



**Minutes**  
**Sumter County Council**  
**Regular Meeting**  
**June 22, 2010 - Held at 6:00 p.m.**  
**County Administration Building County Council Chambers**  
**13 E. Canal Street, Sumter, SC**

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**COUNCIL MEMBERS PRESENT:**

- Chairman Vivian Fleming McGhaney, Council District #5
- Vice Chairman Eugene Baten, Council District #7
- Councilman Artie Baker, Council District #2
- Councilman Larry Blanding, Council District #6
- Councilman Jimmy Byrd, Council District #3
- Councilman Charles T. Edens, Council District #4
- Councilwoman Naomi D. Sanders, Council District #1

**COUNCIL MEMBERS ABSENT: None**

**STAFF MEMBERS PRESENT:**

Mary W. Blanding, Clerk To Council  
Johnathan Bryan, County Attorney  
Lorraine Dennis, Deputy Administrator  
Keysa Rogers, Budget Analyst  
Alvin Chambers, Staff Appraiser

William T. Noonan, County Administrator  
Gary Mixon, Deputy Administrator  
Pamela Craven, Finance Director  
Peter Wilson, County Engineer

**MEDIA PRESENT:**

The Item Newspaper

**THE PUBLIC PRESENT:**

Approximately four members of the public were in attendance.

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**CALL TO ORDER:** Chairman Vivian Fleming McGhaney called Sumter County Council's meeting of June 22, 2010, to order.

**INVOCATION:** Chairman McGhaney gave the invocation.

**PLEDGE OF ALLEGIANCE:** All in attendance repeated the Pledge of Allegiance.

**APPROVAL OF AGENDA:** Chairwoman McGhaney stated that she would entertain a motion to approve the June 22, 2010, agenda with any additions, deletions, or as printed. The Clerk to Council asked Council members to delete the following items from the agenda:

**New Business:**

- (1) A Resolution Adopting The 2010-2011 Budget Of Sumter County School District #2
- (2) A Resolution Adopting The 2010-2011 Budget Of Sumter County School District #17.
- (5) Executive Session - Legal Briefing

**ACTION ON AGENDA:** MOTION was made by Vice Chairman Baten, seconded by Councilman Edens, and unanimously carried by Council to grant approval of the agenda as amended.

**APPROVAL OF MINUTES:** Chairwoman McGhaney stated that she would entertain a motion to approve the regular meeting and budget workshop minutes of Sumter County Council held on June 8, 2010, (Regular) and June 15, 2010 (Budget).

**ACTION:** MOTION was made by Councilman Edens, seconded by Councilman Blanding, and unanimously carried by Council to approve the regular meeting and budget workshop meeting minutes of June 8, 2010, and June 15, 2010, as presented.

## **LAND USE MATTERS AND REZONING REQUESTS**

### **Development/Rezoning Request - None**

*Street Name Change - None*

*Grant Awards - None*

## **OTHER PUBLIC HEARINGS:**

- (1) 10-711 - An Ordinance Establishing The Sumter County Stormwater Utility And The Services And Charges Relating Thereto. (Second Reading Was Held On June 15, 2010.)

Prior to opening the public hearing, the Chairwoman asked the County Attorney to give an overview of this proposed ordinance. County Attorney, Johnathan Bryan, stated that the most recent version of this ordinance gives a preamble to the ordinance which describes the requirements from Congress to implement the Clean Water Act. This act has filtered down from the Environmental Protection Agency (EPA), to South Carolina Department of health and Environmental Control, to the local governing body.

Mr. Bryan further stated that since Sumter County is required by federal and state statues to implement a Stormwater program; then it would be necessary for Sumter County to fund this non-funded mandate. Therefore, Sumter County Council has before them ordinance #10-711 – *An Ordinance Establishing The Sumter County Stormwater Utility And The Services And Charges Relating Thereto.*

There are several different types of properties that will fall under this funding guideline:

1. *Residential properties.* Residential properties, as defined by this ordinance, shall be billed for the stormwater service charges, as defined in this article, of ½ EDU, equivalent to **\$27.00 per year**. This represents a flat rate for all county residential properties relative to their average contribution to, and use of, roads which are served by the stormwater drainage system.
2. *Commercial properties and Non-Profit properties.* Commercial properties, as defined by this ordinance, and Non-Profit properties, as defined by this ordinance, shall be billed

for the stormwater service charges, as defined in this article, of 1½ EDU, equivalent to **\$81.00 per year**. Commercial properties will be evaluated during the initial 2-year implementation of the program to define final EDU values based on actual impervious cover, which may result in either an increase or decrease of the EDU value of the individual property. To initiate immediate assessment of a commercial property, see Section 14-120 of this ordinance.

3. *Industrial properties.* Industrial properties, as defined by this ordinance, shall be billed for the stormwater service charges, as defined in this article, of 3 EDU, equivalent to **\$162.00 per year**. Industrial properties will be evaluated during the initial 2-year implementation of the program to define final EDU values based on actual impervious cover, which may result in either an increase or decrease of the EDU value of the individual property. To initiate immediate assessment of an industrial property, see Section 14-120 of this ordinance.
4. *Agricultural use properties.* Poultry houses, swine farrowing and confinement operations and gin operations shall be billed for the stormwater service charges, as defined in this article, of 1½ EDU, equivalent to **\$81.00 per year**. Poultry houses, swine farrowing and confinement operations and gin operations will be evaluated during the initial 2-year implementation of the program to define final EDU values based on actual impervious cover, which may result in either an increase or decrease of the EDU value of the property. All other agriculture use properties as defined by this ordinance shall be exempt from a stormwater service charge. Processing, production and distribution facilities associated with agriculture activities are considered industrial facilities and shall be subject to the stormwater service charge as identified in (3).
5. *Developed land.* The minimum stormwater service charge for developed land, as defined in this article, shall be billed for ½ EDU, equivalent to **\$27.00 per year**, except where exempt from a stormwater service charge as defined in Section 14-118 (4) of this ordinance.

The County Engineer, Dr. Peter Wilson, was also present on behalf of this ordinance to answer any of Council's or the public's questions.

Several Council members wanted to know if a citizen has more than one residential lot, will they have to pay \$27 for each lot. This concern is also being asked by those who own rental property.

The attorney stated that the answer to the multiple property questions can be answered as shown in the ordinance on page #6 (excerpt is listed below).

*Residential properties* shall include but are not limited to the following categories which will be identified as the appropriate dwelling unit classifications to be utilized in applying the stormwater utility fee structure to the designations contained within Sumter County. Properties, as identified below, shall be considered individual residential units unless said parcel contains multi-family residences of 5 or more units within the individual parcel or contiguous parcel(s), under the ownership or operation of a single property owner. In such a case, the units would collectively be defined as

commercial property, due to increased impervious cover, and the parcel(s) shall be subject to the stormwater utility fee for commercial properties.

Single-family  
Duplexes  
Triplexes  
Quadruplexes  
Townhouses  
Condominiums  
Mobile homes

Councilman Edens stated that his understanding is that if a person has ten rental mobile homes on one tax map parcel, then the fee would only be \$81 for the residential property since it is on "one tax map parcel" and \$27 for less than five mobile homes on one tax map parcel. The Attorney agreed with Councilman Edens' statement concerning the rate for residential property.

Then Councilman Baker stated that several persons have asked him whether or not the Road User Fee can be used to fund the Stormwater Utilities program. Mr. Bryan said that this ordinance is interconnected with the federal and state guidelines and funding of this ordinance is limited in its guidelines. Plus, the Road User Fee is a separate matter than this of the Stormwater Utilities Ordinance.

Councilman Baker also asked about someone that deals with a large amount of automobiles on their property and they are already being monitored by DHEC as well as paying a DHEC permit, yet this ordinance has them paying an \$81 fee. Why would this company have to pay twice?

Vice Chairman Baten asked about the fine that was placed on Richland County for not complying with the Stormwater Utility requirements. He further stated that if Sumter County does not do what is required of Sumter County, then fines would be assessed on this County too.

Councilman Baker asked about the credit portion of this ordinance. There is a credit portion in the June 22, 2010, version of this ordinance.

*(2) The county council finds that credits against stormwater utility service charges are an appropriate means of adjusting fees, rates, rentals, and charges in certain cases, and should be granted for properties providing on-site or off-site services, systems, facilities, activities, or assets which reduce or otherwise mitigate the impact of said property on the county's cost of providing stormwater management services and/or stormwater management systems and facilities, and that such credits should be conditional upon continuing provision of such services, systems, facilities, activities, or assets in a manner complying with the standards and codes as determined by the county administrator or designee. Credits for on-site stormwater management systems and facilities shall be generally proportional to the effect that such systems reduce the peak rate of runoff from the property and increase the volume of on-site storm water retention*

Councilman Edens asked that more implementation be spelled out to Council as to what all has to happen for the implementation process; what is the County spending the money on, where is the money going and what does the regulations say that we must do with the fund, the implementation, etc.

The Chairwoman asked each Councilmember to talk directly to the staff about the any concerns that still may be hovering so that the staff will be prepared to answer all questions at the June 29, 2010, meeting. The Clerk was asked to make sure the Stormwater Ordinance is on the June 29, 2010, meeting.

Prior to convening the public hearing, Councilman Edens asked the County Administrator whether or not he has received a response from the City concerning the letter that was written to the City asking them to join the County in its Stormwater efforts. The Administrator stated that he sent and "letter/e-mail" to the City Manager, but has not yet received a response.

Dr. Peter Wilson, the County Engineer, stated that the final fine determination for Richland County; the consent order by DHEC order Richland County to pay \$848,000 for failing to comply with the Stormwater Utility program.

Dr. Wilson also stated that sites that are currently permitted through the industrial stormwater process and are alleviating the strain on Sumter County for taking the industry's stormwater runoff, they can apply for a credit.

Currently, there is no credit for the retention pond located in a residential development; however, they can be evaluated for the credit, but then a decision must be made as to how will the credit be applied. Members of the staff will calculate the credit and recommend to the County Administrator for approval.

### **Public Hearing**

Then the Chairwoman called for the public hearing. She asked if anyone wished to speak in favor of or opposition to the proposed ordinance.

- Lonnie Jarvis stated that he lives in Dalzell; he stated that he is very disturbed with this proposed fee. Mr. Jarvis also stated that it looks like Sumter County has copied North Carolina and has not done enough research on this matter. Mr. Jarvis stated that he and several of his neighbors live on large portions of property and they do not have drainage runoff from their property. Yet, the County says that he and his family must pay this fee. Mr. Jarvis further stated that he has a natural savannah on his property and the state and County uses his savannah; but he does not charge them.
- Summer Jarvis stated that she lives on 55 acres of land and her home is right in the middle of the property. She said that she does not believe her family should pay the Stormwater Utility Fee. Ms. Jarvis added that this is a mandate from the federal government and the County should not pay. She asked Council to consider not pas

- George Bates from the Wedgefield community stated that he agrees with Mr. Jarvis that this not something that the County should mandate to its citizens. Mr. Bates also said that if it is an unfunded mandate, then this should be an unpaid penalty.
- Jay Davis, a local businessman, spoke to Council about his concern of the fee for his business as well as his home. Mr. Davis stated that he would like to see the City and County operate one Stormwater Utility program instead of two; thereby, he citizens would not have to pay two Stormwater Utility Fees. He also talked about the upkeep of the Stormwater System and his concern about the possibility of servicing bonds on the Stormwater Utility System.
- Calvin Bennett stated that is concern is what happens after the two year period; will the County jump from \$27 to \$1,000, or what?

After all comments, the Chairman closed the public hearing. Then Councilman Edens asked to be heard since he did not ask all the questions he intended to ask prior to the public hearing.

Councilman Edens stated that the question that Mr. Jarvis brought fourth is something that he would like for the staff members to review. If there is someone that has a home on five or more acres of land and there is no run off can this be reevaluated so that those properties could be evaluated up front. Councilman Edens also asked if the staff could provide what the estimated cost would be to evaluate each property before implementing this type of ordinance. Especially for those that are living on large pieces of parcels and may or may not be zoned agricultural.

Vice Chairman Baten said that he would hope that Sumter County Council and the citizens of this County would realize that this is a mandate and Sumter County Council must adopt this ordinance and carry out the guidelines set before Council. He also said that Council's ordinances are not set in stone, they can be changed. Therefore, Council members need to go ahead and adopt the ordinance and then make adjustments as needed. Vice Chairman Baten also stated that he does not want this County to be charged a fine for not meeting a deadline; that would be very irresponsible of Council to allow that to happen. Lastly he said that whatever Council has to do, do it, and then make the adjustments as needed.

Councilman Blanding stated that we must remember that not only do we have federal mandates, but that we also have state mandates without funding. He said that he agrees with the Vice Chairman that if Sumter County had an option, he would also like not to add this expense to the taxpayers; however, not doing anything is not the responsible thing to do.

After all questions and comments, the Chairman reminded Council members that third reading will be held on June 29, 2010, and that second reading was held on June 15, 2010.

#### **NEW BUSINESS:**

- (1) A Resolution Adopting The 2010-2011 Budget Of Sumter County School District #2. This item was deleted for the June 22, 2010, agenda.

- (2) A Resolution Adopting The 2010-2011 Budget Of Sumter County School District #17. This item was deleted for the June 22, 2010, agenda.
- (3) **10-712 - First Reading** -- An Ordinance Establishing The Road User Fee Fund And Amending Ordinance No. 94-266 Of Sumter County, South Carolina, (Sometimes Referred To As The Road Use Fee Ordinance) So As To Change The Deposit Of The Funds From The General Fund To The Road User Fee Fund.

The County Attorney, Johnathan Bryan, presented this proposed ordinance to Council. He stated that this ordinance will allow for better management of the Road User Fee revenue. After review of the ordinance, as listed below, Council took action on first reading.

WHEREAS, Sumter County Council previously established the Road User Fee in Ordinance 94-266; and

WHEREAS, paragraph 11 of that Ordinance directs that all funds (including penalties for late payment) collected from the Road User Fee shall be deposited in the general fund of the County; and

WHEREAS, Sumter County Treasurer Council desires to establish a Special Revenue Fund into which the Road User Fees (including late payments) will be deposited;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF SUMTER COUNTY, SOUTH CAROLINA, AT ITS REGULAR MEETING DULY ASSEMBLED AND BY THE AUTHORITY THEREOF:**

1. Sumter County hereby authorizes and directs the County Administrator to establish a Special Revenue Fund to be identified as the Road User Fund for Sumter County.
2. The Road User Fund will be deposited with the Sumter County Consolidated Account but shall be administered and accounted for separately;
3. All funds collected (including penalties for late payment) collected from the Road User Fee shall be deposited directly into the Road User Fund.
4. The Sumter County Council may augment the Road User Fund by other means, including having a line item in the annual budget or by allocating some specific millage to the fund in the annual appropriations of ad valorem taxes.
5. The Road User Fund may be used only for the purposes described in Sumter

County Ordinance No. 94-266. The Sumter County Administrator may authorize expenditures of the Road User Fund in accordance with Sumter County Council policies and ordinances.

6. This Ordinance shall be effective for any Road User Fees, including late fees, collected on or after July 1, 2010.

**ACTION:** MOTION was made by Councilman Byrd, seconded by Councilman Edens, and unanimously carried by Council to grant first reading approval as presented.

(4) County Council 2010 Meeting Calendar.

The Clerk to Council asked Council members whether or not they wanted to cancel the August 10, 2010, meeting of Sumter County Council since Council members will just be returning from its annual Conference. Council members were in support of the concept, but they asked the Clerk to see if there are any Land Use Matters that might be on the horizon during the August 10<sup>th</sup> time frame. If there are Land Use Matters during that time, Council will not cancel its meeting.

**ACTION:** No action was taken; however, the Clerk to Council was directed to follow-up on this matter and report back to Council.

(5) It May Be Necessary To Hold An Executive Session To Discuss A Personnel Matter, Receive A Legal Briefing, Or Discuss A Contractual Matter And Appropriate Actions May Be Required And Taken Thereafter.

✓ Legal Briefing

This item was deleted for the June 22, 2010, agenda.

**OLD BUSINESS: None**

**COMMITTEE REPORTS:**

(1) Internal Affairs Committee Meeting Held on **Tuesday, June 22, 2010, at 4:00 P.M.** In County Council's Conference Room at the County Administration Building - (Byrd, Blanding, and Sanders).

The following report and recommendation was provided by the Committee Chairman, Councilman Byrd, for action by Sumter County Council.

- Penny Sales Tax Steering Committee: The Committee recommended that the quorum for the Penny Sales Tax Steering Committee shall be nine to conduct business of this Committee.
- Cultural Commission: Appoint Mr. William Bultman to replace Mr. Stephen Winn.

- Iris Festival Board: Reappoint Ms. Tonya Peagler.
- Zoning board of Adjustment: Reappoint Mr. Jimmy Lowery.
- Cultural Commission: No appointments made; however, the Committee recommended that the Cultural commission membership be changed by ordinance from seven to nine members. The two new members will be one representative each from the Air Force and the Army. The Committee asked the Clerk to Council to follow-up on this matter with the County Attorney who will develop an amendment to the existing ordinance to add these two members.
- Development Board: No action.
- Workforce Investment: No action.

**ACTION:** MOTION and second were received from the Committee, and unanimously carried by Council to approve the recommendations as presented.

- (2) Fiscal, Tax, and Property Committee Meeting Held on **Tuesday, June 22, 2010, at 5:00 P.M.** In County Council's Conference Room at the County Administration Building - (McGhaney, Blanding, and Edens).

The Chairwoman of Council, also the Chairman of the Fiscal, Tax, and Property Committee, gave the following report.

- **Budgetary Matter:** On June 8, 2010, the financial staff presented Council with a balance budget of \$39,131, 924. Several agencies have requested additional funding; however, it was recommended by the Committee not to accept the requests.

- (3) Report From Council Members On Other Meetings, Trainings, and/or Conferences.

**MONTHLY REPORTS:**

- Time Warner Cable
- Letter: Derek O. Bradovich
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**ADMINISTRATOR'S REPORT:**

The Administrator thanked Council members and staff for their support during the death of his father. He commended that staff for carrying the load while he was absent. He also recognized the staff members as very professional people that can handle ever-changing situations in a smooth and orderly manner.

**PUBLIC COMMENT:**

The Chairwoman asked if anyone from the public would like to address members of Sumter County Council. No members of the public addressed Council.

**ADJOURNMENT:**

There being no further business and no additional comments from the public, the meeting was adjourned at 7:08 p.m. after a motion, a second, and unanimously carried by Council.

Respectfully submitted,

*Vivian Fleming Mcghaney*  
Chairman or Vice Chairman  
Sumter County Council

*Mary W. Blanding*  
Clerk to County Council  
Sumter County Council

**Approved: July 13, 2010**



I certify that public and media notification of the above-mentioned meeting was given prior thereto as follows:

Public Notified: Yes

Manner Notified: Agendas posted on bulletin board on third floor of the Administration Building.

Date Posted: June 16, 2010

Media Notified: Yes

Manner Notified: Agendas were sent to most radio stations, television stations, and newspapers in the Sumter, Columbia, Manning, and Florence communities. Also, E-Mail notification was sent to Sumter County's Home Page, WIBZ, The Item, The Chamber, and Time Warner Cable.

Date Notified: June 16, 2010

Respectfully submitted,

*Mary W. Blanding*  
Mary W. Blanding

**Ordinance #10-711**

**AN ORDINANCE  
ESTABLISHING THE SUMTER COUNTY STORMWATER UTILITY  
AND THE SERVICES AND CHARGES RELATING THERETO.**

WHEREAS, The Federal Clean Water Act, 33 U.S.C. §1251 *et seq.*, section 402, establishes the National Pollutant Discharge Elimination System (NPDES) in which subsection 402 (p)(6) authorizes the Administrator of the Environmental Protection Agency (EPA) to issue regulations governing stormwater discharges to protect water quality and to establish a comprehensive program to regulate designated stormwater sources; and

WHEREAS, the EPA regulations (A) establish priorities, (B) establish requirements for state stormwater management programs, and (C) establish expeditious deadlines; and

WHEREAS, the Federal Clean Water Act, subsection 402 (b) allows states to administer their own permit program according to certain guidelines set forth in that Act; and

WHEREAS, The State of South Carolina has been granted a National Pollutant Discharge Elimination (NPDES) permit for Storm Water Discharges from Regulated Small Municipal Separate Storm Sewer Systems, which Permit Number SCS0000000 was issued January 30, 2006, effective March 1, 2006; and

WHEREAS, Sumter County discharges storm water from the municipal separate stormwater sewer system located in Sumter County into streams, creeks and branches which flow into rivers which are receiving waters of the State of South Carolina which, in turn flow into Federal Navigable Waters and ultimately the Atlantic Ocean; and

WHEREAS, Sumter County is a regulated Small Municipal Separate Storm Sewer System as published in Appendix A of the South Carolina NPDES General Permit Number SCS0000000;

WHEREAS, South Carolina Department of Health and Environmental Control has granted Sumter County permission to discharge stormwater into the rivers of South Carolina in accordance with the conditions set forth in the State of South Carolina NPDES General Permit for Storm Water Discharges from Regulated Small Municipal Separate Storm Sewer Systems, SCR030000; and

WHEREAS, in accordance with the conditions of the permission to discharge stormwater Sumter County has enacted the required stormwater management and sediment control regulations which are codified in Chapter 14, Article II, sections 14-19 through 14-110; and

WHEREAS, in order to have the necessary funds to enforce the provisions of its ordinances, Sumter County must either add millage to the *ad valorem* taxes it collects or create a Storm Water Utility Fee,

NOW THEREFORE:

**Sec. 14-111<sup>1</sup>. Findings.**

The Sumter County Council, South Carolina makes the following findings of fact:

- (1) The county council finds that a schedule of stormwater utility service charges is an appropriate means of allocating the cost of stormwater management services and stormwater management systems and facilities throughout the county. Such charges can be complemented by other funding methods which address specific needs, including but not limited to allocations of other revenues available to the county, special service fees, special assessments, and other revenues as deemed appropriate by the county council.
- (2) The county council finds that credits against stormwater utility service charges are an appropriate means of adjusting fees, rates, rentals, and charges in certain cases, and should be granted for properties providing on-site or off-site services, systems, facilities, activities, or assets which reduce or otherwise mitigate the impact of said property on the county's cost of providing stormwater management services and/or stormwater management systems and facilities, and that such credits should be conditional upon continuing provision of such services, systems, facilities, activities, or assets in a manner complying with the standards and codes as determined by the county administrator or designee. Credits for on-site stormwater management systems and facilities shall be generally proportional to the effect that such systems reduce the peak rate of runoff from the property and increase the volume of on-site storm water retention.
- (3) The county council finds that a stormwater utility rate fee has been defined and determined which accurately addresses the current financial needs to manage, maintain, protect, regulate and enhance the stormwater systems and facilities of Sumter County.
- (4) The county council finds that the application of the utility shall be countywide, in that the stormwater program provides stormwater drainage system maintenance beneficial to all county residents, in addition to the portions of the county that are currently regulated under the coverage of a state or federal stormwater permit, or maintain an intergovernmental agreement with the county to provide stormwater services.
- (5) The county council finds that it is imperative that all revenues raised or otherwise allocated specifically to stormwater management services and stormwater management systems and facilities be dedicated solely to those purposes and therefore directs that such revenues shall be deposited into the accounting fund of the stormwater utility and shall remain in that fund and be dispersed only for stormwater management capital,

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<sup>1</sup> The ordinance section headings and numbering are suggested for the codification of the Ordinance into the Code of Ordinances, Sumter County, South Carolina after current section 14-110.

operating, and non-operating costs and debt service of bonds for stormwater management purposes. As said revenues shall be used solely for stormwater purposes, the county shall publically disclose and publish all stormwater related revenue allocations and expenditures annually in the audited Annual Financial Report.

**Sec. 14-112. Authority.**

This article shall be cited as the Stormwater Utility Ordinance and is adopted pursuant to S.C. Code Ann. § 48-14-10, *et seq.*, the Home Rule Act, Section 4-9-30(5), *Code of Laws of South Carolina*, Section 6-1-330, *Code of Laws of South Carolina* and S.C. Land Resources Conservation Commission Regulations 72-300 to 72-316.

**Sec. 14-113. Establishment of utility and enterprise fund.**

*Rules of language and interpretation.*

- (1) The word "shall" is mandatory; the word "may" is permissive.
- (2) The particular shall control the general.
- (3) Words used in present tense shall include the future, and words used in the singular include the plural, and plural the singular, unless the context clearly indicates the contrary.

The county council hereby establishes a stormwater utility within the stormwater department under the direction of public services which shall be responsible for stormwater management throughout the county's unincorporated limits, or incorporated areas agreed to by intergovernmental agreement, and shall provide for the management, maintenance, protection, control, regulation and enforcement, use, and enhancement of stormwater systems and facilities.

The county council directs that a stormwater fund be established in the county budget and accounting system for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the utility, including but not limited to rentals, rates, charges, fees, and licenses as may be established by the county council. All revenues and receipts of the stormwater utility shall be placed in the stormwater fund and all expenses of the utility shall be paid from the stormwater fund, except that other revenues, receipts, and resources not accounted for in the stormwater utility fund may be applied to stormwater management operations and capital investments as deemed appropriate by the county.

The county council hereby transfers to the stormwater utility the existing stormwater systems and facilities owned and operated by the county and other interests and assets including but not limited to easements, rights-of-entry and access, and certain equipment. The county council declares that the economic value to the county of the stormwater systems, facilities, and other interests and assets hereby transferred to the utility is equal to the economic value to the county of the utility

assuming future responsibility for the management, maintenance, protection, control, regulation, use, and enhancement of the stormwater systems, facilities, and programs.

**Sec. 14-114. Boundaries and jurisdiction.**

The boundaries and jurisdiction of the stormwater utility shall extend to the unincorporated limits of the county and incorporated areas of the county as agreed to through the establishment of an intergovernmental agreement to provide stormwater services.

**Sec. 14-115. Limitation of the Stormwater Utility System**

**The stormwater system shall be limited to those drainage ways, channels, ditches, swales, storm sewers, culverts, inlets, catch basins, head walls and other structures which control and/or convey stormwater and which:**

*Are located within public streets, rights-of-way, and easements except in case those facilities are owned by the South Carolina Department of Transportation or are within the South Carolina Department of Transportation's right-of-way;*

*Are subject to rights-of-entry, rights-of-access, rights-of-use, or other permanent provisions for adequate access for operation, maintenance, and/or improvement of systems and facilities; or*

*Are located on public lands to which the county has adequate access for operation, maintenance, and/or improvement of systems and facilities.*

*Stormwater systems and facilities which are located on private or public property not owned by the county and which are not subject to public dedication of the systems, facilities, easements, rights-of-way, or other adequate access for operation, maintenance, and/or improvement of the systems and facilities shall be and remain the responsibility of the property owner, except as that responsibility may be affected by the laws of the State of South Carolina and the United States of America.*

**Sec. 14-116. Requirements for on-site stormwater systems; enforcement methods and inspections.**

- (1) All property owners and developers of real property to be developed within the county shall provide, manage, maintain, and operate on-site stormwater systems and facilities sufficient to collect, convey, detain, control, and discharge stormwater in a

safe manner consistent with all county development regulations and the laws of the State of South Carolina and the United States of America. Any failure to meet this obligation shall constitute a nuisance if the owner fails to properly abate within such reasonable time as allowed by the court, the county may enter upon the property and cause such work as is reasonably necessary to be performed, with the actual cost thereof charged to the owner in the same manner as a stormwater service charge.

- (2) The county shall have the right, pursuant to the authority of this article, for its designated officers and employees to enter upon private property and public property owned by other than the county, upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to assure compliance with this article.

#### **Sec. 14-117. 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:

*Agricultural use properties* shall include all properties assessed by the county as agriculture and include farming, livestock, poultry houses, swine activities and other property assessed as pertaining to agriculture. Processing and distribution facilities associated with these activities are considered industrial properties and are not covered under this definition.

*Credit* shall mean a conditional reduction in the amount of a stormwater service charge or other fees, rates, rentals, charges, fines, and penalties to an individual property based on: the provision and continuing presence of an effectively maintained and operational on-site stormwater system or facility; and/or continuing provision of a service or activity that reduces the stormwater utility's cost of providing stormwater management services and stormwater management systems and facilities; and/or on the direct discharge of runoff to a receiving water that is not operated, maintained, improved, and regulated, now or in the future, by the county.

*Commercial properties* shall include all properties developed initially for the retail of goods and services, or other business activities, office buildings or property otherwise assessed as commercial use, and multi-family residences with 5 or more units. In the case of multi-family residences, the parcel(s) shall be defined as commercial property, in lieu of the individual residences, and subject to the stormwater utility fee as such.

*Non-Profit properties* shall include churches, government buildings or property otherwise assessed as non-taxable due to its use for a non-profit activity.

*Customers of the stormwater utility* shall include those persons, properties, and entities served by and/or benefiting from the utility's acquisition, management, maintenance, extension, and improvement of the public stormwater systems and facilities and regulation of public and private stormwater, stormwater systems,

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

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

*Equivalent Drainage Unit (EDU)* is the basis of assessment for the stormwater utility fee, currently defined as 8,000 square feet of impervious surface.

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

*Industrial Properties* shall include all properties developed for uses other than residential and commercial properties, as defined in this article.

*Residential properties* shall include but are not limited to the following categories which will be identified as the appropriate dwelling unit classifications to be utilized in applying the stormwater utility fee structure to the designations contained within Sumter County. Properties, as identified below, shall be considered individual residential units unless said parcel contains multi-family residences of 5 or more units within the individual parcel or contiguous parcel(s), under the ownership or operation of a single property owner. In such a case, the units would collectively be defined as commercial property, due to increased impervious cover, and the parcel(s) shall be subject to the stormwater utility fee for commercial properties.

Single-family  
Duplexes  
Triplexes  
Quadruplexes  
Townhouses  
Condominiums  
Mobile homes

*Stormwater management services* are those activities and functions conducted by the county that together result in the collection, conveyance, and disposal of stormwater runoff, including support activities and functions necessary to accomplish the mission of the stormwater management program, and shall include but not be limited to the administration, engineering, operation and maintenance, regulation and enforcement, and improvement of systems and facilities, review of development proposals and of the installation and maintenance of stormwater systems on private properties, provision of stormwater quality management programs to eliminate or

mitigate the impact of pollutants contained in stormwater runoff, and flood emergency response and recovery measures.

*Stormwater management systems and facilities* include, but are not limited to, rivers, streams, creeks, lakes, ponds, channels, ditches, swales, gutters, other drainage ways, storm sewers, culverts, inlets, catch basins, headwalls, dams, reservoirs and other impoundments, flumes, stormwater detention and retention storage areas, filters, riparian areas, plants, works, instrumentalities, properties, and other structural and nonstructural components that control, capture, collect, convey, route, restrict, store, detain, retain, infiltrate, cleanse, or otherwise affect or influence the flow of stormwater within the county and the quality of stormwater discharged from the county.

*Stormwater service charges* shall mean the periodic service charge imposed pursuant to this division by the county for the purpose of funding costs related to stormwater management services and stormwater management systems and facilities. The use of the area of impervious surface on each property as a stormwater service charge rate parameter shall not preclude the use of other parameters, or of grouping of properties having similar characteristics into classes or categories, grouping of properties having similar characteristics through the use of ranges or rounding up or down to a consistent numerical interval, or the use of flat-rate charges for one (1) or more classes of similarly-situated properties whose impact on county's cost of providing stormwater management services and stormwater management systems and facilities is relatively consistent. Stormwater service charges may also include special charges to individual properties or persons for services, systems, or facilities related to stormwater management, including but not limited to charges for development plan review, inspection of development projects and on-site stormwater control systems, and enhanced levels of stormwater service above and beyond the levels normally provided by the county.

#### **Sec. 14-118. Stormwater service charge rates.**

Stormwater service charge rates may be determined and modified from time to time by the county council so that the total revenue generated by said charges and any other sources of revenues or other resources allocated by the county council to the stormwater utility shall be sufficient to meet the cost of stormwater management services, systems, and facilities, including but not limited to the payment of principal and interest on debt obligations, operating expense, capital outlays, non-operating expense, provisions for prudent reserves, and other costs related to stormwater as deemed appropriate by the county council. The basis of the service charge rate is one (1) EDU as defined in this ordinance. The stormwater service charge for one (1) EDU is \$54.00 per year. The initial stormwater service charge rates shall apply:

- (1) *Residential properties.* Residential properties, as defined by this ordinance, shall be billed for the stormwater service charges, as defined in this article, of ½ EDU, equivalent to \$27.00 per year. This represents a flat rate for all county residential properties relative to their average contribution to, and use of, roads which are served by the stormwater drainage system.

- (2) *Commercial properties and Non-Profit properties.* Commercial properties, as defined by this ordinance, and Non-Profit properties, as defined by this ordinance, shall be billed for the stormwater service charges, as defined in this article, of 1½ EDU, equivalent to \$81.00 per year. Commercial properties will be evaluated during the initial 2-year implementation of the program to define final EDU values based on actual impervious cover, which may result in either an increase or decrease of the EDU value of the individual property. To initiate immediate assessment of a commercial property, see Section 14-120 of this ordinance.
- (3) *Industrial properties.* Industrial properties, as defined by this ordinance, shall be billed for the stormwater service charges, as defined in this article, of 3 EDU, equivalent to \$162.00 per year. Industrial properties will be evaluated during the initial 2-year implementation of the program to define final EDU values based on actual impervious cover, which may result in either an increase or decrease of the EDU value of the individual property. To initiate immediate assessment of an industrial property, see Section 14-120 of this ordinance.
- (4) *Agricultural use properties.* Poultry houses, swine farrowing and confinement operations and gin operations shall be billed for the stormwater service charges, as defined in this article, of 1½ EDU, equivalent to \$81.00 per year. Poultry houses, swine farrowing and confinement operations and gin operations will be evaluated during the initial 2-year implementation of the program to define final EDU values based on actual impervious cover, which may result in either an increase or decrease of the EDU value of the property. All other agriculture use properties as defined by this ordinance shall be exempt from a stormwater service charge. Processing, production and distribution facilities associated with agriculture activities are considered industrial facilities and shall be subject to the stormwater service charge as identified in (3).
- (5) *Developed land.* The minimum stormwater service charge for developed land, as defined in this article, shall be billed for ½ EDU, equivalent to \$27.00 per year, except where exempt from a stormwater service charge as defined in Section 14-118 (4) of this ordinance.

**Sec. 14-119. Stormwater service charge billing, delinquencies and collections.**

A stormwater service charge bill may be sent through the United States mail or by alternative means, notifying the customer of the amount of the bill, the date the payment is due, and the date when past due. These fees shall be levied, collected and paid in the same manner as user fees applied to annual tax bills. The stormwater service charge bill may also be billed and collected along with other charges, including but not limited to other county assessments, or property taxes, as deemed most effective and efficient by the county council. Failure to receive a bill is not justification for nonpayment. Nevertheless, 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 one-year.

**Sec. 14-120. Appeals.**

Any commercial, industrial or agricultural use customer aggrieved by a final assessment of the provisions of this division may appeal the decision in the following manner and sequence.

- (1) An appeal must be filed in writing with the county administrator (or designee). At the discretion of the county, the appeal may require a survey prepared by a registered land surveyor or professional engineer containing information on the total property area, the impervious surface area, and any other features or conditions that influence the hydrologic response of the property to rainfall events. During the 2-year initial implementation of the program, the county will assist in the assessment of impervious cover and EDU calculations for commercial, industrial, or agricultural use customers.
- (2) Using information provided by the appellant, a technical committee comprised of the Stormwater Department Director and two (2) other persons appointed by the county administrator shall conduct a technical review of the conditions on the property and respond to the appeal in writing within thirty (30) days. In response to an appeal, the Stormwater Department Director or designee may adjust the stormwater service charge applicable to the property in conformance with the general purposes and intent of this division. During the 2-year initial implementation of the program, the county may waive the technical review requirement.
- (3) A decision of the technical committee that is adverse to an appellant may be further appealed to the county administrator within thirty (30) days of the adverse decision. Notice of the appeal shall be delivered to the county administrator by the appellant, stating the grounds for further appeal. The county administrator shall issue a written decision on the appeal within thirty (30) days. All decisions by the county administrator shall be served on the customer personally or by registered or certified mail, sent to the billing address of the customer. All decisions of the county administrator shall be final, except that this provision shall not abridge the right of any person to seek relief in a court of competent jurisdiction.

**Sec. 14-121. Unlawful damage to, alteration of, or tampering with county's stormwater system.**

*Misdemeanor to damage, alter or tamper with stormwater system.* It shall be unlawful and a violation of this chapter for any person to damage, deface, alter, change, or tamper with the county's stormwater system; and upon conviction, said person shall be guilty of a misdemeanor and punished by a fine of up to \$500.00 and/or sentenced to serve up to 30 days; and such person shall be subject to paying full costs incurred by the county as a way of restitution.

This Ordinance shall take effect upon third reading.

THE COUNTY COUNCIL FOR SUMTER COUNTY,  
SOUTH CAROLINA

BY: \_\_\_\_\_

ITS: Chairman of County Council

ATTEST:

BY: \_\_\_\_\_

ITS: Clerk to Council

First Reading \_\_\_\_\_, 2010

Second Reading: \_\_\_\_\_, 2010

Public Hearing: \_\_\_\_\_, 2010

Third Reading: \_\_\_\_\_, 2010

ORDINANCE NO. 10-712

AN ORDINANCE ESTABLISHING THE ROAD USER FEE FUND AND AMENDING ORDINANCE NO. 94-266 OF SUMTER COUNTY, SOUTH CAROLINA, (SOMETIMES REFERRED TO AS THE ROAD USE FEE ORDINANCE) SO AS TO CHANGE THE DEPOSIT OF THE FUNDS FROM THE GENERAL FUND TO THE ROAD USER FEE FUND.

WHEREAS, Sumter County Council previously established the Road User Fee in Ordinance 94-266; and

WHEREAS, paragraph 11 of that Ordinance directs that all funds (including penalties for late payment) collected from the Road User Fee shall be deposited in the general fund of the County; and

WHEREAS, Sumter County Treasurer Council desires to establish a specific fund into which the Road User Fees (including late payments) will be deposited;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF SUMTER COUNTY, SOUTH CAROLINA, AT ITS REGULAR MEETING DULY ASSEMBLED AND BY THE AUTHORITY THEREOF:**

1. Sumter County hereby authorizes and directs the County Administrator to establish the Road User Fee Fund for Sumter County.
2. The Road User Fee Fund will be deposited with the Sumter County Consolidated Account but shall be administered and accounted for separately;
3. All funds collected (including penalties for late payment) collected from the Road User Fee shall be deposited directly into the Road User Fee Fund.
4. The Sumter County Council may augment the Road User Fee Fund by other means, including having a line item in the annual budget or by allocating some specific millage to the fund in the annual appropriations of ad valorem taxes and by directing into the Road User Fee Fund.
5. The Road User Fee Fund may be used only for the purposes described in Sumter County Ordinance No. 94-266. The Sumter County Administrator may authorize expenditures of the Road User Fee Fund in accordance with Sumter County Council

policies and ordinances.

6. This Ordinance shall be effective for any Road User Fees, including late fees, collected on or after July 1, 2010.

THE COUNTY COUNCIL FOR SUMTER COUNTY, SOUTH CAROLINA

BY: \_\_\_\_\_  
Vivian Fleming-McGhaney,  
Chairman of County Council

ATTEST:

BY: \_\_\_\_\_  
Mary W. Blanding  
Clerk to Council

First Reading: \_\_\_\_\_, 2010

Second Reading: \_\_\_\_\_, 2010

Third Reading: \_\_\_\_\_, 2010