

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 hind 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

