
**AUGUSTA COUNTY SERVICE AUTHORITY
OPERATING PROCEDURES AND POLICY MANUAL**

Issue Date: December 17, 1998

Engineering Management/Design

Approved By: Board of Directors

Policy No. 10.8

Amended: October 28, 1999, Effective Date: December 1, 1999

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Amended: April 21, 2005, Effective Date: May 16, 2005

Amended: March 19, 2009

Amended: September 13, 2010

Amended: December 16, 2010, Effective Date: December 16, 2010

Reserved Treatment Capacity for Water or Sewer Systems

1.0 General

The reservation of treatment capacity in the water and wastewater treatment facilities of the Augusta County Service Authority (herein called the “Service Authority”) will be based on the assessment of the appropriate prevailing Availability Fee for that service (herein called the “Availability Fee”) under the conditions set forth in this policy and is in accordance with the Code of Augusta County.

2.0 Residential Subdivisions – Major

Prior to approval by the Community Development Department of a final plat but following compliance with County Code Section 21-55 *Documents and other matters to accompany final plat* or 21-9 *Site plans, master plans, and plans of development* as applicable, the owner (herein called the “Developer”) of a proposed subdivision (the “Project”) has the following options for payment of the requisite Availability Fee: (1) payment in full of the Availability Fee at the current rate for each lot in the Project, as shown on the plat, or (2) partial payment in an amount not less than twenty-five (25) percent of the Availability Fee at the current rate for each lot in the Project, as shown on the plat, with the balance to be due not later than five (5) years¹ thereafter. The balance of the Availability Fee will be payable as set out below. Upon payment in full or partial payment of the Availability Fee(s), the Service Authority will enter into an agreement with the Developer (herein called the “Agreement”), specifying the number of connections to be provided and any conditions which apply to those connections in the discretion of the Service Authority. The Agreement will be recorded in the Office of the Clerk of the Circuit Court of Augusta County as a notice of the terms of this policy and the Agreement to prospective purchasers of lots.

Upon execution of the Agreement the Service Authority will issue a letter to the Developer with a copy sent to the Augusta County Community Development Department, which states that capacity exists for each lot in the Project. If the Availability Fee is partially paid for a lot, then upon the earliest to occur of the following events: (1) five (5) years from the date of full execution of the Agreement when the entire unpaid balance on the Availability Fee as to the entire project is due; or (2) upon transfer of title to any part of the Project (hereinafter referred to as a lot) (as to that lot); or (3) at the time of application for service for a lot (as to that lot). The balance due of the Availability Fee at any time shall be computed on the basis of the then current rate, less the credit from the initial partial payment for any lot.

¹ Due to the current economic climate the Service Authority Board of Directors at its August 19, 2010 meeting approved the extension of the Reservation of Capacity Agreement period from three years to five years for all current and new projects, until further action by the Board.

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Upon the earliest to occur of (1) payment in full of the Availability Fee, (2) transfer of title of a lot in the subdivision, or (3) five (5) years from the date of full execution of the Agreement, and provided the lot has not been connected to the utility system, the owner of the lot will be required to commence and continue payment of a bimonthly fixed charge.² This charge will maintain the continued reservation of capacity for that lot. This charge will be the same fixed charge, in accordance with Policy 5.6 – Billing and Collection Policy, billed to active customers and will be billed bimonthly to the Developer, or if the Service Authority is provided with appropriate evidence of transfer of ownership and contact information by the Developer, then to the subsequent owner of the lot, until there is an application for service at which time the hookup fee at the then current rate will be due.

If the Availability Fee(s) are not paid when due, the reservation of capacity is terminated, any partial payment is forfeited and it cannot be applied to any future application for service, and the Agreement will terminate as to the affected lot(s).

All amounts due under the Agreement must be paid in full before a water meter will be set or a sewer tap made for a lot.

2.1 Final Plats and Construction Plans Approved Prior to Policy Adoption

The sunset clause for earlier approved projects expired in 2004 and connections for these projects are no longer considered to be reserved.

2.2 Special Agreements

Projects which are the subject of separate written agreements with the Service Authority will continue to be governed by those agreements.

2.3 Residential Subdivisions – Minor

Minor Subdivisions, as defined by the Augusta County Subdivision Ordinance, may be evaluated by the Service Authority, in its discretion, on the basis of the remaining capacity in reserve and may be approved for reserved capacity subject to such conditions as may be imposed by the Service Authority, in its discretion, which may include a requirement that the owner of the lot or parcel pay the then current Availability Fee.

² Due to the current economic climate the Service Authority Board of Directors at its August 19, 2010 meeting approved the suspension of the bi-monthly charge for any lots without an active meter until December 2011. At the November 17, 2011 Service Authority Board of Directors meeting, it was agreed to extend the suspension of the bi-monthly charge for an additional year until December 2012.

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3.0 Multi Family, Commercial, or Industrial Property

Multi Family, Commercial and Industrial Property projects must meet the same criteria for determining and reserving capacity as Major Subdivisions contained in Section 2.0, with site plan approval being substituted for final plat approval and other provisions as required by County Code Section 21-9 *Site plans, master plans, and plans of development* as applicable.

Upon disapproval of a Project application submitted through County Code Section 21-9 *Site plans, master plans, and plans of development*, or failure of the Developer to obtain approval of such an application within one year of the date of its last submission to the Service Authority, in its discretion, the Service Authority may terminate the Agreement and the reservation of capacity contained therein, provided in such event the Service Authority shall refund to Developer any Availability Fee or portion thereof paid previously.

4.0 Determination of Remaining Available Capacity

The Service Authority will make the sole determination of the available number of connections remaining to be allocated for each of its facilities. The Service Authority will make a determination from time to time, in its sole discretion, of the capacity at each facility which is to be reserved for engineering and managerial purposes, such as allowance for “peak flow” usage. This determination will be reviewed on an ongoing basis and the number of available connections will be updated to reflect current conditions. When no new allocations are determined to be available, no new Project will be approved with reserved capacity.

5.0 Capacity Reserves for Unspecified Industrial Prospects

Augusta County may reserve capacity for unspecified industrial prospects to complement its economic development activities. A maximum reserved capacity of 100,000 gallons per day has been provided at no cost to the County and will be available on a system wide basis without a guarantee that sufficient capacity exists in a particular service area. Capacity above 100,000 gallons per day will be reserved on a basis of the payment of the Availability Fees for the number of Equivalent Residential Connections equal to the capacity desired.

6.0 General Conditions

A. Once paid in whole or in part the Availability Fees and other fees or charges are not refundable unless otherwise specifically provided in this policy.

B. The Service Authority shall have the right to demand immediate payment of all fees related to the Project and to exercise all its rights and remedies under the Agreement if:

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(1) Any Availability Fee owed to the Service Authority under the terms of the Agreement is not paid when due.

(2) Developer fails to pay when due any other fees related to the Project to the Service Authority pursuant to the terms of the Agreement.

C. The Service Authority will not approve any building permit or provide service for any part of the Project unless and until the Availability Fee for that part of the Project has been paid.

D. The Service Authority shall be under no obligation to accept payment of the Availability Fees for any phase of the Project unless Developer is current in payment of all other amounts due the Service Authority associated with the Project or any other project or property owned by the Developer at the time such payment is tendered.

E. Inspection and ancillary fees related to the Project will be billed separately by the Service Authority to Developer, with bills payable within 30 days of their date. Notwithstanding the fact that the Availability Fees have been paid, the Service Authority shall not be obligated to approve any building permit or provide service at any time when any amount which Developer owes to the Service Authority is past due.

F. Except as expressly set out in the Agreement, the relationship between Developer and the Service Authority shall be governed by the Service Authority's policies, procedures and rules in effect at any given time.

G. If any fee is not paid by the responsible party (Developer or Developer's successor in title) the responsible party shall be liable for all damages, costs and expenses, including attorney's fees, incurred by the Service Authority related to or as a result of the default, in collecting payment, or in enforcing the Agreement.

H. The Agreement shall be binding on the parties signing it as Developer with respect to all or any part of the Project, and on successors in title to the Developer who assume Developer's obligations, in every case jointly and severally, and is to be recorded in the Clerk's Office of the Circuit Court of Augusta County. Certain terms and conditions of the Agreement affect lots in the Project owned by successors in title to the Developer even if they do not assume Developer's obligation.

I. In the event of any changes in governmental laws or regulations applicable to the Service Authority utility system which effectively reduces system capacity, the Service Authority, in its discretion, may terminate the Agreement and the reservation of capacity contained therein, provided in such event the Service Authority shall refund to the then current owner of the Project, or of any lot therein which is separately titled, any Availability Fee or bimonthly fixed charges, or portions thereof, paid previously.

J. Nothing in the Agreement shall be construed to modify or limit any right or remedy available to the Service Authority under applicable law.