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

Approved By: Board of Directors
Revised Date: February 11, 2019
Effective Date: March 27, 2019

Engineering Management/Design
Policy No. 10.4
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Reserved Treatment Capacity for Water or Sewer Systems

General

The reservation of treatment capacity in the water and wastewater treatment facilities of the Augusta County Service Authority (herein called the “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 as in accordance with the Code of Augusta County.

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 County Code Section 25, Division J, Article LXVII *Site Plan Review* 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 ten (10) 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) years 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 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 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 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 of 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.

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 service will be provided.

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Exception for Major Subdivisions in Areas Served by Wastewater Treatment Plants with Available Capacity in Excess of 4,000 Equivalent Residential Connections

For lots that are to be served by any ACSA Wastewater Treatment Plant with more than 4,000 available Equivalent Residential Connections (ERC's), the Developer shall have the option of not paying for any part of the availability fees until request for the physical connection is made (water meter set, or sewer cleanout installed), at which time the Developer or the owner of each applicable lot shall pay all applicable availability fees at the then-current rates. If the Developer chooses this option, ACSA will not reserve capacity and does not guarantee service for the lot, but will track the additional lots keeping track of the respective WWTP's available capacity. At such time that the available capacity of the applicable WWTP drops below 4,000 ERC's, including all lots for which capacity has NOT been reserved, ACSA shall notify Augusta County and begin requiring the 10% payment before recordation of any new platted major subdivision served by the applicable WWTP. ACSA will also, at this time, attempt to notify all then-current owners of lots for which no portion of the availability fee has been paid and no capacity has been reserved. At this time, lot owners may choose to pay the then-current availability fee required to reserve capacity.

Applicability

This revised policy, and any future revisions to the policy, will be effective on the date specified. Projects shall be subject to the policy which is in place at the time of their First Submittal.

Special Agreements

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

Residential Subdivisions – Minor

Minor Subdivisions, as defined by the Augusta County Subdivision Ordinance, may be evaluated by the Authority, 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 Authority which may include a requirement that the owner of the lot or parcel pay the then current Availability Fee.

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, with site plan approval being substituted for final plat approval and other provisions as required by County Code Section 25, Division J, Article LXVII *Site Plan Review* as applicable.

Upon disapproval of a Project application submitted through County Code Section 25, Division J, Article LXVII *Site Plan Review*, or failure of the Developer to obtain approval of such an application within one year of the date of its last submission to the Authority, the Authority may terminate the Agreement and the reservation of capacity contained therein, provided in such

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event the Authority shall refund to Developer any Availability Fee or portion thereof paid previously.

Determination of Remaining Available Capacity

The Authority will make the sole determination of the available number of connections remaining to be allocated for each of its facilities. The Authority will make a determination from time to time 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.

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 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:
 - a. Any Availability Fee owed to the Authority under the terms of the Agreement is not paid when due.
 - b. Developer fails to pay when due any other fees related to the Project to the Authority pursuant to the terms of the Agreement.
- C. The 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 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 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 Authority to Developer, due thirty (30) days after the billing date. Notwithstanding the fact that the Availability Fees have been paid, the Authority shall not be obligated to approve any building permit or provide service at any time when any amount which Developer owes to the Authority is past due.
- F. Except as expressly set out in the Agreement, the relationship between Developer and the Authority shall be governed by the Authority’s policies, procedures and rules in effect at any given time.

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- 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 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 Authority utility system which effectively reduces system capacity, the Authority may terminate the Agreement and the reservation of capacity contained therein, provided in such event the Authority shall refund to the then current owner of the Project, or of any lot therein which is separately titled, any Availability Fee, or portions thereof, paid previously.

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