SECTION 9 – DRAINAGE CHARGE ADMINISTRATION

9.1.0 GENERAL

The following rules have been promulgated by the City of Austin Watershed Protection Department (WPD) to address the administration of Chapter 15-2 of the Austin City Code.

9.2.0 APPLICABILITY

These rules apply to all customers within the service area of the Drainage Utility, which is the area within the city limits as defined in Section 15-2-3 of the Austin City Code, further clarified herein as full-purpose jurisdiction. These rules replace all previously approved Drainage Charge Administrative Billing Rules. These rules are intended to supplement and add clarity to, but at no time supersede, requirements outlined in the Drainage Utility Regulations in Chapter 15-2 of the Austin City Code, which is administered in accordance with the provisions of Chapter 552 (*Municipal Utilities*), Subchapter C (*Municipal Drainage Utility Systems*), of the Texas Local Government Code.

9.3.0 DEFINITIONS

Terms in this document are defined in the Austin City Code Sections 15-2-1 (Definitions), 15-9-1 (Definitions) and 25-1-21 (Definitions). The term "parcel" in Section 9 means the Travis Central Appraisal District (TCAD) properties and/or Williamson and Hays Appraisal District properties.

9.4.0 BASIS FOR THE DRAINAGE CHARGE

The drainage charge is based on the criteria identified in Sections 15-2-4 (B) and 15-2-4 (C) of the Austin City Code.

9.5.0 CALCULATION OF THE DRAINAGE CHARGE

9.5.1 Sections 15-2-5 and 15-2-7 of the Austin City Code define how impervious cover and the monthly drainage charge shall be calculated.

9.5.2 Base Rate - The annual base rate shall be in the fee schedule approved by City Council for each fiscal year. The monthly base rate is determined by dividing the annual base rate by 12.

9.5.3 Adjustment Factor - The adjustment factor formula shall be in the fee schedule approved by City Council for each fiscal year.

9.5.4 Total Area of a benefitted property - The total area of a property shall be initially determined by the City's Geographic Information System (GIS) which uses parcel data from Travis Central Appraisal District (TCAD), Williamson County Appraisal District

(WCAD), and Hays County Appraisal District (HCAD). The total area of a property may be corrected by the following sources:

A. A survey that is signed and sealed by a State of Texas Professional Land Surveyor,
B. The dimensions on an approved site development plan,
C. The dimensions on an approved subdivision plat,
D. The dimensions shown on an as-built plan, or
E. The dimensions obtained from tax records of the County Appraisal District in which the property is located.

If numbers from different sources are inconsistent, City staff may use the latest and most accurate source to make the determination.

9.5.5 Impervious Area - Impervious area (also called impervious cover) is defined by City Code Sections 15-2-1 (B) (4), 15-2-5, 25-8-63, and Environmental Criteria Manual Section 1.8.1.

A. Measurement - Impervious area shall be measured by the City's Geographic Information System (GIS) when calculated from the City's latest planimetric maps. Measurement of impervious area for the purpose of calculating the drainage fee shall conform to the methods and standards specified in the City's Environmental Criteria Manual, the City's Drainage Criteria Manual, and the City's Land Development Code as it is interpreted by the City's Watershed Protection and Development Services Department (or successor department) staff.
B. Additional Detail
    a. Structures - The impervious area for structures shall be determined by whichever of the following is larger - the roof area, the foundation area, or exterior wall area. Consequently, horizontal projections of the overhang of a house (eaves for example) are considered impervious area.
    b. Sidewalks/Trails - Sidewalks and trails that are accessible by the general public and are located on public property or on public easements shall not be counted as impervious cover.
    c. Roads/Driveways/Parking Areas – Partially paved vehicular areas constructed with pervious areas (e.g. concrete strips with a pervious median) may have the pervious area removed from the impervious cover quantity if there is clear evidence of focused use on the paved areas. Unpaved vehicular areas compacted by vehicle use may have the uncompacted, pervious areas removed from the impervious cover quantity only if there is clear evidence of focused use on the wheel track area. In cases where ungrouted stones/bricks/pavers are placed adjacent to each other (gaps <1"), the requirements below for permeable pavers and porous pavement must be met to receive a reduction in impervious

cover. For vehicular areas with both impervious and pervious features, City staff may assign the entire area as 50% impervious or specifically delineate the impervious areas.

d. Pedestrian Patios/Walkways – For all pedestrian patio or walkway uses where there are bricks, stones, or other impervious features spread over an area, when the pervious space between the impervious features is greater than 50%, the entire area may be considered pervious. When the pervious space between the impervious features is less than 50%, the entire area may be considered as 50% impervious. In cases where ungrouted stones/bricks/pavers are placed adjacent to each other (gaps <1"), the requirements below for permeable pavers and porous pavement must be met to receive a reduction in impervious cover.

e. Permeable Pavers and Porous Pavement – In order to exclude permeable pavers or porous pavement from impervious cover, the customer will need to provide plans, specifications, details, or other information that clearly demonstrates the installation met City of Austin permeability requirements at the time of construction. If sufficient proof is provided, the area may be considered fully pervious for pedestrian applications and 50% pervious for vehicular applications.

C. Corrections - The impervious area of a property may be corrected by the following sources, any of which may be collected and submitted by the utility customer at his/her initiative:

a. Latest available aerial photographs or planimetric data.

b. An up-to-date survey that is signed and sealed by a State of Texas Professional Land Surveyor.

c. A site plan or similar development documents that accurately reflect the development currently on the property.

d. Measurements and observations from a field check by City staff.

e. Photographs that show conditions different from those on which the original calculations were based (e.g., uncovered wood decks, wheelchair ramps, removed structures, misinterpreted features).

f. More detailed information provided by requestor after review and approval by staff.

D. Drainage Discount –City code 15-2-7 part C allows the Watershed Protection Department (WPD) to set up a discount for those who have stormwater control measures (SCM) on their property that exceed the legal requirements for development.

a. Applicability / Eligibility

1. Applicants must be a current drainage utility customer or a tenant of the benefitted property.

i. A tenant, who is not a current drainage utility customer, may apply for the SCM discount on behalf of the drainage utility customer for the benefitted property. However, WPD cannot disclose the account information concerning the benefitted property to the tenant. The discount will be applied to the drainage utility customer for the benefitted property.

2. If any permit or approval for SCM is required by governmental code, the applicant must show evidence of approval.
3. Other governmental agreements, such as Planned Unit Developments (PUD) or Variances, are considered legal requirements for development and thus SCMs developed as part of these agreements are not considered eligible for a discount.
4. The SCM must exceed the legal requirements for development of the benefitted property. For SCMs developed to meet legal requirements, but also exceed requirements, the amount of volume that exceeds the legal requirements must be clearly documented and calculations provided showing the excess. For SCMs that required a Professional Engineer (PE) seal to construct, a PE seal with supporting calculations are also required to demonstrate the excess amount.

b. Types of Controls

1. SCMs must be present in Drainage Criteria Manual or Environmental Criteria Manual in order to be eligible for discount.

c. Calculation

1. If the SCM is installed at a property that is associated with only one DUF account, the discount will be applied to the account holder for the benefitted property.
2. If multiple DUF accounts are associated with a property (as in a duplex), the discount will be applied to the customer(s) that own, operate and maintain the SCM. If multiple DUF accounts are associated with the SCM, the City shall determine an equitable allocation of the discount.
3. The amount of the discount will be limited to the impervious surface area that is mitigated by the SCM.
4. Amount of discount cannot result in a negative DUF charge.

d. Inspection and Maintenance

1. Customers receiving discount must service and maintain SCM in order to retain discount.

2. To maintain the discount, customer shall allow WPD to perform on-site inspection, if requested, to verify SCM is well-maintained and functioning as designed.
3. Information found to be inaccurate may result in loss of discount or back debit.

e. Timeline

1. Discount is valid for two years starting on date of approval. To renew discount, customer must complete renewal process.
2. If SCM (e.g., rain barrel) is moved to a different benefitted property, customer must reapply for discount.

9.5.6 Calculating Properties on a Composite Basis - Under Section 15-2-5(C), the percentage impervious cover may be calculated on a composite basis under certain circumstances, as prescribed in this Section.

A. A "condominium regime" as defined by City and State Codes.
B. The properties are subject to a unified development agreement or City site plan that specifies the properties will be reviewed as one site.
C. The customer provides documentation acceptable to the Director indicating that the properties were legally developed together.
D. If a building spans one or more parcel boundaries, initial billing assignments may assume these parcels were legally developed together.
    1. Same Owner – In addition to combining the charge, the bill will also be combined.
    2. Different Owners (e.g. townhomes) – The calculation of the charge may be combined. The charge should be assessed to the home owners association (HOA) if the HOA has an account; otherwise the charge may be divided equally among the owners.
E. Examples:
    1. Adjacent Parcels, Same Owner – Unless legally developed together or as noted below, if two or more parcels are adjacent and have the same owner, the charge is calculated and assessed separately for each parcel.
        a) Even though separate charges may be assessed for multiple parcels of the same owner, that same owner may have those separate parcel charges placed on a single bill.
    2. Adjacent Parcels, Multiple Owners, One Address – When there are multiple parcels with multiple owners, but all at one address, the charge is calculated and assessed separately for each parcel. City will attempt to place additional address points, if appropriate.

3. Multiple Parcels, legally developed together, different owners, and one existing Drainage Utility Fee (DUF) account - WPD will maintain one account unless requested by all the owners to change.
4. Duplexes, Triplexes, and Fourplexes – If there are 2-lot duplexes or other multi-lot examples up to fourplexes, they shall be combined together into one parcel for calculating the charge.
5. Non-adjacent Parcels – These shall not be combined for the purpose of calculating the drainage charge unless the parcels were legally developed together as one site and subsequently separated by public right-of-way. Subdivision of undeveloped parcels retained by the same owner does not constitute development together as one site.
6. Parcels within a Parcel – Parcels that are wholly enveloped by another parcel may be calculated on a composite basis.
7. Private Drives/Streets – These are not exempt like public ROW and will receive a drainage charge. If the private drives are separate parcels, they will not be combined with other parcels, unless those parcels all have the same owner and were legally developed together.

9.6.0 ASSESSMENT OF THE DRAINAGE CHARGE

9.6.1 City Code Section 15-2-8 defines how the drainage charge will be billed.

9.6.2 The fee will be assessed beginning when the Department confirms that a Certificate of Occupancy or Certificate of Completion has been issued for the property.

9.6.3 If the property owner, or his designee, requests to pay the Drainage charge, WPD may accommodate customer request.

9.6.4 Redevelopment - If there is an existing drainage charge, and additional development or redevelopment on that property occurs, the existing impervious area prior to construction activities beginning will be the basis for the impervious cover amount to generate a charge during construction. Once construction activities are complete and a Certificate of Occupancy/Completion is issued for the new improvement, the new impervious cover area shall be the basis for the impervious cover amount to generate a charge.

9.6.5 Phased Construction - When new construction is phased on a property, and following occupancy or utility activation on part of the property, the drainage charge shall be assessed to the owner in proportion to the amount of impervious cover in the completed phase(s). The City shall determine an equitable method to estimate impervious cover for the completed phase(s).

9.6.6 Any account billing for fewer than 17 days will not be assessed the drainage charge. This ensures that users will not be charged twice in one month if they move within the city limits.

9.6.7 Other clarifications for Section 15-2-8:

A. Single Account - The drainage charge shall be assessed to the utility account associated with either residential or nonresidential properties with only one account (one service point).

B. Secondary Residence - For a property comprising solely of two residential units that are not duplexes, townhomes, or condos and that have separate active utility customer accounts, the City shall bill 100% of the charge to the utility customer associated with the primary residence. For this purpose, a secondary residence is defined as a unit with living area square footage less than 40% of the total living area square footage on the property, as provided by county appraisal district data. When neither of the two residences has a living area square footage less than 40% of the total living area square footage on the property, neither shall be considered as the primary residence, and billing will remain at 50% responsibility for each. However, in instances where a metered service (water or electric) is supplied to both premises by a single account, the drainage charge will be assigned 100% to that account.

~~B. Garage Apartment - For residential property with more than one utility customer that contains an accessory unit or garage apartment, the charge shall be divided equally by the number of utility customers. If utilities have been discontinued and a unit is determined to have been vacant, then the City may move the unbilled vacant charges to the primary residence.~~

C. Duplex, Triplex, Fourplex - For duplex residential properties, the drainage charge shall be divided equally between the two accounts regardless of the size of either unit. For triplex and fourplex residential properties, the drainage charge shall be divided equally among the 3 or 4 units, regardless of relative size. If one or more of the units is vacant and/or the utilities have been discontinued, the denominator of 2, 3, or 4 will remain the same. If a unit is determined to have been vacant, then the City may move the unbilled vacant charges to the property owner.

D. Condominiums - If the common area has a utility account, the drainage charge for condominium properties shall be calculated for the total property and billed to the common area utility account.

E. Multi-family residential (5 or more units) - The drainage charge shall be calculated for entire multifamily residential properties and billed to the property owner, property manager or the entity associated with the master meter account. If the City cannot reasonably determine or locate a single entity to bill, the City shall

determine an equitable method to allocate the drainage charge among utility customers. Equitable methods may include – equal division, approximate ratio estimates, apportionment of impervious cover, or other methods.

F. Mobile Homes - Properties containing multiple mobile homes shall be billed in the same way as multifamily (5 or more units) residential properties.

G. For entire multi-tenant non-residential properties and/or non-residential properties with more than one account the drainage charge shall be billed to the owner, property manager or entity associated with the master meter account and/or the drainage charge service point.

H. For mixed-use properties with multiple tenants (residential and non-residential), the drainage charge shall be billed to the owner, property manager, or entity associated with the master meter account and/or the drainage charge service point.

I. For properties with only one active utility account, the charge shall be billed to that account even though it may contain multiple units or structures.

J. In any situation where the owner of a multi-tenant property (residential, non-residential or mixed use) cannot reasonably be determined or located, or if the owner proves to be unresponsive in paying the charge , the total charge may be divided equally among the utility customers associated with the property and billed accordingly.

    1. For initial billing assignments, property owners without existing utility accounts may be considered as "cannot reasonably be determined or located" until a separate drainage utility account is established.
    2. In situations where the non-owner utility customers may be billed and those customers do not occupy the entire property, the City may determine an equitable method for allocation which may include billing those customers up to 100% of the property until the owner has established a utility account.

K. For properties that are partially inside and partially outside the City limits, the service point should be located on the main structure. If the service point is located outside the City limits, the drainage charge will not be assessed on the property. If the service point is located within the City limits, then the drainage charge shall be assessed, but the fee will be calculated using only that portion of the total property and that portion of the impervious cover that lie within the City limits.

9.7.0 REDUCED CHARGES

9.7.1 Single Family Residential Phase-in - After the monthly charge has been computed, it may be adjusted for single family residential property in accordance with Section 15-2-7 of the Austin City Code for the period between October 1, 2015 and October 1, 2016. When the calculated monthly fee for a single family property exceeds $9.80, the

increase over $9.80 shall be determined and then reduced by 50%. An example would be a calculated fee of $19.80. The $10 increase (over $9.80) would be reduced by 50% to a $5 increase and the resulting fee for the first year would be $14.80. The reduced charge shall be allowed for properties that are designated as single family in the City's billing system. This includes garage apartments, but does not include duplexes, townhouses/condos, or mobile homes.

9.7.2 Customer Assistance Program (CAP) - Each year, Austin Energy's Customer Assistance Discount Program may select customers who qualify for the program to receive a discount on the drainage charge, up to the limit specified by the Director of the Watershed Protection Department (WPD). The Director of WPD shall specify the number of customers to receive the drainage charge discount, and may change the number at any time by notifying Austin Energy via a signed memo. The drainage charge discount percentage shall be set in the annual fee schedule.

9.8.0 EXEMPTIONS

9.8.1 Public Rights-of-Way (ROW) - All public ROW inside the City, whether owned and/or maintained by the City, the State of Texas, or a county are exempt from the drainage fee. Private streets, alleys and drives are not exempt.

9.8.2 State - Any agency of the State of Texas is exempt from the drainage fee per Texas Local Government Code 580.003. This applies whether that agency either owns or occupies the property.

9.8.3 Public or Private Institution of Higher Education - Any public or private institution of higher education is exempt from the drainage fee per Texas Local Government Code 580.003. This applies whether the institution either owns or occupies the property. All terms pertaining to institutions of higher education are defined in the Texas Education Code Section 61.003.

9.8.4 Religious Organizations - Property owned and occupied by a religious organization that is exempt from taxation under Section 11.20 of the Texas Tax Code may be exempt from the drainage charge, but only when the organization is enrolled in the Religious Coalition to Assist the Homeless (RCAH) and participates by paying RCAH an amount each month equal to or greater than the drainage charge amount that would be paid to the City. The Department does not enroll religious organizations in RCAH, nor shall the Department accept applications for this exemption. RCAH shall notify the Department when a qualifying religious organization is participating in the program, and at that time the Department shall place a stop on the City's assessment of the fee for that organization. Conversely, RCAH shall notify the Department whenever an organization drops out of the program or is in arrears, and the Department shall immediately re-instate the drainage charge for that organization.

9.8.5 Exempt Ownership - For a benefited property that is owned by an agency of the State or an institution of higher education, but is occupied by another non-exempt entity, a charge shall be assessed for the property and assigned to the non-exempt utility customer(s) occupying the property.

9.8.6 Exempt Occupancy - For a benefited property that is occupied by an agency of the State or an institution of higher education, but is owned by another non-exempt entity, a charge shall be assessed for the property and assigned to the non-exempt property owner.

9.9.0 BILLING ADJUSTMENTS

9.9.1 Adjustments to customer drainage charges shall be made in accordance with Section 15-2-12 of the Austin City Code. The billing adjustment process may involve two steps in progression.

9.9.2 Administrative Review

A. The methods to request and initiate an Administrative Review will be available on the City's website or directly through the Watershed Protection Department (WPD).
B. An administrative review shall address only the four potential errors listed in Section 15-2-12 (A).
C. Data sources to be used in checking and correcting a potential error in calculating the area of a benefited property are listed in 9.5.4 above.
D. Data sources to be used in checking and correcting a potential error in calculating the amount of impervious cover are listed in 9.5.5 above.
E. A customer requesting a review must submit information and documentation to support the claim that an error was made.
F. Refunds for overbilling and backbills for underbilling shall be done in accordance with Section 15-9-140 of the Austin City Code.
G. Refunds for overbilling based on the new fee structure effective October 1, 2015 shall not extend to any period prior to that date when the fee was determined by a different methodology.
H. Any refund for a period prior to October 1, 2015 must be based solely on the fee structure and rates in place at that time.

9.9.3 Administrative Hearing - Customers who are not satisfied with the outcome of the administrative review shall be informed of the administrative hearing process described in City Code Chapter 15-9, Article 12.

9.9.4 This section of the administrative billing rules, together with the sections of the City Code referenced herein, form the Appeals Rules and Procedures referenced in Section 15-9-191 of the City Code.