

ORDINANCE 2009

AN ORDINANCE TO AMEND CHAPTER 30, ARTICLE V, PERTAINING TO STORMWATER MANAGEMENT, AS AMENDED, SO AS TO ESTABLISH AND SET UP A STORMWATER UTILITY RATE STRUCTURE AND BILLING RATE; TO PROVIDE FOR DEFINITIONS; TO PROVIDE FOR STORMWATER UTILITY CUSTOMER CLASSES; TO ESTABLISH USER FEES; TO PROVIDE FOR EXEMPTIONS; TO PROVIDE FOR CREDITS; TO PROVIDE FOR BILLING, DELINQUENCIES, COLLECTIONS, AND ADJUSTMENTS; TO PROVIDE FOR APPEALS AND HEARINGS; TO REPEAL ALL ORDINANCES IN CONFLICT HERewith; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY The Mayor and Council of Garden City, Georgia, and it is hereby ordained by the authority thereof that:

Section 1: Article V of Chapter 30 of the Garden City Code, as amended, relating to stormwater management is amended by adding the following Division 3 pertaining to the establishment of the Stormwater Utility Rate Structure and Billing Rate:

“Division 3. STORMWATER UTILITY RATE ORDINANCE

Section 30-281. Purpose

This ordinance shall serve the purpose of establishment and set up of the Stormwater Utility Rate Structure and Billing Rate.

Section 30-282. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Credit means a reduction in the amount of a customer’s stormwater user fee charge in recognition of a customer’s efforts to mitigate the stormwater runoff impact that developed property has on the City stormwater management services and systems, and/or the efforts of a customer to offset the City’s cost for implementation of Stormwater Management Program (SWMP) activities such as public education, watershed stewardship, etc.

Dwelling Unit shall mean a structure, which contains one (1) or more bedrooms, a bathroom and a kitchen facility, designed for occupancy by a single family unit.

Manufactured Home Park means a common development (with a single property owner or entity) of more than two factory-built or pre-fabricated housing structures that have been partially or entirely assembled at another location and moved into the development.

Residential Equivalent Unit (REU) means the stormwater user fee charge billing unit increment related to the median horizontal impervious surface area footprint of 3,000 square feet for a typical single family residential parcel within Garden City.

Unless otherwise defined within this Article, the definitions included in the Stormwater Utility Enterprise Fund Ordinance (Code Section 30-261 et seq.) are adopted herein by reference.

The professional engineering and financing analysis documents entitled: *The Garden City SWMP Assessment Funding Feasibility Study* (Technical Memorandum dated November 14, 2007); *The Garden City SWMP Assessment Funding Feasibility Study Addendum* (Technical Memorandum dated November 12, 2008, or the most recent version); and applicable supporting, project-related documents are incorporated herein by reference.

Section 30-283. Stormwater Utility Customer Classes.

- (a) The Stormwater Utility shall establish specified customer classes within the service area to reflect differences in impervious surface and stormwater runoff characteristics; stormwater management program services provided by the City to the Stormwater Utility customers; and the respective demand that those customers' properties place on the City SWMP and drainage system components. The Stormwater Utility classes will encompass all developed and undeveloped properties within the City and are defined as follows:
 - (1) The SFR Class shall consist of all developed properties classified as single-family residential customers per the applicable definition.
 - (2) The NSFR Class shall consist of all developed properties classified as non-single family residential customers per the applicable definition.
 - (3) The Undeveloped Class shall consist of properties classified as undeveloped per the applicable definition.
- (b) Documentation pertaining to the Stormwater Utility customer classes shall be kept on file in the office of the Stormwater Utility Manager for public inspection.

Section 30-284. Stormwater User Fee Charge Rates

- (a) The Stormwater Utility shall recover the cost of providing stormwater services and facilities by imposing a stormwater user fee on all developed properties within the service area in a fair and equitable manner. The Stormwater Utility shall apportion the cost of delivering stormwater services to all developed properties based on the demand the property places on the City's stormwater management program and the stormwater services provided by the City.
- (b) Stormwater user fee charge rates shall be set and may be modified from time to time by the Mayor and City Council. A schedule of said rates shall be on file in the office of the City Clerk of Garden City. In setting or modifying such rates, it shall be the goal of the City to establish rates that are fair, equitable and reasonable, and together with other funding sources available to the Garden City Stormwater Utility such as special service fees and charges deemed appropriate by the Mayor and City Council to customers for services, systems, and/or facilities related to stormwater management (e.g. credit application fees, plan review fees, development inspection fees, regulatory compliance inspection fees and other fees related to provision of stormwater management services), are sufficient to support the cost of the stormwater management services, including, but not limited to, the payment of principal and interest on debt obligations, lease payments, operating expenses, capital outlays, non-operating expenses, provisions for prudent reserves and other costs as deemed appropriate by the City.
- (c) The basis for calculation of the stormwater user fee charge to all developed property within the City is established in this Article. The City shall assign or determine the customer class, amount of impervious area and other pertinent factors as may be needed for the fair, reasonable and equitable allocation of the costs to deliver stormwater management services and to calculate the stormwater user fee charges for all developed properties in the City.
- (d) Stormwater user fee charges shall be based upon the total number of Residential Equivalent Units (REUs) associated with developed properties within the City. Each REU shall correspond to 3,000 square feet of impervious surface.
 - (1) Gravel and compacted soil driveways, parking areas, and roads on private property will be considered impervious surface and included in the customer's REU calculation because of the hydrologic response characteristics of these materials. However, the total surface area associated with these materials will be calculated at 90% of the total REUs to reflect the hydrologic response

characteristics of these materials. Application of the 90% factor to these materials is based on applicable literature sources and reference documents outlined in the applicable sections of the project documents cited in Section 30-282.

- (e) Calculation of Charges. The periodic stormwater user fee charges imposed on all developed properties shall be \$4.75 multiplied by the number of REUs for each customer account.

- (1) The number of REUs that will be utilized to calculate the user fee charge shall be in accordance with the following:

- a. SFR Customer Class: Each SFR customer account shall be charged 1.0 REU per month unless one of the conditions outlined below applies.
- (i) If two customer accounts are assigned to a SFR property (i.e. a duplex) then each customer account on that parcel will be charged 0.5 REU per month for billing purposes.
- (ii) If the SFR property has an impervious surface amount that exceeds 9,000 square feet (or 3 REUs) then a custom stormwater user fee bill will be calculated for the customer account using the NSFR user fee charge calculation approach outlined herein.
- b. NSFR Customer Class: Each NSFR customer shall be charged one REU for each 3,000 square feet, or increment thereof, of impervious surface located on the property to establish the total number of REUs for billing. Fractional REUs will be rounded to one decimal place to establish the number of REUs for billing each month.
- c. Undeveloped Land Customer Class: Undeveloped land shall be assigned 0 REUs and will not receive a stormwater user fee bill.

- (f) Stormwater User fee charges shall be billed on the customer's monthly public utility bill (except as stipulated below) starting with the first billing cycle in February 2009 as called for in this Article and the Stormwater Utility Enterprise Fund Ordinance.

- (1) Customers that do not receive a monthly public utility bill from the City shall be billed for stormwater services via another method and frequency established by the City Administrator.

- (2) The property owner will be charged for the total impervious surface for residential customer accounts that are part of a larger common development such as manufactured home parks and apartment complexes.
- (3) The City will generally bill the property owner's tenant for the stormwater user fee charge in situations where the tenant has opened an account with the City for public utility services (i.e., water, sewer, and/or sanitation). In selected cases, it may be necessary for the City to bill the landlord or property owner for stormwater services where accurate and equitable apportionment of the user fee charges to multiple accounts on a site is not practical.

Section 30-285. Stormwater User Fee Charge Exemptions.

- (a) Except as provided in this section or otherwise provided by law, no developed public or private property located in the incorporated area of the City shall be exempt from the stormwater user fee charges. No exception, credit, offset, or other reduction in stormwater user fee charges shall be granted based on age, tax status, economic status, race, religion, disability, or other condition unrelated to the Stormwater Utility's cost of providing stormwater management program services and facilities.
- (b) Exemptions to the stormwater user fee charges are as follows:
 - (1) Parcels which contain 500 square feet, or less, of impervious surfaces shall be exempt from stormwater user fee charges.
 - (2) Railroad rights-of-way (tracks) shall be exempt from stormwater user fee charges. This exemption is in recognition of routine drainage system maintenance and capital construction activities undertaken by the rail road company associated with rights-of-way and drainage conveyance systems. However, railroad stations, yards, maintenance buildings, and/or other improved property used for railroad operations shall not be exempt from stormwater user fee charges.
 - (3) Georgia Department of Transportation (GDOT) streets and rights-of-way shall be exempt from stormwater user fee charges. This exemption is in recognition of routine drainage system maintenance and capital construction activities undertaken by GDOT in association with GDOT rights-of-way road and drainage conveyance systems. However, maintenance buildings and/or other improved property used for GDOT purposes shall not be exempt from stormwater user fee charges. All other State, Federal,

and County improved properties are subject to the user fee charges on the same basis as private properties.

- (4) Chatham County owned public streets and rights-of-way shall be exempt from stormwater user fee charges. This exemption is in recognition of routine drainage system maintenance and capital construction services undertaken by the County. However, other improved property used for County purposes shall not be exempt from stormwater user fee charges.

Section 30-286. Stormwater User Fee Charge Credits.

- (a) The Stormwater Utility Manager shall grant credits or adjustments based on the technical and procedural criteria set forth in the Stormwater Utility Credit Manual (Credit Manual), which is incorporated into this Ordinance by reference and made a part hereof. Copies of the Credit Manual will be maintained by and made available from the Stormwater Utility Manager.
 - (1) Customers may apply for credits and/or adjustments in accordance with the Credit Manual.
 - (2) A stormwater user fee charge credit shall be determined based on the technical requirements, standards and criteria contained in the Credit Manual. The amount of credit, or reduction of the stormwater user fee charge, shall be in accordance with the criteria contained in the Credit Manual.
 - (3) Any credit allowed against the stormwater user fee charge is conditioned on continuing compliance with the City's design and performance standards as stated in the Credit Manual and/or upon continuing provision of the controls, systems, facilities, services, and activities provided, operated, and maintained by the customer. The Stormwater Utility Manager may revoke a credit at any time for noncompliance with applicable standards and criteria as established in the Credit Manual or this Article.
 - (4) In order to obtain a credit, the customer must make application to the City on forms provided by the Stormwater Utility Manager for such purpose, and in accordance with the procedures outlined in the Credit Manual.
 - (5) The application for any credit or adjustment must be in writing and must include the information necessary to establish eligibility for the credit or adjustment, and be in the format described in the Credit Manual. The customer's public utility account must be paid and current prior to review and approval of a Stormwater Utility

credit application by the City. Incomplete applications will not be accepted for consideration and processing.

- (b) When an application for a credit is deemed complete by the Stormwater Utility Manager, he/she shall have 30 days from the date the complete application is received to approve the credit in whole, approve the credit in part, or deny the credit. The Stormwater Utility Manager's decision shall be in writing and will be mailed to the address provided on the adjustment request, and service shall be complete upon mailing. Credits applied for by the customer and approved in whole or in part, shall apply to all stormwater user fee charges in accordance with the terms defined in the Credit Manual.

Section 30-287. Stormwater User Fee Charge Billing, Delinquencies, Collections, Adjustments.

Failure to receive a Stormwater Utility user fee charge bill is not justification for non-payment. The property owner and/or utility customer account holder, as identified from City public utility billing database information and public land records of Chatham County, shall be obligated to pay the applicable stormwater user fee charge.

- (a) Billing
 - (1) Stormwater user fee charges shall begin to accrue February 1, 2009, and shall be billed prospectively. A bill for stormwater user fee charges may be sent through the United States Postal Service or by alternative means, notifying the Stormwater Utility customer of the following items (as a minimum): the stormwater user fee charge amount (less any approved credits), the date the payment is due and the date when payment is past due.
 - (2) Unless otherwise billed directly to the property owner, the stormwater user fee charge will be billed and collected on a common statement and collected along with other city utility services from the person in whose name such services have been placed on account with the City. If and when the account is closed or becomes delinquent, the bills for unpaid previous service as well as for current and future service shall be sent to the property owner.
 - (3) Frequency of the billing of stormwater user fee charges shall be specified by the City Administrator.
 - (4) Failure to receive a bill shall not be justification for nonpayment. Regardless of the party to whom the bill is initially directed, the

owner of each developed property subject to stormwater user fee charges shall be ultimately obligated to pay stormwater user fee charges and any interest at the rate of eighteen (18%) percent per annum on delinquent stormwater user fee charge payments.

- (5) If a property is unbilled, or if no bill is sent for a particular tract of developed property, the Stormwater Utility may back bill for a period of up to one (1) year, but shall not be entitled to any interest or any delinquency charges during the back billed period.

(b) Delinquencies and Collections

- (1) Unpaid stormwater service fees shall be collected by filing suit to collect on an unpaid account and by using all methods allowed by Georgia law to collect on any judgment obtained thereby, including enforcement of any lien resulting from any such judgment. Unless reduced to a judgment and a writ of fieri facias issued, the unpaid user fee charge shall not constitute a direct lien against the owner and/or the property.
- (2) A late charge shall be assessed against the customer for the unpaid balance of any Stormwater Utility user fee charge that becomes delinquent in accordance with applicable State law and City ordinance provisions. In addition, the city shall assess all costs of collection, including attorney's fees and court costs, against the property owner.

(c) Adjustments

- (1) The Stormwater Utility Manager shall administer the procedures and standards for the adjustment of the stormwater user fee charge.
 - a. If a customer believes his/her stormwater user fee is incorrect, the customer may seek an adjustment of the stormwater user fee charge allocated to a property at any time by submitting the request in writing to the Stormwater Utility Manager and setting forth in detail the grounds upon which relief is sought. The customer's public utility account must be paid and current prior to consideration of an adjustment request by the City.
 - b. Customers requesting the adjustment shall be required, at their own expense, to provide accurate impervious area and other supplemental information to the Stormwater Utility Manager, including, but not limited to, a survey certified by a registered land surveyor or a professional engineer.

Submittal of this information will be required if the City staff cannot make a determination based on field inspection and/or review of existing City aerial photography. Failure to provide the required information within the time limits established by the Stormwater Utility Manager, as may be reasonably extended, may result in denial of the customer's adjustment request.

- c. Once a completed adjustment request and all required information are received by the Stormwater Utility Manager, the Stormwater Utility Manager shall within 30 calendar days render a written decision.
- d. In considering an adjustment request, the Stormwater Utility Manager shall consider whether the calculation of the stormwater user fee charge for the property is correct.
- e. The Stormwater Utility Manager's decision shall be in writing and will be mailed to the address provided on the adjustment request, and service shall be complete upon mailing.
- f. If the result of an adjustment is that a refund is due the applicant, the refund will be applied as a credit on the applicant's next stormwater user fee charge bill.

Section 30-288. Appeals and Hearings

- (a) Appeals. An appeal to the City Administrator may be taken by any property owner or customer aggrieved by any decision of the Stormwater Utility Manager. The appeal shall be taken within 30 days of the decision of the Stormwater Utility Manager by filing with the City Administrator a notice of appeal in writing specifying the grounds thereof. Upon the filing of the notice of appeal, the Stormwater Utility Manager shall forthwith transmit to the City Administrator all documentation constituting the record upon which the decision appealed from was taken.
- (b) Hearing. The City Administrator shall fix a reasonable time for hearing the appeal and give written notice to the appellant at least ten days prior to the hearing date. The notice shall indicate the place, date and time of the hearing. The City Administrator shall affirm, reverse, affirm in part, or reverse in part the decision of the Stormwater Utility Manager after hearing the evidence. If the decision of the Stormwater Utility Manager is reversed in whole or in part, resulting in a refund or credit due to the property owner or customer, then such refund or credit shall be calculated retroactive to the date of the initial appeal. The decision of the City

Administrator shall be final, and there shall be no further administrative action. Any person aggrieved or dissatisfied with the decision of the City Administrator may petition the Superior Court of Chatham County for Writ of Certiorari.

Section 2. All ordinances or parts of ordinances in conflict therewith are hereby repealed.

Section 3. This ordinance shall become effective on the date of passage.

ADOPTED this ____ day of February, 2009.

Rhonda Ferrell Bowles
Clerk of Council

RECEIVED AND APPROVED this the ____ day of February, 2009.

ANTHONY E. QUINNEY
Mayor

Read first time:

Read second time and approved: