies.
588

589 (E) Attorneys' Fees and Other Costs. The Director, Department of Public Works may
590 recover attorneys' fees, court costs, and other expenses associated with enforcement of this
591 ordinance, including sampling and monitoring expenses.
592

593 **Sec. 8-2424. Administrative Appeal and Judicial Review.**
594

595 (A) Administrative Appeal. Any person aggrieved by a decision or determination of the
596 Director, Department of Public Works shall appeal in writing within thirty (30) days after
597 the issuance of such decision or determination to the Mayor and City Council or their
598 designee and shall be entitled to a hearing within forty-five (45) days of receipt of the written
599 appeal.
600

601 (B) Judicial Review. Any person aggrieved by a decision or order of the Director,
602 Department of Public Works, after exhausting all administrative remedies, shall have the
603 right to appeal de novo to the Superior Court of Fulton County.
604

605 **DIVISION 4. STORMWATER MANAGEMENT AND COMMUNITY ASSISTANCE**
606 **PROGRAMS**
607

608 The following stormwater management programs shall be funded through the
609 Stormwater Management Utility, as provided in Section 8-2450, and/or the City's general
610 funds, as directed by the City Council and Mayor of East Point in the development of the
611 City's annual budget. The City Council and the Mayor of East Point may authorize additional
612 stormwater management programs. However, the following programs shall receive priority
613 funding through revenue generated by the stormwater management utility. Any program
614 through which the City of East Point partners with a private property owner(s) to address a
615 Stormwater Management System condition on private property shall require that private
616 property owners execute a release which shall, among other things, make clear that the
617 private property owner shall be responsible for maintaining any such improvement.
618

619 **Sec. 8-2430. Storm Drain Repair/Extension Program.**
620

621 (A) Any citizen of the City of East Point alleging that his property is being damaged by
622 the collection, concentration, or flow of surface waters may file in writing with the Director,
623 Department of Public Works, a brief statement setting forth the name, address, and telephone
624 number of the property owner; the location of the property where the problem is alleged to
625 exist; and the nature and probable cause of the alleged damage to the property.
626

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627 (B) Upon receipt of the statement as set forth in paragraph (A), the Director, Department
628 of Public Works, in coordination with the City Attorney, shall cause an investigation to be
629 made to determine the amount and origin of surface waters contributing to the claimant's
630 alleged damage and also as to the effect of the collection and discharge of water from City
631 property, which may contribute to the claimant's alleged damage. The Director, Department
632 of Public Works, in coordination with the City Attorney, shall then determine, in their best
633 professional judgment, the percentage of damage, if any, which may have been caused by the
634 flow of surface waters from City property. If the Director, Department of Public Works
635 determines that the City may be contributing to the claimant's damage, he shall then estimate
636 the cost of material and expenses required to correct the claimant's drainage problem. The
637 findings of the Director, Department of Public Works shall then be forwarded to the City
638 Manager for resolution.

640 (C) In the event that the City Manager determines from all available facts, including the
641 report of the Director, Department of Public Works, the City Attorney, and the statement
642 filed by the claimant, that the collection and discharge of water from City property may be
643 contributing or may have contributed to the claimant's damage, the City Manager may
644 recommend to City Council for consideration and, upon approval by City Council, the City
645 may offer to participate with the property owner in the improvement of the drainage area
646 solely as an offer of compromise and settlement. The City's participation shall be at least
647 equal to that percentage of the cost of materials, contractual expenditures, and labor required
648 for which the collection and discharge of City water may be responsible, provided however
649 as a condition precedent to the payment of any funds pursuant to this section or to the
650 initiation of any improvement to the drainage area, the property owner shall execute, on
651 behalf of himself, his heirs, successors, assigns, representatives and insurance carriers, a
652 general release in the form prescribed by the City Attorney, releasing and discharging the
653 City for any damages, claims for damages, actions, or causes of actions, past and present, and
654 relieving the City of any future responsibility in the premises.

656 (D) In those situations where the City will take the lead in improving the drainage area,
657 the property owner shall execute all necessary easements, rights-of-entry or other documents
658 necessary to allow the City to enter said property for the purpose of storm drainage
659 improvement.

661 (E) As a condition precedent to storm drainage improvement or installation, the property
662 owner must place on file with the Finance Director the estimated cost for his pro rata share of
663 the improvement, as determined by the City Manager and approved by City Council, and
664 place in escrow his pro rata share, if any, of the cost of the improvement as determined by the
665 City Manager and approved by City Council and in conformance with an escrow agreement
666 acceptable to the City Attorney. Following the property owner's deposit of the estimated cost
667 and the execution of the necessary easement and access documents, the Director, Department
668 of Public Works shall initiate the storm drainage improvement by City personnel or through
669 contract duly approved by the City Council. The Director, Department of Public Works shall
670 keep an accurate accounting of material and contractual costs and upon completion of the
671 improvement and certification by the City Engineer that said project meets city

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672 specifications, a final accounting of the actual cost of the improvement shall be determined
673 and certified to the Finance Director by the Director, Department of Public Works for final
674 settlement.

675
676 (F) Notwithstanding subparts (A) through (E) above, when a resident can demonstrate
677 that certain stormwater infrastructure improvements will significantly benefit the City of East
678 Point Stormwater Management System, the City may partner with such resident to pursue
679 such improvements or pursue such improvement on its own based on approval by the City
680 Council.

681
682 **Sec. 8-2431. Stream Bank Mitigation Program.**

683
684 (A) The City may establish and operate the City of East Point Mitigation Bank.

685
686 (B) The Mitigation Bank is defined as sites where wetlands, streams, and/or other aquatic
687 resources are restored, enhanced, or in exceptional circumstances, preserved or created
688 expressly for the purpose of providing compensatory mitigation in advance of authorized
689 impacts to similar resources.

690
691 (C) The Regulatory Guidance Letter 02-02 (RGL 02-02): *Guidance on*
692 *Compensatory Mitigation Projects for Aquatic Resources Impacts Under the*
693 *Corps Regulatory Program Pursuant to section 404 of the Clean Water Act*
694 *and Section 10 of the Rivers and Harbors Act of 1899*, as amended from time
695 to time, will be the primary guidance used by the City in the establishment
696 and operation of the Mitigation Bank.

697
698 **Sec. 8-2432. Floodplain Management Program.**

699
700 The Director, Department of Public Works shall administer the City of East Point
701 Floodplain Management/Flood Damage Prevention Ordinance. The purpose of this
702 Ordinance is to protect, maintain and enhance the public health, safety, environment and
703 general welfare and to minimize public and private losses due to flood conditions in flood
704 hazard areas, as well as to protect the beneficial uses of floodplain areas for water quality
705 protection, stream bank and stream corridor protection, wetlands preservation and ecological
706 and environmental protection.

707
708 **Sec. 8-2433. Major Improvements.**

709
710 Based on recommendations of the Director, Department of Public Works, subject to
711 approval by the City Council, the City may initiate major improvement projects to upgrade
712 the City of East Point Stormwater Management System.

713
714 **Sec. 8-2434. Creek Restoration and Channel Maintenance Program.**

715

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716 The City may establish and operate a Creek Restoration and Channel Maintenance
717 Program to minimize impacts to the City's Stormwater Management System. In accordance
718 with funding allocated by the City Council and Mayor, the Director, Department of Public
719 Works shall administer the program. Allocated funding shall be used to fully implement the
720 program which includes, but is not limited to, operating and maintenance costs such as labor,
721 material, and equipment for City crew or contractors, public education about the program's
722 operation, and activities such as removing debris, trimming bank vegetation, bank
723 stabilization projects, mowing, and maintenance of pump stations. The purpose of the Creek
724 Restoration and Channel Maintenance Program is to serve as a catalyst for developing
725 sustainability in the City's creeks and channels through community-based planning and
726 empowerment; environmental education; economically sound ecological restoration; and
727 maintenance of channels, roadside ditches, and City-owned detention basins within the City's
728 corporate limits.

729
730 **Sec. 8-2435. Curb and Gutter Restoration Program.**

731
732 The City may establish and operate a Curb and Gutter Restoration Program to
733 minimize impacts to the City's Stormwater Management System. In accordance with
734 funding allocated by the City Council and Mayor, the Director, Department of Public Works
735 shall administer the Curb and Gutter Restoration Program. Allocated funding shall be used to
736 fully implement the program which includes, but is not limited to, operating and maintenance
737 costs such as labor, material, and equipment for City crew or contractors and costs associated
738 with providing the public with adequate information on the program's operation. The
739 purpose of the Curb and Gutter Restoration Program is to repair, maintain, and design the
740 City's sidewalks to minimize environmental impacts and prevent the introduction of
741 sediment, concrete/asphalt, pesticides, and organic matter to the City's stormwater drainage
742 system.

743
744 **Sec. 8-2436. Vacuum Leaf Collection Program.**

745
746 The City may establish and operate a Vacuum Leaf Collection Program to minimize
747 impacts to the City's Stormwater Management System. In accordance with funding allocated
748 by the City Council and Mayor, the Director, Department of Public Works shall administer
749 the Vacuum Leaf Collection Program. Allocated funding shall be used to fully implement the
750 program which includes, but is not limited to, operating and maintenance costs such as labor,
751 material, and equipment for City crew or contractors and costs associated with providing the
752 public with adequate information on the program's operation. The purpose of the Vacuum
753 Leaf Collection Program is to collect leaves and organic material from City residents and
754 property under the control of the City.

755
756 **Sec. 8-2437. Operation, Maintenance, and Rehabilitation Program.**

757
758 In accordance with funding allocated by the City Council and Mayor, the Director,
759 Department of Public Works may administer an Operation, Maintenance, and Rehabilitation
760 ("OM&R") Program that involves City crews or contractors performing OM&R on the City's

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761 Stormwater Management System in accordance with Section 8-2420. The purpose of the
762 OM&R Program is to minimize impacts to the City's Stormwater Management System by
763 performing storm sewer related tasks such as cleaning inlets, responding to street flooding,
764 and repairing storm sewer inlets and manhole frames/covers.
765

766

767 **Sec. 8-2438. Stormwater Quality Program (NPDES Permit Compliance).**

768

769 The Director of the Department of Public Works shall administer the Stormwater
770 Quality Program. The purpose of the Stormwater Quality Program is to implement the City's
771 National Pollutant Discharge Elimination System ("NPDES") permit compliance activities
772 which includes public education and outreach, public participation and involvement, illicit
773 discharge detection and elimination, construction site runoff control, post construction site
774 runoff control, and pollution prevention and good housekeeping.
775

776

776 **DIVISION 5. STORMWATER MANAGEMENT UTILITY**

777

778 **Sec. 8-2450. Establishment of a Utility and Enterprise Fund.**

779

780 (A) There is hereby established a Stormwater Management Utility in the City of East
781 Point to provide for stormwater management throughout the City's corporate limits, and
782 provide for the management, protection, control, regulation, use, and enhancement of
783 Stormwater Management Systems in accordance with the Scope of Responsibility for
784 Stormwater Management within the City of East Point set forth in Section 8-2410 of this
785 Ordinance. Such utility shall be under the direction of the Public Works Department.
786

787

787 (B) The City Manager and Finance Director shall establish a stormwater enterprise fund
788 in the City budget and accounting system, separate and apart from its General Fund, for the
789 purpose of dedicating and protecting all funding applicable to the purposes and
790 responsibilities of the utility, including but not limited to rentals, rates, charges, fees, and
791 licenses as may be established by the City Council. All revenues and receipts of the
792 stormwater management utility shall be deposited promptly upon receipt into the Stormwater
793 Enterprise Fund, to be held and invested in trust for the purposes dedicated, and allocated and
794 expended as provided in Section 8-2450(C). No other funds of the City shall be deposited in
795 the Stormwater Enterprise Fund or commingled with dedicated stormwater revenues, except
796 that other revenues, receipts, and resources not accounted for in the Stormwater Enterprise
797 Fund, including, but not limited to, grants, transfers of City funds, loans, and bond proceeds
798 may be combined with and applied to stormwater management capital projects as deemed
799 appropriate by the City Council, upon recommendation of the City Manager.
800

801

801 (C) Forty percent (40%) of the revenues and receipts of the Stormwater Management
802 Utility enterprise fund shall be used for bond debt service, to the extent the City has
803 outstanding debt associated with stormwater infrastructure or other stormwater management
804 programs. The remaining sixty percent (60%) of the enterprise fund shall be used to fund

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805 stormwater management programs as specified in Division 4 of this ordinance and cost
806 associated with administration of the Stormwater Utility itself.

807

808 (D) The City Council hereby transfers to the Public Works Department operational
809 control over the City of East Point Stormwater Management System and other related assets,
810 including but not limited to properties upon which Stormwater Management System
811 components are located, easements, rights-of-entry and access, and certain equipment.

812

813 (E) The City Council hereby authorizes the establishment of a Citizen Stormwater Utility
814 Advisory Group. Each Council member and the Mayor shall select one member of the
815 Advisory Group.

816

817 **Sec. 8-2451. Funding Policy.**

818

819 (A) It shall be the policy of the City that funding for the stormwater management utility is
820 equitably derived through methods that have demonstrable relationships to the varied
821 demands and costs imposed on the stormwater systems and programs and/or the level of
822 service provided as a result of the provision of stormwater services and facilities by the City.

823

824 (B) Service charges for stormwater management shall be fair and reasonable and shall
825 bear a substantial relationship to the cost of providing services and facilities. The cost of
826 stormwater management services and facilities may include, without limitation,
827 administrative, operating, capital investment, debt service, engineering and planning, and
828 reserve expenses, and may also include related regulatory expenses associated with
829 stormwater-related watershed management requirements. Properties shall be charged rentals,
830 rates, charges, fees, or licenses in proportion to their related cost of service impact.

831

832 (C) Service charge rates shall be designed to be consistent and coordinated with the use of
833 other funding methods employed for stormwater management by the City, whether within or
834 outside the stormwater management utility, including but not limited to plan review and
835 inspection fees, special fees for services, fees in-lieu of regulatory requirements, impact fees,
836 system development charges, and special assessments.

837

838 **Sec. 8-2452. Effective Date of Stormwater Charges.**

839

840 Stormwater service charges shall accrue beginning at such time deemed appropriate
841 by the City Council and Mayor, and shall be billed periodically thereafter to customers.

842

843 **Sec. 8-2453. Stormwater Management Utility Service Charges.**

844

845 (A) There are hereby established Stormwater Management Utility service charges that
846 shall be billed to all developed properties in the East Point service area, except as specific
847 exemptions or credits may allow for in this Ordinance or shall allow in future ordinances or
848 amendments to this Ordinance. The Stormwater Management Utility service charges may,
849 but are not required to, include a service rate charge applied to each such property.

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850

851 (B) The service rate charge, if applied, shall reflect the cost of providing services and
852 facilities to properly control stormwater runoff quantity and quality. The most important
853 factor in the City's present cost of providing stormwater management services and facilities
854 to individual properties is the amount of impervious area on each property.

855

856 (C) Special service charges, if applied, shall be structured to recover the cost of providing
857 to certain persons, entities, and properties types or levels of stormwater management services
858 that are not commonly provided to all stormwater service charge ratepayers. Such services
859 may include, but are not limited to, private development plan review and inspection, site
860 inspections to verify the operational condition of on-site Stormwater Management Systems,
861 such as private detention/retention and conveyance facilities, monitoring and mitigate
862 activities related to conditions on individual properties that impact water quality, and actions
863 to abate conditions on private properties that do not comply with adopted City standards
864 and/or that interfere with proper stormwater management and have been determined to
865 constitute a public nuisance.

866

867 (D) The professional engineering and management analysis conducted for the City
868 determined that properties within the City service area, regardless of classification, could be
869 equitably and fairly charged a service fee based on a Single Family Unit (SFU). An SFU is
870 3,200 square feet, which is the mean amount of impervious surface area for a typical
871 detached residential dwelling unit in the City of East Point.

872

873 (E) The following service fees are hereby established and imposed for developed parcels
874 of real property within the City service area:

875

876 (1) *Single family residential properties.* The service fee for each parcel having one
877 detached residential dwelling unit shall be based on a SFU rate of \$6.50 per month.
878 Depending on the relative size of the dwelling unit's impervious surface area,
879 adjustment factors shall be as follows:

880

881 (i) A small single family detached residence shall have an Adjustment Factor of
882 0.55. Statistical sampling shows that the impervious area of a small single
883 family detached residence in the City of East Point is less than 1769 Sq. ft.

884 (ii) The typical single family detached residence shall not have an Adjustment
885 Factor (the typical single family detached residence is treated as 1.0 SFU).
886 Statistical sampling shows that the impervious area of a typical single family
887 detached residence in the City of East Point ranges from 1,769 Sq. ft. to 4,735
888 Sq. ft.

889 (iii) A large single family residence shall have an adjustment factor of 1.48.
890 Statistical sampling shows that the impervious area of a large single family
891 detached residence is greater than 4,735 Sq. ft.

892

893 (2) *Other residential properties.* The monthly service fee for other residential properties
894 including apartments, condominiums, duplexes, triplexes, multifamily housing,

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895 mobile homes, and townhomes, shall be the SFU rate multiplied by an adjustment
896 factor which adjusts the SFU to equal the mean impervious surface area of a
897 statistical sampling typical of these residential dwelling units in the City of East
898 Point. That adjustment factor has been determined to be as follows:
899

- 900 (i) Triplexes, condominiums and town houses shall have an adjustment factor of
901 0.39.
902 (ii) Condominium lofts and residential multifamily units shall have an adjustment
903 factor of 0.33.
904 (iii) Duplexes shall have an adjustment factor of 0.51.
905 (iv) Residences located in mobile home parks shall have an adjustment factor of
906 0.46.
907

908 The method for calculating the service fee for residential properties identified in
909 subsections (1) and (2) above is as follows.
910

911 **Service Fee = SFU rate (\$6.50/month) X Adjustment Factor**
912

913 Where,
914

915 **SFU rate** is the Single Family Residential Unit Rate that is applicable to one
916 SFU. The SFU rate shall be set and may be modified from time to time by the
917 City Council.
918

919 **Adjustment factor** is a numerical value that adjusts the SFU to equal the
920 mean impervious surface area of a statistical sampling typical of other
921 Residential Properties in the City of East Point. The adjustment factor shall
922 be established by the City Council.
923

- 924 (3) *Nonresidential properties.* Nonresidential Properties shall mean, but shall not be
925 limited to, commercial and office buildings, industrial and manufacturing buildings,
926 storage buildings and storage areas covered with impervious surfaces, parking lots,
927 parks, recreation properties, public and private schools and universities, research
928 stations, hospitals and convalescent centers, airports, churches and agricultural uses
929 covered by impervious surfaces. The monthly service fee for nonresidential
930 properties, including, but not limited to, government properties, commercial and
931 office properties, industrial and manufacturing properties, institutional and non-profit
932 properties, and parking lots shall be based upon the amount of square feet of
933 impervious surface on each parcel, as determined by the Public Works Department
934 and approved by the City Council through aerial photography, surface feature
935 evaluation, or other processes, expressed in SFUs by rounding to the nearest tenth
936 SFU. The service fee for nonresidential properties shall be the SFU rate multiplied
937 by the number of SFUs calculated for a given parcel. The number of SFUs for a
938 given parcel shall be determined by dividing the parcel's impervious surface by 3,200
939 Sq. ft.

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943

The method for calculating the service fee for each parcel of nonresidential property is as follows:

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945
946

$$\text{Service Fee} = \frac{\text{Measured Impervious Surface (sq.ft.)}}{\text{SFU (3,200 sq.ft.)}} \times \text{SFU rate (\$6.50/month)}$$

947
948

Sec. 8-2454. Exemptions and Credits Applicable to Stormwater Service Charges.

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955

Except as provided in this Section, 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 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 any other condition unrelated to the stormwater management utility's cost of providing stormwater services and facilities. Undeveloped lands and public right-of-ways shall be exempt.

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(A) Developed land, including but not limited to multiple dwelling unit residential properties, individual detached dwelling units, groups of detached dwelling units represented by an incorporated homeowner's association, 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 by-ways, 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 Management Utility Service Charge Credit Policy* to be established by the Public Works Department and approved by City Council.

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(B) 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 Management Utility Service Charge Credit Policy* 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.

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Sec. 8-2455. Stormwater Service Charge Billing, Delinquencies, Collections.

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983

(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

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984 nonpayment. Regardless of the party to whom the bill is initially directed, the owner of each
985 parcel of developed land, as shown from public land records, shall be ultimately obligated to
986 pay such fee. If a customer is underbilled or if no bill is sent, the City may back bill for a
987 period of up to one year, but shall not assess penalties for any delinquency. A 1.5 percent per
988 month late charge shall be billed based on the unpaid balance of any Stormwater
989 Management Utility service charge that becomes delinquent.

990

991 (B) The stormwater service charge shall be billed on a property tax bill.

992

993 (C) Any Stormwater Management Utility service charge or portion of a service charge not
994 paid when due may be recovered in an action at law or equity by the City.

995

996 (D) In addition to any other remedies or penalties provided by this or any other Ordinance
997 of the City, failure to pay any utility service charge may result in a discontinuance of any or
998 all other utility services provided by the City or by others with whom contractual agreements
999 provide for discontinuance of service for nonpayment. The owner of each property, building,
1000 premises, lot, or house shall be obligated to pay such fee, which shall be enforceable by the
1001 City by action at law or equity.

1002

1003 **Sec. 8-2456. Appeals.**

1004

1005 Any customer who believes the provisions of Division 5 of this Article with respect to
1006 calculation of the service fee applicable to a particular property have been applied in error
1007 may appeal in the following manner:

1008

1009 (A) An appeal must be filed in writing with the City of East Point Public Works
1010 Department within 60 days of receipt of the stormwater service charge bill. The appeal shall
1011 include a narrative statement describing the basis for such appeal, a survey prepared by a
1012 registered land surveyor or professional engineer containing information on the total property
1013 area, the impervious surface area, and any other features or conditions which influence the
1014 hydrologic response of the property to rainfall events and any other information deemed
1015 relevant by the Appellant.

1016

1017 (B) Based on the information provided, a technical review shall be conducted by the
1018 Public Works Department of the Stormwater Management Utility and a written
1019 determination shall be issued within thirty (30) days of the date the appeal was received
1020 stating whether an adjustment to the service fee is appropriate and, if so, the amount of such
1021 adjustment.

1022

1023 (C) In response to an appeal, the Public Works Department may adjust the stormwater
1024 service fee applicable to a property in conformance with the general purpose and intent of
1025 this chapter.

1026

1027 (D) A decision of the Public Works Department that is adverse to an appellant may be
1028 further appealed to the City Manager within thirty (30) days of receipt of notice of the

Public Works and Services

**Chapter 2, Article E
Stormwater Management Ordinance**

1029 adverse decision. Notice of the appeal shall be served on the City Manager by the appellant,
1030 stating the grounds for the appeal. The City Manager shall issue a written decision on the
1031 appeal within thirty (30) days. All decisions of the City Manager shall be served on the
1032 appellant personally or by registered or certified mail, sent to the billing address of the
1033 appellant. The decision of the City Manager shall be final.

1034

1035 (E) This appeal process shall not interfere with the rights of the person or entity to seek
1036 judicial relief in a court of competent jurisdiction, but shall be exhausted before judicial relief
1037 is pursued. Any appeal to the Superior Court of Fulton County must be filed within thirty
1038 (30) days of the decision of the City Manager.

1039

1040 (F) Notices of the appeal and decisions shall be served personally or delivered by
1041 registered or certified mail to the address of record.

1042

1043 **Sec. 8-2457. General Provisions.**

1044

1045 (A) Codification. This ordinance shall be codified in a manner consistent with the laws of
1046 the State of Georgia.

1047

1048 (B) Severability.

1049

1050 (1) It is hereby declared to be the intention of the City Council that all sections,
1051 paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their
1052 enactment, believed by the City Council to be fully valid, enforceable and constitutional.

1052

1053 (2) It is hereby declared to be the intention of the City Council that, to the greatest
1054 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this
1055 Ordinance is severable from every other Section, paragraph, sentence, clause or phrase of this
1056 Ordinance. It is hereby further declared to be the intention of the City Council that, to the
1057 greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this
1058 Ordinance is mutually dependent upon any other Section, paragraph, sentence, clause or
1059 phrase of this Ordinance.

1060

1061 (3) In the event that any section, paragraph, sentence, clause or phrase of this
1062 Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or
1063 otherwise unenforceable by the valid judgment or decree of any court of competent
1064 jurisdiction, it is the express intent of the City Council that such invalidity,
1065 unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render
1066 invalid, unconstitutional or otherwise unenforceable any of the remaining sections,
1067 paragraphs, sentences, clauses, or phrases of the Ordinance and that, to the greatest extent
1068 allowed by law, all remaining Sections, paragraphs, sentences, clauses, or phrases of the
1069 Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

1070

1071 (C) Repeal of Conflicting Ordinances. Except as otherwise provided herein, all
1072 ordinances or parts of ordinances or rules or regulations in conflict herewith are hereby
1073 repealed.

Public Works and Services

**Chapter 2, Article E
Stormwater Management Ordinance**

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(D) Effective Date. This ordinance shall become effective immediately upon its adoption by the Mayor and Council of the City of East Point.

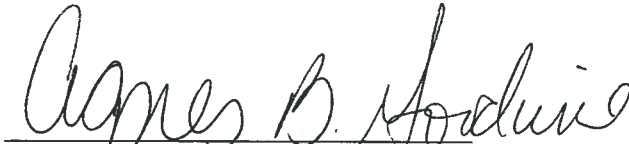
This 19 day of December, 2012.



Earnestine D. Pittman
Mayor



ATTEST:


CITY CLERK

APPROVED AS TO FORM


CITY ATTORNEY