

**Attachment A  
Ordinances**

Ordinance No. 97-1

**AN ORDINANCE**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF GRIFFIN BY ADOPTING A NEW ARTICLE VI, *STORMWATER MANAGEMENT*, TO CHAPTER 22, *UTILITIES*, RELATING TO STORMWATER MANAGEMENT IN THE CITY; STATING FINDINGS REGARDING STORMWATER MANAGEMENT NEEDS IN THE CITY; ESTABLISHING A STORMWATER UTILITY AS A DEDICATED ENTERPRISE ACCOUNTING UNIT OF THE DEPARTMENT OF PUBLIC WORKS; STATING THE SERVICE AREA, PURPOSES, AND POWERS OF THE UTILITY; PROVIDING DEFINITIONS; STATING GENERAL SERVICE CHARGE RATE POLICIES; DECLARING THAT INDIVIDUAL SECTIONS OF THIS ORDINANCE SHALL BE SEVERABLE ONE FROM ANOTHER; ESTABLISHING AN EFFECTIVE DATE; REPEALING CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Griffin is responsible for the protection and preservation of the public health, safety, and welfare of the community;

**WHEREAS**, the Board of Commissioners of the City of Griffin is authorized by Article IX, Section II, Paragraph 111(a) (6) of the Georgia Constitution to provide stormwater management throughout the incorporated area of the City of Griffin;

**WHEREAS**, the federal Clean Water Act as amended by the Water Quality Act of 1987 (33 U.S.C. 1251 et seq.) and rules promulgated by the United States Environmental Protection Agency pursuant to the Act place increased emphasis on the role of local governments in developing, implementing, conducting and funding stormwater management programs which address water quality impacts of storm water runoff;

**WHEREAS**, the City has completed a professional engineering and financial analysis by OGDEN ENVIRONMENTAL AND ENERGY SERVICES and by WATER RESOURCE ASSOCIATES, INC. of its stormwater management problems, needs, goals, program priorities and funding opportunities, which has been delivered to the City and has been examined, reviewed and discussed by the Board of Commissioners;

**WHEREAS**, the Board of Commissioners finds and concludes from the professional engineering and financial analysis that substantial storm water management program operational and capital investment needs exist;

**WHEREAS**, the professional engineering and financial analysis indicates that adequate and stable funding will be essential if the City is to meet its future storm Water management program operational and capital investment needs; and

**WHEREAS**, it is the desire of the Board of Commissioners to proceed with the development, implementation, and operation of a utility for stormwater management accounted for in the City budget as a separate enterprise fund dedicated solely to storm water management and to institute funding methods associated therewith;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF GRIFFIN, AND IT IS ESTABLISHED AS FOLLOWS:**

SECTION 1 The Code of Ordinances of the City of Griffin is hereby amended by adopting a new Article *VI, STORMWATER MANAGEMENT*, to Chapter 22, *UTILITIES*, to read as follows:

**"ARTICLE VI. STORMWATER MANAGEMENT**

Sec. 22-125. *FINDINGS*.

The Board of Commissioners of the City of Griffin, Georgia makes the following findings:

- (a) The professional engineering and financing analysis (Stormwater Management Action Plan) submitted to the City properly assesses and defines the stormwater management problems, needs, goals, program priorities and funding opportunities of the City.
- (b) Given the problems, needs, goals, program priorities, and funding opportunities identified in the professional engineering and financing analysis, it is appropriate to authorize the formation of an organizational and accounting entity dedicated specifically to the management, maintenance, protection, control, regulation, use, and enhancement of stormwater systems in Griffin in concert with other water resource management programs.
- (c) Stormwater management is applicable and needed throughout the corporate limits of Griffin. While specific service and facility demands may differ from area to area at any given point in time, a stormwater management service area encompassing all lands and water bodies within the corporate limits of Griffin is consistent with the present and future needs of the community.
- (d) The stormwater needs in the City of Griffin include but are not limited to protecting the public health, safety, and welfare. Provision of storm water management programs and facilities renders and/or results in both service and benefit to all properties, property owners, citizens, and residents of Griffin in a variety of ways as identified in the professional engineering and financial analysis. The service and benefit rendered or

resulting from provision of stormwater management systems and facilities may differ depending on many factors and considerations, including but not limited to location, demands and impacts imposed on the stormwater systems and programs, and risk exposure.

(e) The City of Griffin presently owns and operates stormwater management systems and facilities which have been developed over many years. The future usefulness of the existing storm water Systems owned and operated by the City, and of additions and improvements thereto, rests on the ability of the City to effectively manage, protect, control, regulate, use, and enhance stormwater systems and facilities in Griffin in concert with the management of other water resources in the City. In order to do so, the City must have adequate and stable funding for its stormwater management program operating and capital investment needs.

(f) The Board of Commissioners finds, concludes and determines that a utility provides the most practical and appropriate means of properly delivering and funding storm water management services in Griffin.

*Sec. 22-126. ESTABLISHMENT OF A UTILITY AND ENTERPRISE FUND.*

(a) There is hereby established a stormwater utility within the Public Works Department which shall be responsible for storm water management throughout the City's corporate limits, and shall provide for the management, protection, control, regulation, use, and enhancement of stormwater systems and facilities.

(b) The City Manager shall establish a stormwater enterprise fund in the City 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 Board of Commissioners. Any revenues and receipts of the stormwater utility shall be placed in the stormwater enterprise fund and all expenses of the utility shall be paid from the stormwater enterprise fund, except that other revenues, receipts, and resources not accounted for in the storm water utility enterprise fund may be applied to stormwater management operations and capital investments as deemed appropriate by the Board of Commissioners, upon recommendation of the City Manager.

(c) The Board of Commissioners hereby transfers to the stormwater utility operational control over the existing storm water management systems and facilities owned and heretofore operated by the City and other related assets, including but not limited to properties upon which such facilities are located, easements, rights-of-entry and access, and certain equipment.

*Sec. 22-127. DEFINITIONS.*

(a) CUSTOMERS OF THE STORMWATER UTILITY. Customers of the stormwater utility shall include all persons, properties, and entities served by and/or benefiting from the utility's acquisition, management, maintenance, extension, and improvement of the public storm water management Systems and facilities and regulation of public and private stormwater storm water 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.

(b) HYDROLOGIC RESPONSE. The hydrologic response of a property is the manner and means whereby stormwater collects, remains, infiltrates, and is conveyed from a property. It is dependent on several factors including, but not limited to, the presence of impervious area, the size, shape, topographic, vegetative, and geologic conditions of a property, antecedent moisture conditions, and groundwater conditions on a property.

(c) IMPERVIOUS SURFACES. 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.

(d) STORMWATER MANAGEMENT SYSTEM. Stormwater management systems address the issues of drainage management (flooding) and environmental quality (pollution, erosion and sedimentation) of receiving rivers, streams, creeks, lakes, ponds, and reservoirs through improvements, maintenance, regulation and funding of plants, works, instrumentalities and properties used or useful in the collection, retention, detention, and treatment of stormwater or surface water drainage.

(e) UNDEVELOPED LAND. Land in its unaltered natural state or which has been modified to such minimal degree as to have a hydrologic response comparable to land in an unaltered natural state shall be deemed undeveloped. Undeveloped land shall have no pavement, asphalt, or compacted gravel surfaces or structures which create an impervious surface that would prevent infiltration of stormwater or cause stormwater to collect, concentrate, or flow in a manner materially different than that which would occur if the land was in an unaltered natural state.

#### *Sec. 22-128. SCOPE OF RESPONSIBILITY FOR THE CITY DRAINAGE SYSTEM.*

The City drainage system consists of all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage ways, channels, ditches, swales, storm sewers, culverts, inlets, catch basins, pipes, head walls and other structures, natural or man-made, within the political boundaries of the City of Griffin which control and/or convey stormwater through which the City intentionally

diverts surface waters from its public streets and properties. The City owns or has legal access for purposes of operation, maintenance and improvements to those segments of this system which (1) are located within public streets, rights-of-way, and easements; (2) are subject to easements, 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 (3) are located on public lands to which the City has adequate access for operation, maintenance, and/or improvement of systems and facilities. Operation and maintenance of stormwater systems and facilities which are located on private property or public property not owned by the City of Griffin and for which there has been no public dedication of such systems and facilities for operation, maintenance, and/or improvement of the systems and facilities shall be and remain the legal responsibility of the property owner, except as that responsibility may be otherwise affected by the laws of the State of Georgia and the United States of America.

It is the intent of this Ordinance to protect the public health, safety and general welfare of all properties and persons in general, but not to create any special duty or relationship with any individual person or to any specified property within or without the boundaries of the City of Griffin. The City of Griffin expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the City, its officers, employees and agents arising out of any alleged failure or breach of duty or relationship as may now exist or hereafter be created. To the extent any permit, plan approval, inspection or similar act is required by the City as a condition precedent to any activity by or 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 afford the basis for any action, including any action based on failure to permit or negligent issuance of a permit, seeking the imposition of money damages against the City, its officers, employees or agents.

*Sec. 22-129. REQUIREMENTS FOR ON-SITE STORMWATER SYSTEMS; ENFORCEMENT METHODS AND INSPECTIONS.*

All property owners and developers of developed real property within the City of Griffin shall provide, manage, maintain, and operate on-site stormwater systems sufficient to collect, convey, detain, and discharge storm water in a safe manner consistent with all City of Griffin development regulations and the laws of the State of Georgia and the United States of America. Any failure to meet this obligation shall constitute a nuisance and be subject to an abatement action filed by the City in the Municipal Court. In the event a public nuisance is found by the Court to exist, which the owner fails to properly abate within such reasonable time as allowed by the Court, the City may enter upon the property and cause such work as is reasonably necessary to be performed, with the actual cost thereof assessed against the owner in the same manner as a tax levied against the property. From date of the filing of such action, the City shall have lien rights which may be perfected, after judgment, by filing a notice

of lien on the General Execution Docket of the Superior Court of Spalding County. The City shall have the right, pursuant to the authority of this Ordinance, for its designated officers and employees to enter upon private and public property owned by entities other than the City, upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to assure compliance."

**SECTION 2. GENERAL FINANCING POLICY.** It shall be the policy of the City that funding for the storm water utility be equitably derived through methods which have a demonstrable relationship to the varied demands and impacts imposed on the storm water systems and programs and/or the level of service provided as a result of the provision of storm water services and facilities. Service charges for storm water management shall be

fair and reasonable and shall bear a substantial relationship to the cost of providing services and facilities. The cost of storm water services and facilities may include operating, capital investment, and reserve expenses, and may consider storm water quality as well as storm water quantity management requirements. Similarly situated properties shall be charged similar rentals, rates, charges, fees, or licenses.

Service charge rates shall be designed to be consistent and coordinated with the use of other funding methods employed for storm water management by the City, whether within or outside the storm water utility, including but not limited to plan review and inspection fees, special fees for services, fees in-lieu of regulatory requirements, impact fees, system development charges, and special assessments. To the extent practicable, credits-against service charges and/or other methods of funding storm water management shall be provided for on-site storm water control systems and activities constructed, operated, maintained and performed to the City's standards by private property owners.

**SECTION 3. COST ANALYSIS AND RATE STUDY.** Upon adoption of this Ordinance, the City staff, together with its consulting engineers, shall conduct a cost of services analysis and rate study, which shall be presented to the Board of Commissioners for their approval, by ordinance, prior to the rendering of any bills to customers of the stormwater utility system.

**SECTION 4. SEVERABILITY.** Should any part of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining portions hereof shall not be affected and shall remain in full force and effect.

**SECTION 5. REPEAL OF CONFLICTING ORDINANCES.** All ordinances or parts thereof in conflict with the foregoing are hereby repealed.

**SECTION 6. EFFECTIVE DATE.** This ordinance shall become effective July 1, 1997.

Public Hearing: March 25, 1997

First Reading: March 25, 1997

Second Reading: April 8, 1997

**Attachment A  
Ordinances**

Ordinance No. 97-8

**AN ORDINANCE**

**AN ORDINANCE TO AMEND CHAPTER 22, ARTICLE VI OF THE GRIFFIN CITY CODE STATING FINDINGS OF FACT, DEFINING CERTAIN TERMS, ADOPTING A STORMWATER UTILITY SERVICE CHARGE; PROVIDING FOR STORMWATER UTILITY SERVICE CHARGE CREDITS, SPECIFYING HOW STORMWATER UTILITY SERVICE CHARGE BILLS MAY BE DELIVERED AND COLLECTED; SPECIFYING HOW DELINQUENT STORMWATER SERVICE CHARGES MAY BE COLLECTED; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES**

WHEREAS, the City of Griffin has obtained independent professional assistance in projecting the need for stormwater management services and facilities for the foreseeable future and defining a program strategy for attaining effective stormwater quantity and quality control throughout the City, has acted previously to amend Chapter 22 of the City Code to establish a stormwater utility within the public works department for the purposes of managing and funding the stormwater management program, and has received and reviewed cost of service and rate analysis prepared by independent professionals detailing the funding requirements of the stormwater management program;

NOW THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Griffin, Georgia and it is established as follows:

**SECTION 1.** Article VI of the Griffin City Code shall be amended to include the following additions to existing Sections and additional Sections:

*Section 22-135 FINDINGS*

The Board of Commissioners makes the following additional findings which shall be codified in the Section 22-135 of the Griffin City Code as follows:

- “g. An equitable approach to funding stormwater management services and facilities can be provided by adopting a schedule of service charges upon properties that is related to burden of stormwater quality control service requirements and costs posed by properties throughout the City. Such schedule of service charges can be complemented by other funding methods which address specific needs, including but not limited to allocations of special purpose local options sales taxes to stormwater drainage improvement projects. A service charge credit is an appropriate means of adjusting service charges in recognition that private stormwater systems and/or actions can effectively reduce or eliminate the burden of stormwater quantity and quality control service requirements and costs that a property or properties pose for the City. Impervious area is the most important factor influencing stormwater service requirements and costs posed by properties throughout the City, and therefore is an appropriate parameter for calculating stormwater service

charges and associated credits. In addition, the value to the stormwater utility of certain actions and practices performed by property owners and other stormwater utility customers may be recognized by credits based on other factors, including but not limited to the avoided cost of public information and education realized by the utility when public information and education about stormwater management is provided by the public school system.”

### *Section 22-137 DEFINITIONS*

As used in this Chapter, unless the context clearly indicates otherwise, the following definitions apply, which shall be codified as amendments to Section 22-137 of the Griffin City Code as follows:

- “f. Credit shall mean a conditional reduction in the amount of a stormwater service charge to an individual property based on the provision and continuing presence of an effectively maintained and operational on-site stormwater system or facility or the provision of a service or activity by property owner, which system, facility, service, or activity reduces the stormwater utility’s cost of providing stormwater services and facilities. Credits for on-site stormwater systems shall be generally proportional to the affect that such systems have on the peak rate of runoff from the site.
  
- g. Detached dwelling unit shall mean developed land containing one structure which is not attached to another dwelling and which contains one or more bedrooms, with a bathroom and kitchen facilities, designed for occupancy by one family. Detached dwelling units may include houses, manufactured homes, and mobile homes located on one or more individual lots or parcels of land. Developed land may be classified as a detached dwelling unit despite the presence of incidental structures associated with residential uses such as garages, carports, or small storage buildings, or the presence of a commercial use within the dwelling unit so long as such use does not result in additional impervious areas such as parking spaces, playgrounds, or structures or additions to the building which are used as offices, storage facilities, meeting rooms, classrooms, houses of worship, or similar non-residential uses. Detached dwelling unit shall not include developed land containing: structures used primarily for non-residential purposes, manufactured homes and mobile homes located within manufactured home or mobile home parks where the land is by others than the owners of the manufactured homes or mobile homes, or multiple-unit residential properties.
  
- h. Developed land shall mean property altered from its natural state by construction or installation of more than 200 square feet of impervious surfaces as defined in this chapter.

- i. Duplexes and triplexes shall mean developed land containing two (duplex) or three (triplex) attached residential dwelling units located on one or more parcels of land.
- j. Equivalent residential unit (ERU) of impervious area shall mean the median average impervious coverage of detached dwelling unit properties in the city of Griffin as determined by the City, and shall be used as the basis for determining stormwater service charges to detached dwelling unit properties or classes of detached dwelling unit properties and other properties. Two thousand two hundred (2,200) square feet of impervious area shall be one equivalent unit.
- k. Multiple dwelling units residential properties shall mean developed land whereon four or more attached residential dwelling units are located and shall include, but not limited to, apartment houses, condominiums, townhomes, attached single-family homes, boarding houses, group homes, hotels and motels, retirement centers, and other structures in which four or more family groups commonly and normally reside or could reside. In the application of stormwater service charge rates, multiple dwelling unit properties shall be treated as other developed lands.
- l. Other developed land shall mean, but shall not be limited to, multiple dwelling unit residential properties, manufactured home and mobile home parks, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools and universities, research stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, water reservoirs, and water and wastewater treatment plants.
- m. Service charges shall mean the stormwater management service charge or charges applicable to a parcel of developed land, which charge shall be reflective of the City of Griffin stormwater utility's cost of providing stormwater management services and facilities. Service charges will be based on measurable parameters which influence the stormwater utility's cost of services and facilities, and may include but are not necessarily limited to the amount of impervious area on each parcel of developed land. The use of impervious area as a service charge rate parameter shall not preclude the use of other parameters, or of 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 or more classes of similarly-situated properties whose impact on the stormwater utility's cost of providing stormwater management services and facilities is relatively consistent. Stormwater service charges may also include special charges to individual

customers for services 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 services above those normally provided by the City.”

***“Section 22-140 DETERMINATION AND MODIFICATION OF STORMWATER SERVICE CHARGES***

Stormwater service charges may be determined and modified from time to time by the City Commission so that the total revenue generated by said charges and any other sources of revenue that may be made available to the stormwater utility will be sufficient to meet the cost of services and facilities, including but not limited to the payment of principal and interest on revenue bond obligations incurred for construction and improvements to the stormwater system.

***Section 22-141 EFFECTIVE DATE OF STORMWATER SERVICE CHARGES***

Stormwater service charges shall accrue beginning July 1, 1998 and shall be billed periodically thereafter to customers, except as specific exemptions and credits may apply.

***Section 22-142 STORMWATER SERVICE CHARGES***

In order to fully recover the cost of providing stormwater services and facilities while fairly and reasonably apportioning the cost among developed properties throughout the City, the following stormwater rates shall apply:

- a. Detached dwellings units. Two classes of detached dwelling units shall be billed, based on the amount of impervious surfaces on the individual properties. The class of larger detached dwelling units shall include all detached dwelling unit properties having one thousand six hundred (1,600) square feet of impervious area or more, which shall be charged the rate applicable to one (1) equivalent residential unit as specified below in Section 22-142(c), or as amended by Ordinance in the future. The class of smaller detached dwelling units shall include all such properties having less than one thousand six hundred (1,600) square feet of impervious area, which shall be charged the rate applicable to six-tenths (.6) equivalent residential unit as specified below in Section 22-142(c) or as amended by Ordinance in the future.
- b. Other developed lands. All developed lands not classified as detached dwelling units shall be billed for one equivalent residential unit (ERU) for each two thousand two hundred (2,200) square feet of impervious surface or increment thereof.

- c. Stormwater service charge rate per equivalent residential unit (ERU) to increment thereof. The stormwater service charge per equivalent residential unit shall be \$2.95 per month.

***Section 22-143 EXEMPTIONS AND CREDITS APPLICABLE TO STORMWATER SERVICE CHARGES***

Except as provided in this Section, no public or private property shall be exempt from stormwater utility service charges or receive a credit or offset against such service charges. No exception, credit, offset, or other reduction in stormwater service charges shall be granted based on the age, tax, or economic status, race, or religion of the customer, or other condition unrelated to the stormwater utility's cost of providing stormwater services and facilities. A Stormwater Utility Service Charge Credit Technical Manual shall be prepared by the department of public works specifying the design and performance standards of on-site systems, facilities, activities, and services which qualify for application of a service charge credit, and how such credits shall be calculated.

- a. Undeveloped land as defined in this Chapter shall be exempt from stormwater service charges.
- b. Railroad tracks shall be exempt from stormwater service charges. However, railroad stations, maintenance buildings, or other developed land used for railroad purposes shall not be exempt from stormwater service charges.
- c. Developed land other than individual detached dwelling units, including but not limited to multiple dwelling unit residential properties, manufactured home and mobile home parks, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools and universities, research stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, water reservoirs, and water and wastewater treatment plants may receive a stormwater service charge credit. The stormwater service charge credit shall be determined based on the technical requirements and standards contained in the Stormwater Utility Service Charge Credit Technical Manual. The stormwater service charge credit may be up to fifty (50) percent of the service charge applicable to a property, and shall be proportional to the extent that on-site systems, facilities, services, and activities provided, operated, and maintained by the property owner reduce or mitigate the stormwater utility's cost of providing services and facilities.
- d. Groups of detached dwelling units represented by an incorporated homeowner's association providing on-site systems, facilities, services, or activities which reduce or mitigate the stormwater utility's cost of providing services and facilities may receive a stormwater service charge credit. The stormwater service charge credit shall be determined based on the technical requirements and standards contained in

the Stormwater Utility Service Charge Credit Technical Manual. The stormwater service charge credit available to groups of detached dwelling units may be up to fifty (50) percent of the service charge applicable to the individual properties, and shall be proportional to the extent that on-site systems, facilities, services, and activities provided, operated, and maintained by the homeowners association reduce or mitigate the stormwater utility's cost of providing services and facilities.

e. Any credit allowed against the service charge is conditioned on continuing compliance with the City's design and performance standards as stated in the Stormwater Utility Service Charge Credit Technical Manual and/or upon continuing provision of the systems, facilities, services, and activities provided, operated, and maintained by the property owner or owners upon which the credit is based. A credit may be revoked by the City at any time for non-compliance.

#### ***Section 22-144 STORMWATER SERVICE CHARGE BILLING, DELINQUENCIES, 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. Failure to receive a bill is not justification for non-payment. Regardless of the party to whom the bill is initially directed, the owner of each parcel of developed land shall be ultimately obligated to pay such fee. If a customer is underbilled or if no bill is sent for developed land, the City may backbill for a period of up to one year, but shall not assess penalties for any delinquency. A one and one-half percent (1.5%) late charge shall be billed based on the unpaid balance of any stormwater utility service charge that becomes delinquent.

#### ***Section 22-145 STORMWATER UTILITY SERVICE CHARGES BILLED IN COMMON***

The stormwater utility service charge maybe billed and collected along with other city utility services.

#### ***Section 22-146 APPEALS***

Any customer who believes the provisions of this Article have been applied in error may appeal in the following manner:

- a. An appeal must be filed in writing with the City of Griffin department of public works. In the case of service charge appeals, the appeal shall include 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 which influence the hydrologic response of the property to rainfall events.
- b. Using the information provided by the appellant, the director of the department of public works shall conduct a technical review of the conditions on the property and respond to the appeal in writing within thirty (30) days.

c. In response to an appeal the director of the department of public works may adjust the stormwater service charge applicable to a property in conformance with the general purpose and intent of this Article.

d. A decision of the public works director which is adverse to an appellant may be further appealed to the City Manager within thirty (30) days of the adverse decision. Notice of the appeal shall be delivered to the City Manager by the appellant, stating the grounds for the further appeal. The City Manager shall issue a written decision on the appeal within thirty (30) days. All decisions of the City Manager shall be served on the customer personally or by registered or certified mail, sent to the billing address of the customer.

e. All decisions by the City Manager shall be final.

f. The appeal process contained in this section shall be a condition precedent to an aggrieved customer seeking judicial relief. Any decision of the City Manager may be reviewed upon Application for Writ of Certiorari before the Superior Court of Spalding County, filed within thirty (30) days of the date of service of the decision."

## SECTION 2.

THIS ORDINANCE SHALL BECOME EFFECTIVE UPON ITS ADOPTION ON SECOND AND FINAL READING.

APPROVED AS TO FORM:

  
Andrew J. Whalen, III  
City Attorney

Public Hearing and First Reading: August 12, 1997  
Second Reading: August 26, 1997

**Attachment A  
Ordinances**

Ordinance No. 99-

**AN ORDINANCE**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF GRIFFIN AT ARTICLE VI, ***STORM WATER MANAGEMENT***, OF CHAPTER 22, ***UTILITIES***, ESTABLISHING A STORM WATER MANAGEMENT UTILITY IN THE CITY; REVISING AND RESTATING FINDINGS AND CONCLUSIONS REGARDING STORM WATER MANAGEMENT NEEDS IN THE CITY; REVISING AND RESTATING THE LEGAL STRUCTURE AND ORGANIZATION FOR SUCH UTILITY AS A DEDICATED ENTERPRISE FUND OF THE CITY; DECLARING THAT INDIVIDUAL SECTIONS OF THIS ORDINANCE SHALL BE SEVERABLE ONE FROM ANOTHER; ESTABLISHING AN EFFECTIVE DATE; REPEALING CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF GRIFFIN, AND IT IS ESTABLISHED AS FOLLOWS:

SECTION 1. The Code of Ordinances of the City of Griffin is hereby amended at Chapter 22, UTILITIES, by revising and restating Article VI, ***STORM WATER MANAGEMENT***, to read as follows:

**"ARTICLE VI. STORM WATER MANAGEMENT**

**Sec. 22-135. FINDINGS.**

The Board of Commissioners of the City of Griffin, Georgia makes the following findings:

- (a) The professional engineering and financing analysis, known as the Storm Water Management Action Plan, jointly prepared by Ogden Environment and Energy Services and Water Resources, Inc., properly assesses and defines the storm water management problems, needs, goals, program priorities and funding opportunities of the City.
- (b) Given the problems, needs, goals, program priorities, and funding opportunities identified in the professional engineering and financing analysis, it is appropriate to authorize the formation of an organizational and accounting entity dedicated specifically to the management, maintenance, protection, control, regulation, use, and enhancement of storm water systems in Griffin in concert with other water resource management programs.
- (c) Storm water management is applicable and needed throughout the corporate limits of Griffin. While specific service and facility demands may differ from area to area at any given point in time, a storm water management service area encompassing all lands and water bodies

within the corporate limits of Griffin is consistent with the present and future needs of the community.

- (d) The storm water needs in the City of Griffin include but are not limited to protecting the public health, safety, and welfare. Provision of storm water management programs and facilities renders and/or results in both service and benefit to all properties, property owners, citizens, and residents of Griffin in a variety of ways as identified in the professional engineering and financial analysis. The service and benefit rendered or resulting from provision of storm water management systems and facilities may differ depending on many factors and considerations, including but not limited to location, demands and impacts imposed on the storm water systems and programs, and risk exposure.
  
- (e) The City of Griffin presently owns and operates storm water management systems and facilities which have been developed over many years. The future usefulness of the existing storm water systems owned and operated by the City, and of additions and improvements thereto, rests on the ability of the City to effectively manage, protect, control, regulate, use, and enhance storm water systems and facilities in Griffin in concert with the management of other water resources in the City. In order to do so, the City must have adequate and stable funding for its storm water management program operating and capital investment needs.
  
- (f) The Board of Commissioners finds, concludes and determines that a utility provides the most practical and appropriate means of properly delivering and funding storm water management services in Griffin.
  
- (g) An equitable approach to funding storm water management services and facilities can be provided by adopting a schedule of service charges upon properties that is related to burden of storm water quality control service requirements and costs posed by properties throughout the City. Such schedule of service charges can be complemented by other funding methods which address specific needs, including but not limited to allocations of special purpose local options sales taxes to storm water drainage improvement projects. A service charge credit is an appropriate means of adjusting service charges in recognition that private storm water systems and/or actions can effectively reduce or eliminate the burden of storm water quantity and quality control service requirements and costs that a property or properties pose for the City. Impervious area is the most important factor influencing storm water service requirements and costs posed by properties throughout the City, and therefore is an appropriate parameter for calculating storm water service charges and associated credits. In addition, the value to the storm water utility of certain actions and practices performed by property owners and other storm water utility customers may be recognized by credits based on other factors, including but not limited to the avoided cost of public information and education realized by the utility when public information and education about storm water management is provided by the public school system.

**Sec. 22-136. ESTABLISHMENT OF A UTILITY AND ENTERPRISE FUND.**

- (a) There is hereby established a Storm Water Management Utility within the City which shall be responsible for storm water management throughout the City's corporate limits, and shall provide for the management, protection, control, regulation, use, and enhancement of storm water systems and facilities. Such Utility shall be under the direction of a Storm Water Utility Director, appointed by the City Manager.
- (b) The City Manager shall establish a storm water enterprise fund in the City budget and accounting system, separate and apart from its General Fund, 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 Board of Commissioners. All revenues and receipts of the storm water utility shall be deposited promptly upon receipt into the Storm Water Enterprise Fund, to be held and invested in trust for the purposes dedicated, and expended exclusively for purposes of the utility, including capital project construction. No other funds of the City shall be deposited in the storm water enterprise fund or commingled with dedicated storm water revenues, except that other revenues, receipts, and resources not accounted for in the storm water enterprise fund, including grants, loans, and bond proceeds may be combined with and applied to storm water management capital projects as deemed appropriate by the Board of Commissioners, upon recommendation of the Storm Water Utility Director.
- (c) The Board of Commissioners hereby transfers to the Storm Water Utility Director operational control over the existing storm water management systems and facilities owned and heretofore operated by the City and other related assets, including but not limited to properties upon which such facilities are located, easements, rights-of-entry and access, and certain equipment.

**Sec. 22-137. DEFINITIONS.**

- (a) CUSTOMERS OF THE STORMWATER UTILITY shall include all persons, properties, and entities served by and/or benefiting from the utility's acquisition, management, maintenance, extension, and improvement of the public storm water management systems and facilities and regulation of public and private storm water storm water systems, facilities, and activities related thereto, and persons, properties, and entities which will ultimately be served or benefited as a result of the storm water management program.
- (b) HYDROLOGIC RESPONSE. The hydrologic response of a property is the manner and means whereby storm water collects, remains, infiltrates, and is conveyed from a property. It is dependent on several factors including, but not limited to, the presence of impervious area, the size, shape, topographic, vegetative, and geologic conditions of a property, antecedent moisture conditions, and groundwater conditions on a property.

(c) IMPERVIOUS SURFACE. Impervious surfaces are those areas which prevent or impede the infiltration of storm water 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 storm water runoff which existed prior to development.

(d) STORMWATER MANAGEMENT SYSTEMS address the issues of drainage management (flooding) and environmental quality (pollution, erosion and sedimentation) of receiving rivers, streams, creeks, lakes, ponds, and reservoirs through improvements, maintenance, regulation and funding of plants, works, instrumentalities and properties used or useful in the collection, retention, detention, and treatment of storm water or surface water drainage.

(e) UNDEVELOPED LAND. Land in its unaltered natural state or which has been modified to such minimal degree as to have a hydrologic response comparable to land in an unaltered natural state shall be deemed undeveloped. Undeveloped land shall have no pavement, asphalt, or compacted gravel surfaces or structures which create an impervious surface that would prevent infiltration of storm water or cause storm water to collect, concentrate, or flow in a manner materially different than that which would occur if the land was in an unaltered natural state. For purposes of this Ordinance, undeveloped land shall also include property altered from its natural state by the creation or installation of less than 200 square feet of impervious surface.

(f) CREDIT shall mean a conditional reduction in the amount of a storm water service charge to an individual property based on the provision and continuing presence of an effectively maintained and operational on-site storm water system or facility or the provision of a service or activity by property owner, which system, facility, service, or activity reduces the storm water utility's cost of providing storm water services and facilities. Credits for on-site storm water systems shall be generally proportional to the affect that such systems have on the peak rate of runoff from the site.

(g) DETACHED DWELLING UNIT shall mean developed land containing one structure which is not attached to another dwelling and which contains one or more bedrooms, with a bathroom and kitchen facilities, designed for occupancy by one family. Detached dwelling units may include houses, manufactured homes, and mobile homes located on one or more individual lots or parcels of land. Developed land may be classified as a detached dwelling unit despite the presence of incidental structures associated with residential uses such as garages, carports, or small storage buildings, or the presence of a commercial use within the dwelling unit so long as such use does not result in additional impervious areas such as parking spaces, playgrounds, or structures or additions to the building which are used as offices, storage facilities, meeting rooms, classrooms, houses of worship, or similar non-residential uses. Detached dwelling unit shall not include developed land containing: structures used primarily for non-residential purposes, manufactured homes and mobile homes located within manufactured home or mobile home parks where the land is owned by others than the owners of the manufactured homes or mobile homes, or multiple dwelling unit residential properties.

(h) DEVELOPED LAND shall mean property altered from its natural state by construction or installation of more than 200 square feet of impervious surface as defined in this chapter.

(i) DUPLEXES and TRIPLEXES shall mean developed land containing two (duplex) or three (triplex) attached residential dwelling units located on one or more parcels of land.

(j) EQUIVALENT RESIDENTIAL UNIT (ERU) of impervious area shall mean the median average impervious coverage of detached dwelling unit properties in the city of Griffin as determined by the City, and shall be used as the basis for determining storm water service charges to detached dwelling unit properties or classes of detached dwelling unit properties and other properties. Two thousand two hundred (2,200) square feet of impervious area shall be one equivalent unit.

(k) MULTIPLE DWELLING UNIT RESIDENTIAL PROPERTIES shall mean developed land whereon four or more attached residential dwelling units are located and shall include, but not limited to, apartment houses, condominiums, townhomes, attached single-family homes, boarding houses, group homes, hotels and motels, retirement centers, and other structures in which four or more family groups commonly and normally reside or could reside. In the application of storm water service charge rates, multiple dwelling unit properties shall be treated as other developed lands.

(l) OTHER DEVELOPED LAND shall mean, but shall not be limited to, multiple dwelling unit residential properties, manufactured home and mobile home parks, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools and universities, research stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, water reservoirs, and water and wastewater treatment plants.

(m) SERVICE CHARGES shall mean the periodic rate, fee, or charge applicable to a parcel of developed land, which charge shall be reflective of the service provided by the City of Griffin storm water utility. Service charges are based on measurable parameters which influence the storm water utility's cost of providing services and facilities, with the most important factor being the amount of impervious area on each parcel of developed land. The use of impervious area as a service charge rate parameter shall not preclude the use of other parameters, or the 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 or more classes of similarly-situated properties whose impact on the storm water utility's cost of providing storm water management services and facilities is relatively consistent. Storm water service charges may also include special charges to the owners of particular properties for services or facilities uniquely related to storm water management of that property, including but not limited to charges for development plan review, inspection of development projects and on-site storm water control systems, and enhanced levels of storm water services above those normally provided by the City.

**Sec. 22-138. SCOPE OF RESPONSIBILITY FOR THE CITY DRAINAGE SYSTEM.**

The City drainage system consists of all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage ways, channels, ditches, swales, storm sewers, culverts, inlets, catch basins, pipes, head walls and other structures, natural or man-made, within the political boundaries of the City of Griffin which control and/or convey storm water through which the City intentionally diverts surface waters from its public streets and properties. The City owns or has legal access for purposes of operation, maintenance and improvements to those segments of this system which (1) are located within public streets, rights-of-way, and easements; (2) are subject to easements, 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 (3) are located on public lands to which the City has adequate access for operation, maintenance, and/or improvement of systems and facilities. Operation and maintenance of storm water systems and facilities which are located on private property or public property not owned by the City of Griffin and for which there has been no public dedication of such systems and facilities for operation, maintenance, and/or improvement of the systems and facilities shall be and remain the legal responsibility of the property owner, or its occupant, except as that responsibility may be otherwise affected by the laws of the State of Georgia and the United States of America.

It is the intent of this Ordinance to protect the public health, safety and general welfare of all properties and persons in general, but not to create any special duty or relationship with any individual person or to any specified property within or without the boundaries of the City of Griffin. The City of Griffin expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the City, its officers, employees and agents arising out of any alleged failure or breach of duty or relationship as may now exist or hereafter be created. To the extent any permit, plan approval, inspection or similar act is required by the City as a condition precedent to any activity by or 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 afford the basis for any action, including any action based on failure to permit or negligent issuance of a permit, seeking the imposition of money damages against the City, its officers, employees or agents.

**Sec. 22-139. REQUIREMENTS FOR ON-SITE STORMWATER SYSTEMS; ENFORCEMENT METHODS AND INSPECTIONS.**

All property owners and developers of developed real property within the City of Griffin shall provide, manage, maintain, and operate on-site storm water systems sufficient to collect, convey, detain, and discharge storm water in a safe manner consistent with all City of Griffin development regulations and the laws of the State of Georgia and the United States of America.

Any failure to meet this obligation shall constitute a nuisance and be subject to an abatement action filed by the City in the Municipal Court. In the event a public nuisance is found by the Court to exist, which the owner fails to properly abate within such reasonable time as allowed by the Court, the City may enter upon the property and cause such work as is reasonably necessary to be performed, with the actual cost thereof assessed against the owner in the same manner as a tax levied against the property. From date of the filing of such action, the City shall have lien rights which may be perfected, after judgment, by filing a notice of lien on the General Execution Docket of the Superior Court of Spalding County. The City shall have the right, pursuant to the authority of this Ordinance, for its designated officers and employees to enter upon private and public property owned by entities other than the City, upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to assure compliance.

**Section 22-140 DETERMINATION AND MODIFICATION OF STORM WATER SERVICE CHARGES.**

Storm water service charges shall be determined and modified from time to time by resolution of the Board of Commissioners. In setting or modifying such rates it shall be the objective of the Board to establish rates, fees and charges that are fair and reasonable, reflect the value of storm water management services and facilities to those properties who benefit therefrom and, which together with any other sources of revenue that may be made available to the storm water utility, will be sufficient to meet the cost of budgeted programs, services and facilities, including but not limited to the payment of principal and interest on revenue bond obligations incurred for construction and improvements to the storm water system.

**Section 22-141. EFFECTIVE DATE OF STORM WATER SERVICE CHARGES**

Storm water service charges shall accrue beginning July 1, 1998 and shall be billed periodically thereafter to customers, except as specific exemptions and credits may apply.

**Section 22-142. STORMWATER SERVICE CHARGES**

The following storm water rates shall apply:

- a. **Detached dwellings units.** Two classes of detached dwelling units shall be billed, based on the amount of impervious surfaces on the individual properties. The class of larger detached dwelling units shall include all detached dwelling unit properties having one thousand six hundred (1,600) square feet of impervious area or more, which shall be charged the rate applicable to one (1) equivalent residential unit as specified below in Section 22-142(c), or as amended by resolution in the future. The class of smaller detached dwelling units shall include all such properties having less than one thousand six hundred (1,600) square feet of impervious area, which shall be charged the rate applicable to six-tenths (.6) equivalent residential unit as specified below in Section 22-142(c), or as amended by resolution in the future.

- b. **Other developed lands.** All developed lands not classified as detached dwelling units shall be billed for one equivalent residential unit (ERU) for each two thousand two hundred (2,200) square feet of impervious surface or increment thereof.
- c. **Storm water service charge rate per equivalent residential unit (ERU) or increment thereof.** The storm water service charge per equivalent residential unit shall be \$2.95 per month.

***Section 2-143 EXEMPTIONS AND CREDITS APPLICABLE TO STORMWATER SERVICE CHARGES***

Except as provided in this Section, no public or private property shall be exempt from storm water utility service charges or receive a credit or offset against such service charges. No exception, credit, offset, or other reduction in storm water service charges shall be granted based on the age, tax, or economic status, race, or religion of the customer, or other condition unrelated to the storm water utility's cost of providing storm water services and facilities. A **Storm Water Utility Service Charge Credit Technical Manual** has been prepared by the City's consulting engineers specifying the design and performance standards of on-site systems, facilities, activities, and services which qualify for application of a service charge credit, and how such credits shall be calculated. This Manual has been separately approved by the Board of Commissioners and, by reference, incorporated herein.

- a. Undeveloped land as defined in this Chapter shall be exempt from storm water service charges.
- b. Railroad rights-of-way (tracks) shall be exempt from storm water service charges. However, railroad stations, maintenance buildings, or other developed land used for railroad purposes shall not be exempt from storm water service charges.
- c. Developed land other than individual detached dwelling units, including but not limited to multiple dwelling unit residential properties, manufactured home and mobile home parks, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools and universities, research stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, water reservoirs, and water and wastewater treatment plants may receive a storm water service charge credit. The storm water service charge credit shall be determined based on the technical requirements and standards contained in the **Storm Water Utility Service Charge Credit Technical Manual**. The storm water service charge credit may be up to one hundred (100%) percent of the service charge applicable to a property, and shall be proportional to the extent that on-site systems, facilities, services, and activities provided, operated, and maintained by the property owner reduce or mitigate the storm water utility's cost of providing services and facilities.

- d. Groups of detached dwelling units represented by an incorporated homeowner's association providing on-site systems, facilities, services, or activities which reduce or mitigate the storm water utility's cost of providing services and facilities may receive a storm water service charge credit. The storm water service charge credit shall be determined based on the technical requirements and standards contained in the Storm Water Utility Service Charge Credit Technical Manual. The storm water service charge credit available to groups of detached dwelling units may be up to one hundred (100%) percent of the service charge applicable to the individual properties, and shall be proportional to the extent that on-site systems, facilities, services, and activities provided, operated, and maintained by the homeowners association reduce or mitigate the storm water utility's cost of providing services and facilities.
- e. Any credit allowed against the service charge is conditioned on continuing compliance with the City's design and performance standards as stated in the Storm Water Utility Service Charge Credit Technical Manual and/or upon continuing provision of the systems, facilities, services, and activities provided, operated, and maintained by the property owner or owners upon which the credit is based. A credit may be revoked by the City at any time for non-compliance.

In addition to the foregoing credits based upon the design and performance of on-site systems, an educational credit shall be available to all public and private schools or school systems which agree to teach the WATER WISE program, an environmental science curriculum approved by the Georgia Department of Education, in grades one (1) through twelve (12). The educational credit may be up to fifty (50%) percent of the service charge applicable to a school property, and shall be proportional to the extent the approved curriculum is taught. Educational credits may be taken in conjunction with any other credit available under this section. The superintendent of schools shall certify annually to the Storm Water Utility Director, before July 1, the extent to which the curriculum was taught.

#### **Section 22-144. *STORMWATER SERVICE CHARGE BILLING, DELINQUENCIES, COLLECTIONS***

A storm water 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. Failure to receive a bill is not justification for non-payment. Regardless of the party to whom the bill is initially directed, the owner of each parcel of developed land, as shown from public land records of Spalding County, shall be ultimately obligated to pay such fee. If a customer is underbilled or if no bill is sent for developed land, the City may backbill for a period of up to four years, but shall not assess penalties for any delinquency. A one and one-half percent (1.5%) late charge shall be billed based on the unpaid balance of any storm water utility service charge that becomes delinquent.

Suits for collection shall be commenced by the City in the County of the owner's residence; provided, however, if the owner is not a resident of this State, suit may be filed in the Superior Court of Spalding County, Georgia. No lien shall be imposed for delinquent collections

unless a judgment is first obtained from a court of competent jurisdiction.

**Section 22-145. *STORMWATER UTILITY SERVICE CHARGES BILLED IN COMMON.***

The storm water utility service charge maybe billed on a common statement and collected along with other city utility services.

**Section 22-146. *APPEALS***

Any customer who believes the provisions of this Article have been applied in error may appeal in the following manner:

- a. An appeal must be filed in writing with the City of Griffin Storm Water Utility Director. In the case of service charge appeals, the appeal shall include 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 which influence the hydrologic response of the property to rainfall events.
- b. Using the information provided by the appellant, the director shall conduct a technical review of the conditions on the property and respond to the appeal in writing within thirty (30) days.
- c. In response to an appeal the director may adjust the storm water service charge applicable to a property in conformance with the general purpose and intent of this Article.
- d. A decision of the director which is adverse to an appellant may be further appealed to the City Manager within thirty (30) days of receipt of notice of the adverse decision. Notice of the appeal shall be served on the City Manager by the appellant, stating the grounds for the appeal. The City Manager shall issue a written decision on the appeal within thirty (30) days. All decisions of the City Manager shall be served on the appellant personally or by registered or certified mail, sent to the billing address of the appellant.
- e. All decisions by the City Manager shall be final.
- f. The appeal process contained in this section shall be a condition precedent to an aggrieved customer seeking judicial relief. Any decision of the City Manager may be reviewed upon Application for Writ of Certiorari before the Superior Court of Spalding County, filed within thirty (30) days of the date of service of the decision."

SECTION 2. Except as modified or revised herein, this Ordinance restates and republishes that certain Ordinance No. 97-1, creating a Storm Water Management Utility, as amended by Ordinance No. 97-8. Should any part of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining portions hereof shall not be affected and shall remain in full force and effect.

SECTION 3. All ordinances or parts thereof in conflict with the foregoing are hereby repealed.

SECTION 4. This ordinance shall become effective immediately upon second and final reading.

First Reading:            November 23, 1999

Second Reading:        December 14, 1999

**Attachment A  
Ordinances**

Ordinance No. 00-

**AN ORDINANCE**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF GRIFFIN BY REPEALING PRESENT APPENDIX 4 – SOIL EROSION AND SEDIMENTATION CONTROL, ADOPTING IN LIEU THEREOF A NEW APPENDIX 4 - SOIL EROSION AND SEDIMENTATION CONTROL, FOR THE PURPOSE OF INCORPORATING THEREIN THE 2000 AMENDMENTS TO O.C.G.A. §12-7-1, ET SEQ.; TO REPEAL CONFLICTING ORDINANCES AND PARTS THEREOF; TO ESTABLISH AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF GRIFFIN, GEORGIA, AND ESTABLISHED AS FOLLOWS:**

Section 1. The Code of Ordinances of the City of Griffin, Georgia is hereby amended by deleting present Appendix 4 - Soil Erosion and Sedimentation Control, adopting in lieu thereof a new Appendix 4 – Soil Erosion and Sedimentation Control, to provide as follows:

**"APPENDIX 4**

**SOIL EROSION AND SEDIMENTATION CONTROL**

101. **Title**

This ordinance will be known as the City of Griffin Soil Erosion and Sedimentation Control Ordinance.

102. **Definitions**

The following definitions shall apply in the interpretation and enforcement of this ordinance, unless otherwise specifically stated:

102.01 Best Management Practices ("BMP's"): A collection of structural measures and vegetative practices which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control for all rainfall events up to and including a 25-year rainfall event. As used in this ordinance, the term "best management practices" shall require, as a minimum, those practices contained in the "Manual for Erosion and Sediment Control in Georgia", published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land disturbing activity was permitted.

- 102.02 Board: The Board of Natural Resources.
- 102.03 Buffer: The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.
- 102.04 Commission: The State Soil & Water Conservation Commission ("SSWCC").
- 102.05 Cut: A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Also know as excavation.
- 102.06 Department: The Department of Natural Resources ("DNR").
- 102.07 Director: The Director of the Environmental Protection Division of the Department of Natural Resources.
- 102.08 District: The Towaliga Soil and Water Conservation District.
- 102.09 Division: The Environmental Protection Division of the Department of Natural Resources ("EPD").
- 102.10 Drainage Structure: A device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for storm-water management, drainage control, or flood control purposes.
- 102.11 Erosion: The process by which land surface is worn away by the action of wind, water, ice or gravity.
- 102.12 Erosion and Sedimentation Control Plan: A plan for the control of soil erosion and sedimentation resulting from a land-disturbing activity. Also known as the "plan".
- 102.13 Ground Elevation: The original elevation of the ground surface prior to cutting or filling.
- 102.14 Fill: A portion of land surface to which soil or other solid material has been added; the depth above the original ground.
- 102.15 Finished Grade: The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

- 102.16 Grading: Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.
- 102.17 Issuing Authority: The governing authority of the City of Griffin, a municipal corporation which has been certified by the Director of the Environmental Protection Division of the Department of Natural Resources as an Issuing Authority, pursuant to the Erosion and Sedimentation Act of 1975, as amended, or the Division in those instances where an application for a permit is submitted to the Division.
- 102.18 Land-Disturbing Activity: Any activity which may result in soil erosion from water or wind and the movement of sediments into state water or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in Section 103.05.
- 102.19 Metropolitan River Protection Act (MRPA): A state law referenced as O.C.G.A. 12-5-440 et seq., which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.
- 102.20 Natural Ground Surface: The ground surface in its original state before any grading, excavation, filling, or other land-disturbing activity.
- 102.21 Nephelometric Turbidity Units (NTU): Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed particles are present.
- 102.22 Permit: The written authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.
- 102.23 Person: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of this State, any interstate body or any other legal entity.
- 102.24 Project: The entire proposed development project regardless of the size of the area of land to be disturbed.
- 102.25 Roadway Drainage Structure: A device such as a bridge, culvert, or ditch, composed

of a virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled way consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

- 102.26 Sediment: Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice, or gravity as a product of erosion.
- 102.27 Sedimentation: The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.
- 102.28 Soil and Water Conservation District approved plan: An erosion and sedimentation control plan approved in writing by the Towaliga Soil and Water Conservation District ("SWCD").
- 102.29 Stabilization: The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.
- 102.30 State Waters: Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.
- 102.31 Structural Erosion and Sedimentation Control Measures: Measures for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control measures are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps and land grading, etc. Such measures can be found in the publication Manual for Erosion and Sediment Control in Georgia.
- 102.32 Trout Streams: All streams or portions of streams within the watershed as designated by the Game and Fish Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. 12-5-20 et seq. Streams designated as primary trout waters are defined as water supporting a self sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which

there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year.

102.33 Vegetative Erosion and Sedimentation Control Practices: Practices for the stabilization of erodible or sediment-producing areas by covering the soil with:

- A. Permanent seeding, sprigging or planting, producing long-term vegetative cover, or
- B. Temporary seeding, producing short-term vegetative cover, or
- C. Sodding, covering areas with a turf of perennial sod-forming grass.

Such practices can be found in the publication Manual for Erosion and Sediment Control in Georgia.

102.34 Watercourse: Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

102.35 Wetlands: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

### 103. Minimum Requirements for Erosion and Sedimentation Control

103.01 General Provisions: Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, approved plans for those land-disturbing activities which are not excluded by this ordinance shall be prepared before the land-disturbing activity takes place. The provisions of Section 105 of this Ordinance shall be incorporated into the erosion and sedimentation control plan. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of subsection 103.03 of this ordinance. The application of measures and practices shall apply to all features of the site including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land-disturbing activity.

103.02 Best Management Practices:

- A. Best management practices shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the Director or Issuing Authority or to any other allegation of noncompliance with this ordinance, paragraph (2) of O.C.G.A. §12-7-5, or any substantially similar terms contained in a permit for the discharge of storm water issued pursuant to subsection (f) of O.C.G.A. §12-5-30. As used in this subsection, the terms "proper design" and "properly designed" mean designed to control erosion and sedimentation for all rainfall events up to and including a 25 year rainfall event.
- B. A discharge of storm water runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a violation of any land-disturbing permit issued by the Issuing Authority or by the Division or any General Permit for construction activities issued by the Director pursuant to subsection (f) of O.C.G.A. §12-5-30 for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than ten nephelometric turbidity units for waters classified as trout streams. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Director.
- C. Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by the Issuing Authority or by the Division or any General Permit for construction activities issued by the Director pursuant to subsection (f) of O.C.G.A. §12-5-30 for each day on which such failure occurs.
- D. The Issuing Authority, Division or Director may require reasonable and prudent monitoring and reporting of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.
- E. The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this Ordinance or the terms of the permit. Neither the approval of any permit under the provisions of this Ordinance nor failure of the

Issuing Authority to enforce compliance with the provisions of this Ordinance or any permit issued hereunder shall relieve any person from legal liability for damages to others caused by such person's land-disturbing activity, nor create any right of action against or impose any liability upon the Issuing Authority for damages to any persons or property.

103.03 Minimum Requirements: For the purpose of regulating land-disturbing activities, every person shall be required, as a minimum, to follow best management practices, including sound conservation and engineering practices, to prevent and minimize erosion and resulting sedimentation consistent with the following minimum requirements:

- A. Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion.
- B. Cut-fill operations must be kept to a minimum.
- C. Development plans must conform to topography and soil type so as to create the lowest practical erosion potential.
- D. Whenever feasible, natural vegetation shall be retained, protected and supplemented.
- E. The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum.
- F. Disturbed soil shall be stabilized as quickly as practicable.
- G. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development.
- H. Permanent vegetation and structural erosion control measures shall be installed as soon as practicable.
- I. To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of this section.
- J. Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping surface of

fills.

- K. Cuts and fills may not endanger adjoining property.
- L. Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners.
- M. Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum.
- N. Erosion and sedimentation control plans shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on site and preclude sedimentation of adjacent properties and waters beyond the levels specified in subsection 103.02 of this ordinance.

#### **103.04 ESTABLISHMENT OF BUFFER; VARIANCE OF BUFFER WIDTH; LAND DISTURBING ACTIVITIES WITHIN BUFFERS.**

O.C.G.A. Section 12-7-6(b)(15) establishes a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to O.C.G.A. Sec. 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to any such buffer:

- (a) No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed.
- (b) Any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed.

104. Exemptions from Permitting Requirements

The following activities shall be exempt from the permitting requirements of this Ordinance:

104.01 Surface Mining: Surface mining, as the same is defined in O.C.G.A. 12-4-72;

104.02 Granite Quarrying: Granite quarrying and land clearing for such quarrying;

104.03 Minor Land-Disturbing Activities: Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, and other related activities which result in minor soil erosion, provided the result of such activity is not to materially alter any finished grade incorporated into an approved Erosion and Sedimentation Control Plan for a Project which has been implemented, or otherwise alters, obstructs, impedes or renders ineffective any Drainage Structure;

104.04 Single-Family Residences: The construction of single-family residences, when such are constructed by or under contract with the owner for his or her own occupancy or the construction of single-family residences on lots which are a part of a platted subdivision not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in Section 103 and that such requirements shall be enforced by the Issuing Authority. For new single-family residence construction exempted by the provisions of this paragraph, there shall be a natural buffer between the residence and any state waters of at least 25 horizontal feet, in which no land-disturbing activities shall take place nor shall any permanent structures be erected, and no variance to a smaller buffer shall be granted.

104.05 Agricultural Operations: Agricultural operations as defined in O.C.G.A. 1-3-3 to include those practices involving the establishment, cultivation, or harvesting of products of the field or orchard; the preparation and planting of pasture land; farm ponds; dairy operations; livestock and poultry management practices; and the construction of farm buildings.

104.06 Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established by O.C.G.A. Section 12-7-6(b)(15) and Section 103.04 of this Ordinance, no other land-disturbing activities, except for normal forest management practices, shall be allowed on

the entire property upon which the forestry practices were conducted for a period of three (3) years after the completion of such forestry practices.

104.07 Natural Resource Conservation Service Projects: Any project carried out under the technical supervision of the Natural Resource Conservation Service of the United States Department of Agriculture;

104.08 Projects Less Than or Equal to 1.1 Acres: Any project involving one and one-tenth acres or less; provided, however, that this exemption shall not apply to any project involving a land-disturbing activity within 200 feet of the bank of any State Waters, except for purposes of this paragraph, "State Waters" excludes channels and drainageways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, further, that any person responsible for a project which involves one and one-tenth acres or less, which involves any land-disturbing activity shall conform to the minimum requirements of Section 103 of this ordinance and must prevent sediment from moving beyond the boundaries of the property on which such project is located and that nothing contained herein shall prevent the issuing authority from otherwise regulating such project;

104.09 Public Works Projects: Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the Georgia Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that such projects shall conform to the minimum requirements set forth in Section 103;

104.10 Electrical System Projects: Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, provided that any such land-disturbing activity shall conform to the minimum requirements set forth in Section 103;

104.11 Minimum Compliance: Where this section requires compliance with the minimum requirements set forth in Section 103, the City may enforce compliance with the minimum requirements as if a permit had been issued and violations shall be subject to the same penalties as violations by permit holders.

105.            Application/Permit Process

105.01 General: Before undertaking any land-disturbing activity, the property owner, developer and designated planners and engineers shall review the general

development plans and requirements of the Issuing Authority that affect the tract to be developed and the area surrounding it. They shall review the Zoning Ordinance, Stormwater Management Ordinance, Development Ordinance, Flood Damage Prevention Ordinance, this Ordinance, and other ordinances which regulate the development of land within the jurisdictional boundaries of the Issuing Authority.

105.02 Application Requirements:

- A. Except as exempted in Section 104, no person shall conduct any land-disturbing activity within the jurisdictional boundaries of the City of Griffin without first obtaining a permit from the City to perform such activity.
- B. The application for a permit shall be made in the name of the owner of property, holding record title. Any agent making application for an owner shall provide written designation of his authority. Applications shall be submitted to the Director of Development Services, in proper form, and must include ten (10) copies of the applicant's erosion and sedimentation control plan, with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in subsection 105.03 of this Ordinance. Soil erosion and sedimentation control plans shall conform to the provisions of subsection 103.03 of this ordinance. Incomplete applications and plans, which on their face fail to conform to this section, shall be promptly returned to the applicant.
- C. A fee shall be charged for each application, and no application shall be deemed complete unless the requisite fee is paid at time of filing. The amount of required fee shall be set forth in a Fee Schedule, maintained in the office of the Director of Development Services, as from time to time revised by resolution of the Board of Commissioners.
- D. Upon receipt of an application and plans, in proper form, the Director of Development Services shall refer the application and plans to the District for its review and approval, or disapproval, concerning the adequacy of the erosion and sedimentation control plan. The results of the District review shall be forwarded to the Issuing Authority. No permit shall be issued unless the plan has been approved by the District, and any variances required by subsection 103.03 and bonding, if required as per subsection 105.02, have been obtained. District review will not be required if the Issuing Authority and the District have entered into an agreement which allows the Issuing Authority to conduct such review and approval of the plan without referring the

application and plan to the District.

- E. If a permit applicant has had two or more violations of previous permits (either in this or any other jurisdiction), of this Ordinance, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing of the application under consideration, the Issuing Authority may deny the permit application.
- F. The Issuing Authority may require the permit applicant to post a bond in the form of a surety bond issued by a company licensed in the State of Georgia and returnable to the City of Griffin, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, as a condition for issuing the permit. If the applicant does not comply with this Ordinance or with the conditions of the permit after issuance, the Issuing Authority may call the bond, or any part thereof, to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.
- G. Where an application for a permit is denied, the permit approval is specially conditioned on the giving of security, or the Issuing Authority has given notice of its intention to suspend a permit and call the bond (or a portion thereof) to be forfeited, notice of such action shall be given in writing to the applicant or permit holder. The aggrieved party is entitled to request, in writing within 5 days of receipt of notice, a hearing before the governing authority of the City of Griffin. Such hearing shall be informally conducted, but held in such manner as to afford the applicant fundamental due process. A hearing record shall be prepared by the City. Any person aggrieved by a final determination of the governing authority shall be entitled to file a petition for writ of certiorari to the Superior Court of Spalding County, Georgia, within thirty (30) days of written notice of such final action.

#### 105.03 Plan Requirements:

- A. Plans must be prepared to meet the minimum requirements as contained in subsection 103.02 of this Ordinance. Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the Manual for Erosion and Sediment Control in Georgia, published by the State Soil and Water Conservation Commission as a guide; or through the use of alternate design criteria which conform to sound conservation and engineering

practices. The Manual for Erosion and Sediment Control in Georgia, a copy of which is on file for public inspection in the office of the Director of Development Services, is hereby incorporated by reference into this Ordinance. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances and State laws.

**B. Data Required for Site Plan:**

1. Narrative or notes and other information: Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.
2. Description of existing land use at project site and description of proposed project.
3. Name, address, and phone number of the property owner of record.
4. Name and phone number of 24-hour local contact who is responsible for erosion and sedimentation controls.
5. Size of project, or phase under construction, in acres.
6. Activity schedule showing anticipated starting and completion dates for the project. Include the statement in bold letters, that "The installation of erosion and sedimentation control measures and practices shall occur prior to or concurrent with land disturbing activities."
7. Storm water and sedimentation management systems-storage capacity, hydrologic study, and calculations, including off-site drainage areas.
8. Vegetative plan for all temporary and permanent vegetative practices, including species, planting dates, and seeding, fertilizer, lime, and mulching rates. The vegetative plan should show options for year-round seeding.
9. Detail drawings for all structural practices. Specifications may follow guidelines set forth in the Manual for Erosion and

Sediment Control in Georgia.

10. Maintenance statement - "Erosion and sedimentation control measures will be maintained at all times. Additional erosion and sedimentation control measures and practices will be installed if deemed necessary by onsite inspection."

C. Maps, drawings, and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control.

The certified plans shall contain:

1. Graphic scale and north point or arrow indicating magnetic north.
2. Vicinity maps showing location of project and existing streets.
3. Boundary line survey.
4. Delineation of disturbed areas within project boundary.
5. Existing and planned contours, with contour lines drawn with an interval in accordance with the following:

Map Scale	Ground Slope	Contour Interval, ft.
1 inch = 100 ft. or larger scale	Flat 0-2%	0.5 or 1
	Rolling 2-8%	1 or 2
	Steep 8% +	2 or 5

6. Adjacent areas and features such as streams, lakes, residential areas, etc. which might be affected should be indicated on the plan.
7. Proposed structures or additions to existing structures and paved areas.
8. Delineate the 25-foot buffer adjacent to state waters and the 35-foot buffer in MRPA areas.
9. Delineate the 100-foot horizontal buffer along designated trout streams where applicable.

10. Location of erosion and sedimentation control measures and practices using coding symbols from the Manual for Erosion and Sediment Control in Georgia, Chapter 6.
- D. Maintenance of all soil erosion and sedimentation control measures, whether temporary or permanent, shall be at all times the responsibility of the property owner.

#### 105.04 Permits:

- A. Permits shall be issued or denied as soon as practicable but in any event not later than ~~forty-five~~ (45) days after receipt by the Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary.
- B. No permit shall be issued by the Issuing Authority unless the erosion and sedimentation control plan has been approved by the District and the Issuing Authority has affirmatively determined that the plan is in compliance with this ordinance, any variances required by subsection 103.03 are obtained, bonding requirements, if necessary, as per subsection 105.02, are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the Issuing Authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant in writing.
- C. If the tract is to be developed in phases, then a separate permit shall be required for each phase.
- D. The permit may be suspended, revoked, or modified by the Issuing Authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this Ordinance. A holder of a permit shall notify any purchaser of any portion of the land affected by the approved plan of the conditions contained in the permit, and the maintenance obligations imposed thereon.
- E. A permit issued under this Ordinance shall not be valid for work commencing more than six (6) months after its issuance date. Where work is not timely commenced, or work on the Project is suspended for more than three (3)

months after commencement, the Issuing Authority shall automatically suspend the permit, until the applicant provides a statement from a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control, certifying that, based upon diligent investigation, no material changes have occurred since the Soil Erosion and Sedimentation Control Plan was originally approved.

F. Any change or amendment of design and construction plans for the Project which may materially impact or negate the permit based on original approval of an Erosion and Sedimentation Control Plan shall require a permit amendment. All amendments shall be applied for in writing and follow the same procedure as original applications for a permit.

## 106. Inspection and Citations

106.01 **Inspection:** Enforcement inspections, pursuant to this Ordinance, shall be conducted by the Public Works Department and the Storm Water Management Utility, and their designated inspectors. The inspector shall periodically inspect the site of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. If, through inspection, it is deemed that a person engaged in a land-disturbing activity as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this Ordinance, a written notice to comply shall be served immediately upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this ordinance.

106.02 **Inspection Authority:** The City shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this Ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.

106.03 **Right of Entry for Inspection:** No person shall refuse entry or access to any authorized representative or agent of the Issuing Authority, the Conservation Commission, the District, or Division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

107. Penalties and Enforcement

- 107.01 **Failure To Obtain A Permit For Land-Disturbing Activity:** If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this ordinance without first obtaining a required permit, the person shall be subject to injunction of the Project, work or activity from the Superior Court of the county where such person resides, or in the case of a non-resident of this State, from the Superior Court of Spalding County; provided, however, where exigent circumstances exist, the City may apply to the Superior Court of Spalding County for a temporary restraining order. In addition, and cumulative thereof, such person shall be subject to citation for violation of this ordinance before the Municipal Court for the City of Griffin.
- 107.02 **Permit Violations; Stop-Work Warnings.** Whenever the Issuing Authority has reason to believe that a violation of this Ordinance, or the provisions of any permit issued pursuant to this Ordinance, has occurred, the Issuing Authority may require that the land-disturbing activity be stopped until necessary corrective action and mitigation have been taken and may require that necessary corrective action and mitigation be taken within a reasonable time. For the first and second violations of the provisions of this Ordinance, the Issuing Authority shall issue a written warning to the violator. The violator shall have five (5) days to correct the violation. If the violation is not corrected within five days, the Issuing Authority shall issue a stop-work order requiring that all land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or water of the state, the Issuing Authority shall issue an immediate stop-work order in lieu of a warning. In addition, and cumulative thereof, such person shall be subject to citation for violation of this ordinance before the Municipal Court for the City of Griffin.
- 107.03 **Subsequent Violations; Stop-Work Orders** For a third and each subsequent violation, work on any project for which a permit has been issued pursuant to this Ordinance that is being done contrary to the provisions of this Ordinance or in a dangerous or unsafe manner, shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property, his authorized agent or the person or persons in charge of the activity on the property, and shall state the conditions under which work may be resumed. Where an emergency exists, no written notice shall be required. Failure to timely comply with a Stop-Work Order shall subject the person to action for injunction before the Superior Court of the county in which he resides, or in the case of a non-resident of this state, from the Superior Court of Spalding County; provided, however, where exigent circumstances exist, the City may apply to the Superior Court of Spalding County for a temporary restraining order. In addition, and cumulative thereof, such person shall be subject to citation before the Municipal Court for willful violation of this Ordinance.

- 107.04 Bond Forfeiture: If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this Ordinance and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post bond under the provisions of Section 105.02. If a bond was required as a condition of the permit, the Issuing Authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.
- 107.05 Monetary Penalties: The general limitations of law on the jurisdiction of municipal courts notwithstanding, any person convicted in the Municipal Court for violating any provisions of this Ordinance, or who negligently or intentionally fails or refuses to comply with any permit conditions, or stop-work order shall be liable for a monetary penalty not to exceed \$2,500 per day; provided, however, the minimum penalty involving the construction of a single-family dwelling by or under contract with the owner for his or her own occupancy shall be \$250 per day, and in all other cases, the minimum penalty for each violation shall be \$1,000 per day. Each day during which the violation or failure or refusal to comply continues shall constitute a separate violation
- 107.06 EPD Enforcement Action: Upon written request made by this Issuing Authority, the Director may determine that the public interest requires initiation of an enforcement action by the Division. Such request shall be accompanied by documentation that demonstrates to the Director's satisfaction that local remedies have been exhausted and that compliance with local ordinances or resolutions has not been achieved. Where such a determination is made and this Issuing Authority has failed to secure compliance, the Director may implement the Board's rules and seek compliance under provisions of O.C.G.A. 12-7-12 through 12-7-15. For purposes of this subsection, enforcement actions taken by the Division pursuant to O.C.G.A. 12-7-12 through 12-7-15 shall not require prior revocation of Certification of this Issuing Authority."

Section 2. All ordinances and parts thereof in conflict with the foregoing are hereby repealed.

Section 3. This ordinance shall become effective immediately upon its adoption on second and final reading.

**First Reading:** May 22, 2000

**Second Reading:** June 13, 2000