

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