

ORDINANCE NO. 14-O- 17

AN ORDINANCE ESTABLISHING A STORMWATER USER FEE CHARGE SYSTEM; ESTABLISHING A SCHEDULE OF STORMWATER USER FEE CHARGES; ESTABLISHING A STORMWATER ENTERPRISE FUND; REPEALING PRIOR ORDINANCES IN CONFLICT AND FOR OTHER PURPOSES.

WHEREAS, the City of Anniston is subject to the provisions described in the preamble section of the Act #2014-439 (“the Act”), originally passed as Senate Bill 355 (SB355). The provisions described in the preamble section include, but are not limited to, the following: amendments of specific Sections of the Code of Alabama; the MS4 Permit; regulation of discharges to MS4s; acknowledgement of the United States Environmental Protection Agency’s (USEPAs) “Maximum Extent Practicable” standard; adherence to the tenets of Section 111.05 of Article IV of the Constitution of Alabama of 1901; the limited authorities of self-governance conferred upon counties pursuant to Chapters 3 and 3A of Title 11 of the Code of Alabama 1975; and

WHEREAS, the City Council for the City of Anniston, Alabama (the “Council”) finds that it is in the interests of the City of Anniston to establish and maintain a stormwater utility so as to enhance stormwater management systems and facilities and stormwater management services; and

WHEREAS, the Council finds that it is also in the best interests of the citizens of Anniston to establish a system of user fee charges as well as billing and collection procedures related to the stormwater utility and as called for in the Act;

WHEREAS, the Council finds that it is also in the best interests of the citizens of Anniston for there to be a stormwater utility enterprise fund in accordance with applicable state law, such that all monies deposited in this Fund shall be held in trust and expended in strict accordance with the provisions stipulated in the Act; and

WHEREAS, under the authority of the Act, the City of Anniston hereby levies upon each parcel of real property or portion thereof located within the corporate limits of the City of Anniston a fee to be determined as called for herein for the purpose of funding the stormwater program and to comply with requirements of the National Pollution Discharge Elimination System (NPDES) NPDES Municipal Separate Storm Sewer System (MS4) Permit ALR040004 (“the MS4 Permit”) held by the City of Anniston;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Anniston, Alabama (the “Council”) as follows:

Section 1. The Council hereby recodifies Chapter 29½ of “The Code of the City of Anniston, Alabama, 1981” so as to be entitled “Storm Water Management.” The Council hereby enacts Article I of Chapter 29½, which shall be entitled “Storm Water Management Regulation.” The Council further restates Sections 29.1 through 29.11, as those Sections exist

in their entirety as of the date of this ordinance, which are hereby incorporated and adopted herein by reference, to be recodified, included and restated within Article I, Storm Water Management Regulation, of Chapter 29½, Storm Water Management.

Section 2. The Council hereby enacts and codifies Article II, entitled “Storm Water User Fee Charge,” of Chapter 29½, “Storm Water Management,” of “The Code of the City of Anniston, Alabama, 1981” to state in its entirety as follows:

ARTICLE II – STORMWATER USER FEE CHARGE

Section 29½.12. Findings of Fact. In support of establishment of a Stormwater User Fee Charge System, the Mayor and City Council for the City of Anniston, Alabama make the following findings of fact:

- a. The Mayor and City Council of Anniston finds and declares that it is in the public interest and the health, safety, and welfare of the citizens of this municipal government to promote effective and efficient compliance with federal and state laws, rules, regulations, and municipal permits relating to storm water discharges into and from municipal separate storm sewers, and to promote and authorize the discovery, control, and elimination, wherever practicable, of that discharge.
- b. It is the intention of the City by passage of this chapter to implement applicable storm water laws adopted by the State of Alabama and the Federal government and comply with the same. Failure to implement these laws and effectively manage stormwater runoff may:
 - i. Cause erosion of lands; threaten commercial businesses, residences, and other facilities and properties with water damage; and may environmentally impair the rivers, streams, and other bodies of water within, and downstream of, the City.
 - ii. Adversely affect the operations of the sanitary sewer system operated by the City of Anniston thereby increasing the likelihood of infiltration and inflow into the sanitary sewer system.
 - iii. Contribute to the potential degradation of the quality of both surface water and groundwater resources.
- c. It is further the intention of the City to adopt policies and procedures pertaining to the City’s MS4 Permit and to assert the enforcement authority needed in order to satisfy the requirements of storm water laws, further, to act by resolution or ordinance enforceable in the City’s municipal court and by civil procedures in district and circuit courts, including fines, penalties, damages, and injunction as authorized and appropriate.
- d. It is further the intention of the City to establish the financial need to fund the administration, operations, and projects of the stormwater program and the methods to generate and collect the necessary revenue and to utilize the billing, and

collection capabilities and the authority of the Calhoun County Tax Assessor and Tax Collector for that purpose.

- e. It is further the intention of the State of Alabama Legislature to limit the jurisdictional scope of the storm water management program to include only those sites discharging into the MS4 and to limit the substantive scope of the local MS4 Permit programs to include only those rules, regulations, and/or aspects that are absolutely required to satisfy the Clean Water Act, as specifically set out in the Code of Federal Regulations.
- f. The purpose of this ordinance is to provide a funding mechanism to aid the City in meeting the financial obligations imposed by the MS4 Permit and the required Stormwater Management Plan (SWMP), an unfunded federal mandate, and to limit the expenses of compliance with said permit by setting the strict limitations on the scope of the compliance program to include only those rules, regulations, and/or aspects that are absolutely required to satisfy the Clean Water Act, as specifically set out in the Code of Federal Regulations.
- g. It is further the intention of the City to primarily rely upon ADEM, to the fullest extent allowed by applicable state and federal laws, for the permitting and enforcement of all NPDES sites under the jurisdiction of ADEM rather than subjecting such sites to double regulation.
- h. The City presently owns and operates stormwater management systems and facilities, which have been developed over many years. The future usefulness and operational function of the existing stormwater management systems and facilities owned and operated by the City, and the additions and improvements thereto, rests on the ability of the City to effectively manage, protect, control, regulate, use, and enhance stormwater systems and facilities within the City in concert with the management of other water resources within the City. In order to do so, the City must have both a comprehensive stormwater management program as well as an adequate and stable funding source for implementation of its comprehensive stormwater management program and drainage-related capital improvement needs.
- i. The City is required under Federal and State regulations (i.e. the Federal Clean Water Act and the City's MS4 Permit) to implement a SWMP to address pollutants which may be discharged from the public MS4 into downstream waterways to the "maximum extent practicable" as required by applicable laws. Therefore, it is appropriate for the City to impose a stormwater user fee charge upon specified, non-exempt properties that may discharge, directly or indirectly, into the public MS4, or receive stormwater services from the City, either directly or indirectly, whether or not the property is private or public in nature.
- j. Given the stormwater management program's needs, goals, priorities and funding strategy identified herein, it is appropriate for the City to authorize the formation of an organizational and accounting entity in the form of a Stormwater Enterprise

Fund dedicated specifically to the management, maintenance, protection, control, regulation, and use of stormwater management services, systems and facilities within the City and to assist the City in compliance with applicable State and Federal stormwater regulations.

- k. Stormwater management is applicable and needed throughout the incorporated areas of the City. While specific service and facility demands may differ from area to area at any given point in time, a stormwater management system and service area encompassing all lands and water bodies within the incorporated areas of the City of Anniston is appropriate and in accordance with specific regulatory requirements imposed on the City.
- l. The stormwater management services rendered may differ depending on many factors and considerations, including but not limited to, location, demands and impacts imposed on the stormwater management systems and programs, and risk exposure. It is practical and equitable to allocate the cost of stormwater management to specified, non-exempt properties in general proportion to the demands the properties impose on the City's stormwater management program which results in services being provided to such properties. The fair and equitable apportionment of costs via the user fee charge system detailed in the Act generally correlates to the stormwater management services provided to properties and the runoff demand that those properties impose on the public drainage system and the City's stormwater management program.
- m. The stormwater management needs in the City include, but are not limited to, protection of the public health, safety, and welfare of the community. Provision of stormwater management services renders and/or results in both a service and a benefit to all properties, property owners, businesses, citizens, and residents of the City in a variety of ways even though the benefits may be indirect or immeasurable.
- n. The amount of impervious surface on each property is generally the most important factor influencing stormwater runoff characteristics and these characteristics bear a rational nexus to the cost of the stormwater management services provided by the City to that property. As a result, the amount of impervious surface on each commercial property is therefore the most appropriate parameter for determining the stormwater user fee charge as specified in the Act. Stormwater user fee charges based on the amount of impervious surface present on each property is the most appropriate and equitable means of allocating the cost of stormwater management services throughout the City.
- o. It is imperative that the proceeds from all user fee charges for stormwater management services, systems or facilities, together with any other supplemental revenues raised or otherwise allocated specifically to stormwater management services, systems or facilities, be dedicated solely to those purposes, and such proceeds of user fee charges and supplemental revenues shall therefore be deposited into the City of Anniston Stormwater Enterprise Fund and shall remain in that fund

and be dispersed only for stormwater management capital, operating and non-operating costs for stormwater management purposes in accordance with applicable laws.

- p. In order to protect the health, safety and welfare of the public, the governing authority of the City of Anniston hereby exercises its authority to establish Stormwater user fee charge rates for the City's use in the implementation of its stormwater management program.

Section 29½.13. Definitions. In general conformance with Section §11-89C-2 of the Alabama Code, the following words and phrases shall have the following meanings when used under this Article:

- a. AGRICULTURAL LAND. Any real property classified or assessed as agricultural or forest land for property tax purposes.
- b. CLASS III PROPERTY. Per Amendment 325 of Article 217 of Section XI of the Alabama Constitution of 1901, Class III property is defined as all agricultural, forest and single-family, owner-occupied residential property.
- c. COMMERCIAL PROPERTY. Any real property that is not residential property, as defined in this section, or has not specifically been exempted from the fee provisions set out in Section 11-89C-9 (d) (1).
- d. COMMERCIAL SPACE. The total area of all impervious surfaces associated with and located on commercial property.
- e. DEVELOPED PROPERTY. A parcel of land that has been altered from its natural condition by the acts of man which results in the installation of no less than 1,000 square feet of impervious surface.
- f. GOVERNING BODY. The governing body of a municipality in the state which is now or may hereafter be specifically designated in 40 C.F.R. Part 122, including, but not limited to, any appendices or revisions promulgated by EPA in conjunction with any expansion of the agency's municipal separate storm sewer system program (e.g. Phase III, Phase IV, and/or equivalent expansions), or by ADEM pursuant to the authority delegated to it under the Clean Water Act, 33 U.S.C. §1251 et seq.
- g. GREENFIELD. Any real property not previously developed.
- h. HISTORIC BUILDINGS (as per Ala. Code Sec. 40-8-1). Regardless of the use to which such property is put, all buildings or structures (i) determined eligible by the state historic preservation officer for listing on the National Register of Historic Places; or (ii) located in a registered historic district and certified by the United States Secretary of the Interior as being of historic significance to the district.
- i. ILLICIT DISCHARGE. Any discharge to a municipal separate storm sewer that is not composed entirely of storm water, except discharges pursuant to an NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire-fighting and emergency management activities.
- j. IMPERVIOUS SURFACE. Those areas which prevent or impede the infiltration of stormwater into the soil in the manner in which it entered the soil, in natural conditions, prior to development and causes stormwater runoff to collect,

concentrate or flow in a manner materially different from what would occur if the land were in an unaltered natural condition. Common impervious surfaces include, but are not limited to, rooftops, buildings or structures, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, awnings and other fabric or plastic coverings, and other surfaces which prevent or impede the natural infiltration of rainfall, or stormwater runoff, which existed prior to development.

- k. MUNICIPAL SEPARATE STORM SEWER (MS4). A conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains which meets all of the following classifications:
 - i. Owned or operated by the City;
 - ii. Designed or used for collecting or conveying storm water;
 - iii. Which is not a combined sewer; and
 - iv. Which is not part of a publicly owned treatment works as defined in 40 C.F.R. §122.2.
- l. RESIDENTIAL PROPERTY. Any single-family, owner-occupied residential property, historic buildings, or sites classified or assessed as Class III property, pursuant to Section 217 of Article XI of the Constitution of Alabama 1901.
- m. RULE. Any public corporation regulation or standard of general applicability that prescribes or recommends law, procedure or policy for its member governing bodies specifically including all pro forma ordinances, regulations, resolutions, rules, procedures or remedies adopted and recommended by a public corporation.
- n. STORM WATER DISCHARGE ASSOCIATED WITH INDUSTRIAL ACTIVITY. The discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under 40 C.F.R. Part 122, but shall include discharges from facilities which are included in the categories of industries listed in 40 C.F.R. §122.26(b)(14)(i) through (xi), inclusive, together with all subsequent categories of industries which may be so designated in 40 C.F.R. §122.26(b)(14) by EPA.
- o. STORM WATER LAWS. Those provisions of the Clean Water Act, 33 U.S.C. §1251 et seq., together with all other and subsequent applicable federal and state laws, rules, and regulations, as set out in applicable permits, relating specifically to the control discharges to into and from municipal separate storm sewers, but specifically excluding any guidance and/or interpretations of said laws, rules, and/or regulations not promulgated in accordance with the Alabama Administrative Procedure Act or Administrative Procedure Act, 5 U.S.C. §500 et seq. 27 "§11-89C-4.

Section 29½ .14. Establishment of Stormwater Enterprise Fund.

- a. There is hereby established the City of Anniston Stormwater Management Program, which shall be responsible for stormwater management services throughout the incorporated areas of the City, and which shall provide for the

management, protection, control, regulation, and use of the City's stormwater management systems and facilities and stormwater management services.

- b. There is hereby established a Stormwater Enterprise Fund in the City budgeting and accounting systems for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the City of Anniston Stormwater Management Program, including, but not limited to, rates, charges, and fees as may be established by the Mayor and City Council, and other funds that may be transferred or allocated to the Stormwater Enterprise Fund for the purposes of funding stormwater management services.
- c. All revenues received from the stormwater user fee charge shall be placed in the Stormwater Enterprise Fund in trust and shall be utilized in accordance with applicable provisions as outlined in the City's financial policies. Other forms of revenue and/or financial resources, not accounted for in the stormwater user fee charge revenue, may be allocated by the Mayor and City Council to provide supplemental funding to the stormwater management program and for the provision of stormwater management services.
- d. The overall responsibility for the operation, maintenance and regulation of the Stormwater Management Program services performed, owned and operated or maintained by the City, and other related assets, including, but not limited to, properties, other than road rights-of-way, upon which such stormwater management systems and facilities are located, easements, rights-of-entry and access and certain equipment used solely for stormwater management shall rest with the City Manager. The City Manager is further charged with overall responsibility for the efficient and equitable administration of the stormwater user fee charges authorized by this Article, including, but not limited to, the delineation of impervious surfaces and other pertinent factors as may be needed for the fair, reasonable and cost effective calculation, assessment and collection of said fees.

Section 29½.15. Stormwater Management Program Service Area.

- a. There shall be one Stormwater Management Program service area which shall encompass the municipal boundaries of the City of Anniston. The City has established that all developed parcels within the municipal boundaries receive stormwater management services from the City. Developed parcels within the defined service area will receive a stormwater user fee charge in accordance with applicable provisions of the Act because: (1) they contribute stormwater runoff to the public drainage system; (2) they are directly or indirectly connected to the City's drainage system; and (3) they receive stormwater management services from the City to varying service levels from which they derive some degree of benefit even though the benefit may be indirect or immeasurable.

Section 29½.16. Stormwater Management Program Scope of Responsibility and Extent of Service.

- a. The Stormwater Management Program shall provide stormwater services for existing and proposed public stormwater management systems and facilities as defined in this Ordinance, subject to funding availability and to policy determinations made in the best interest of the public health, welfare and safety and the environment. Additionally, the Stormwater Management Program may accept the responsibility for providing stormwater management services to private stormwater management systems and facilities, acceptance of which conforms to policies established by the Mayor and City Council, or those persons or entities designated by the Mayor and City Council to set such policies.
- b. The City owns or has rights established by written agreements which allow it to operate, maintain, improve and access those stormwater management systems and facilities which are located:
 - i. Within public road rights-of-way;
 - ii. On private property but within legally dedicated easements granted to, and accepted by, the City;
 - iii. On private property where the City has been granted, by written agreements, for rights-of-entry, rights-of-access, rights-of-use or other permanent provisions for operation, maintenance, improvement and access to the stormwater management system facilities located thereon;
 - iv. On land dedicated to, and accepted by, the City solely for the operation, maintenance, improvement and access to the stormwater management systems and facilities located thereon; or
 - v. On public land which is owned by the City and/or land of another governmental entity upon which the City has agreements providing for the operation, maintenance, improvement and access to the stormwater management systems and facilities located thereon.
- c. Operation, maintenance and/or improvement of stormwater management systems and facilities which are located on private or public property not owned by the City, and for which there has been no written agreement granting easements, rights-of-entry, rights-of-access, rights-of-use or other form of dedication thereof to the City for operation, maintenance, improvement and access of such stormwater management systems and facilities shall be and remain the legal responsibility of the property owner, except as otherwise provided for by the state and federal laws and regulations.
- d. The City of Anniston may provide stormwater management services to privately owned stormwater management systems and facilities to ascertain that said facilities are functioning as designed and approved. The City may provide for remedial maintenance of said private facilities based upon the severity of stormwater problems and potential hazard to the public health, safety, and welfare and the environment, and in cases where such remedial maintenance is required the City reserves the right to bill the owner or owners of said private facility for the costs of such maintenance.

- e. It is the express intent of this Ordinance to protect the public health, safety and welfare of people and property in general, but not to create any special duty or relationship with any individual person, or to any specific property within or outside the municipal boundaries of the City. The City expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages or equitable remedies upon the City, its elected officials, officers, employees and agents arising out of any alleged failure or breach of duty or relationship.
- f. If any permit, plan approval, inspection or similar act is required by the City as a condition precedent to any activity or change upon property not owned by the City pursuant to this or any other regulatory ordinance, regulation or rule of the City, or under Federal or State law, the issuance of such permit, plan approval or inspection shall not be deemed to constitute a warranty, express or implied, nor shall it afford the basis for any action, including any action based on failure to permit, negligent issuance of a permit, negligent plan approval, or negligent maintenance of any permitted stormwater management system or facility not expressly dedicated to and accepted by the City for further maintenance in an action seeking the imposition of money damages or equitable remedies against the City, its Council members, the Mayor, officers, employees or agents.

Section 29½.17. Stormwater User Fee Charge Customer Classes.

- a. The City shall establish specified customer classes within the service area in accordance with the Act. Publicly owned, developed properties are subject to the user fee charges on the same basis as private properties, unless as otherwise exempted in the Act. The classes will encompass properties as designated by the Act within the City as follows:
 - i. Exempt Class: The City shall not establish, levy, or impose fees, charges, or assessments from or against entities regulated by the Alabama Public Service Commission, owners of greenfields, and/or owners of agricultural land as per Section 11-89C-9 (d) (1) of the Act.
 - ii. Residential Class: The Residential Class shall be defined as per the definition of Residential Property provided herein, except that the Residential Class shall not include Agricultural Land.
 - iii. Commercial Class: The Commercial Class shall be defined as per the definition of Commercial Property provided herein.

Section 29½.18. Stormwater User Fee Charges.

- a. The City of Anniston shall establish, levy, and impose pursuant to this ordinance, a revenue-raising measure within the jurisdiction, consisting of a system of stormwater user fee charges to comply with applicable stormwater laws. The

stormwater user fee charges shall be levied and collected as specified in this ordinance.

- b. It shall be the policy of the City that user fee charges for stormwater management services provided by the City in the designated service area shall be equitably derived through methods which have a demonstrable relationship to the varied demands and impacts imposed on the stormwater management services by individual properties, classes of properties, and/or the level of service rendered by, or resulting from, the provision of stormwater management services by the City.
- c. The basis for calculation of the stormwater user fee charge to developed property within the City is established in this Ordinance. The City shall assign or determine the customer class, amount of impervious surfaces and other pertinent factors as may be needed for the fair, reasonable and equitable allocation of the costs to deliver stormwater management services and to calculate the stormwater user fee charges for developed properties in the City.
- d. Stormwater user fee charge rates shall be structured so as to be uniform within the customer class, and the resultant user fee charges shall bear a reasonable connection, or rational nexus, to the cost of providing stormwater management services.

Section 29½.19. Stormwater User Fee Charge Rates.

- a. The City shall impose a stormwater user fee on Developed Properties within the service area in a fair and equitable manner. The City shall apportion the cost of delivering stormwater services to developed properties based on the demand the property places on the City's stormwater management program, the stormwater services provided by the City to that property and the benefits derived.
- b. Gravel and compacted soil associated with driveways, parking areas, and other areas that consist of these type surface (or near surface) conditions on developed property will be designated as impervious surface and included in the customer's user fee charge calculation because of the hydrologic response characteristics of these materials.
- c. The periodic stormwater user fee charges imposed on specified, non-exempt properties shall be in accordance with the Act.
 - i. Residential Rate: The City shall levy an annual flat fee of ten dollars (\$10.00) to owners of residential property as per Section 11-89C-9(d)(2) of the Act.
 - ii. Commercial Rate: The City shall levy an annual fee to owners of commercial property of one-half of one cent (\$0.005) per square foot of commercial space on, or within the property, provided that, regardless of actual square footage of commercial space on, or within the property, no such annual fee, charge,

or assessment shall exceed three thousand dollars (\$3,000) as per Section 11-89C-9(d)(3) of the Act.

Section 29½.20. Enforcement and Inspections.

- a. All property owners of improved property within the incorporated areas of the City shall provide, manage, maintain, and operate on-site stormwater management systems sufficient to collect, convey, detain, and discharge stormwater runoff in a safe manner consistent with applicable City development regulations, ordinances, as well as State and Federal laws. Any failure to meet this obligation shall constitute a violation of this Ordinance and be subject to citation and prosecution in the City of Anniston Municipal Court. Each day such violation exists shall constitute a separate offense.
- b. The City shall have the authority as granted in Section §11-89C-4(20); Section §11-89C-4 (21); and Section §11-89C-9(a)(6) of the Act to perform inspections and undertake enforcement actions pursuant to compliance with applicable stormwater laws.
- c. The City of Anniston hereby establishes the necessary measures and procedures for the enforcement of rules, regulations, resolutions, ordinances, or orders through actions before a municipal, district or circuit court of competent jurisdiction, including penalties for violations in accordance with Section §11-45-9 of the Act.
- d. The City of Anniston may institute a civil suit for damages or injunctive relief, except as limited by Section §11-89C-11 and Section §11-89C-12 of the Act, in any district or circuit court having jurisdiction for a violation of this chapter. Damages may include all costs, expenses, or other losses resulting directly or indirectly from a violation of any rule, regulation, resolution, ordinance, order, or other provision authorized by this chapter, and may include attorney's fees, court costs, and trial expenses.
- e. The City of Anniston may do any and all things, whether or not specifically or expressly authorized in the Act and/or this ordinance and not otherwise prohibited by law, that are necessary and convenient to do individually, and to aid and cooperate with the City in carrying out the storm water laws and the purposes and intent of this ordinance.

Section 29½.21. Billing, Collections and Delinquencies.

- a. The user fee charges imposed by the City of Anniston shall be billed and collected and the revenues allocated in accordance with Sections §11-89C-10(a)(b)(c) of the Act.
- b. In accordance with the provisions of Section §11-89C-9(d) of the Act, the City shall call upon and enter into agreements with the Calhoun County tax assessor and tax collector to assess and collect any such fees, charges, or assessments.

- c. The Calhoun County tax assessor and the tax collector shall implement procedures to assess and collect the fees, charges, or assessments levied in accordance with this ordinance.
 - i. The stormwater user fee charges shall begin to accrue on the effective date of this ordinance and shall be billed prospectively to property owners on an annual basis at the same time and mechanism as the Calhoun County tax assessor and the tax collector assesses and collects ad valorem taxes.
 - ii. The fees, charges, or assessments shall be a lien upon any land to which it may be levied, and shall be assessed, collected, and enforced as are ad valorem taxes. In accordance with Sections §11-89C-10(b) of the Act, Calhoun County shall receive a one (1) percent commission on all amounts levied and collected which shall be deposited to the Calhoun County general fund; and
 - iii. On a quarterly basis not later than the 20th day of January, April, July, and October, the City shall remit five percent (5%) of all fees collected pursuant to Section 11-89C-9(d) of the Act to the Alabama Department of Revenue.

Section 29½.22. Stormwater User Fee Charge Appeals.

- a. The City Manager shall administer the procedures and standards for the review of customer appeals as outlined herein.
 - i. If a customer believes his stormwater user fee charge is incorrect, the customer may seek an adjustment of the stormwater user fee charge allocated to a property at any time by submitting the request in writing to the City Manager on forms provided by the City and setting forth in detail the grounds upon which relief is sought. The customer's account must be paid and current prior to consideration of an adjustment request by the City, except during the period prior to issuance of the first bill.
 - ii. Customers requesting a correction of the City's classification of a subject property or the City's determination of other pertinent factors relating to the amount of the fee charged to a subject property, except as otherwise provided in this Section, and any adjustment of the stormwater user fee charge allocated to the property resulting from the correction, shall be required, at their own expense, to provide the City Manager with accurate, verifiable information demonstrating the alleged error in the City's classification or determination. Customers requesting a correction and adjustment on said grounds shall bear the burden of demonstrating to the City Manager's reasonable satisfaction that the City has erred in its classification or determination and that the error has resulted in an incorrect allocation of the stormwater user fee charge to the property.
 - iii. Customers requesting a correction of the City's delineation and calculation of impervious surfaces on a subject property, when applicable, shall be provided a statement of the City's results of its delineation and calculation of impervious surfaces for the property. If such a statement is not available, said customers may request a *de novo* delineation and calculation of

- impervious surfaces on the property, at the City's expense, and said customers shall be provided a statement of the results of the same. Customers requesting a correction on these grounds shall bear the burden of demonstrating to the City Manager's reasonable satisfaction that the City has erred in its delineation and calculation of impervious surfaces and that the error has resulted in an incorrect allocation of the stormwater user fee charge to the property, and said customers shall provide the City Manager, at their own expense, with such accurate, verifiable information as is necessary to meet their burden of proof, including, but not limited to, a survey certified by a registered land surveyor or a professional engineer, unless waived by the City Manager for good cause shown by the customer.
- iv. In all events, a customer's failure to provide the required information within the time limits established by the City Manager, as may be reasonably extended, may result in denial of the customer's adjustment request.
 - v. The City Manager shall render a written decision within thirty (30) calendar days of the City's receipt of a customer's completed adjustment request and all required information related to the request. The City Manager's decision shall be sent by regular United States mail to the address provided on the adjustment request, and service shall be complete upon its mailing. If the result of the City Manager's decision is that an adjustment is due, the City shall apply a credit in the amount of the overcharged amount, or a supplemental charge in the amount of the undercharged amount, on the next stormwater user fee charge billing to the subject property.

Section 3. If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this ordinance.

Section 4. All ordinances, or parts thereof, which are in conflict with any provision or any section, subsection, paragraph, provision or clause of this ordinance, are hereby repealed to the extent of the conflict.

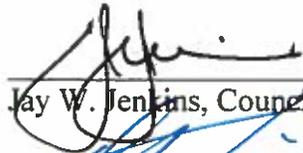
Section 5. This Ordinance shall become immediately effective after its adoption, its publication one (1) time in The Anniston Star, a newspaper of general circulation published in the City of Anniston, Alabama. The City Clerk is hereby ordered and directed to cause a copy of this Ordinance to be published one time in said newspaper.

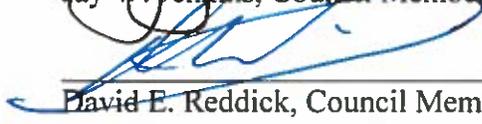
PASSED and ADOPTED this 14th day of July, 2014.

CITY COUNCIL OF THE CITY OF
ANNISTON, ALABAMA



Vaughn M. Stewart II, Mayor


Jay W. Jenkins, Council Member


David E. Reddick, Council Member


Seyram Selase, Council Member


Millie Harris, Council Member

ATTEST:


Alan B. Atkinson, City Clerk