

**AN ORDINANCE**  
**TO BE ENTITLED**

**AN ORDINANCE TO AMEND PART 5, MUNICIPAL UTILITIES, OF THE CODE OF THE CITY OF SAVANNAH, GEORGIA TO CREATE A NEW CHAPTER 5, "STORMWATER UTILITY ENTERPRISE FUND"; TO PROVIDE FOR DEFINITIONS; TO PROVIDE FOR A STORMWATER UTILITY SERVICE AREA; TO PROVIDE A STATEMENT OF PURPOSES AND FINDINGS OF FACT; TO PROVIDE FOR SCOPE OF RESPONSIBILITY FOR STORMWATER MANAGEMENT SYSTEMS AND FACILITIES; TO PROVIDE FOR STORMWATER UTILITY CUSTOMER CLASSES; TO PROVIDE FOR INSPECTIONS AND ENFORCEMENT; TO PROVIDE AN EFFECTIVE DATE; TO PROVIDE FOR SEVERABILITY; TO RESTATE AND REAFFIRM THE CODE OF ORDINANCES, AS MODIFIED HEREBY; TO REPEAL ALL CODE PROVISIONS, ORDINANCES, OR PARTS THEREOF, IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.**

BE IT ORDAINED by the Mayor and Aldermen of the City of Savannah, Georgia, in regular meeting of Council assembled, and pursuant to the lawful authority thereof:

SECTION 1: That Part 5, Municipal Utilities, be amended by adding a Chapter 5, Stormwater Utility Fund, as follows:

**"CHAPTER 5. STORMWATER UTILITY ENTERPRISE FUND"**

**Section 5-5001. Purpose**

This Chapter is enacted for the purpose of establishing the Stormwater Utility Enterprise Fund and other provisions relating thereto.

**Section 5-5002. Findings of Fact**

The Mayor and Aldermen make the following findings of fact:

- (a) The City of Savannah is authorized by the Georgia Constitution of 1983, including, without limitation, Article IX, Section II, Paragraph III, and O.C.G.A. §36-82-62, to provide stormwater management service systems and facilities throughout the corporate boundaries of the City of Savannah (hereinafter "the City" or "Savannah") and to collect fees for provision of those services.

- (b) In promulgating the regulations contained in this Chapter, the City of Savannah is acting pursuant to authority granted by the Constitution and laws of the State of Georgia to provide for stormwater collection and disposal by providing a system for the collection, conveyance, storage, treatment and disposal of stormwater for properties located within the City limits to varying degrees based on parcel characteristics.
- (c) The stormwater management department shall be responsible for the management, maintenance, and improvement of the City's separate stormwater system, including activities necessary to control and monitor stormwater runoff quantity and quality. Failure to effectively manage stormwater runoff can result in:
- (1) Erosion of lands, which could threaten businesses, residences, and other structures with water damage and may environmentally impair the rivers, streams and other bodies of water within, and downstream of, the City.
  - (2) Adverse impacts to the City's sanitary sewer system operations thereby increasing the potential for infiltration and inflow into the sanitary sewer system.
  - (3) Potential degradation of the quality of both surface water and ground water resources.
  - (4) An inability to protect, maintain, and enhance the short term and long-term public health, safety, and general welfare.
  - (5) Failure to comply with the Georgia Department of Natural Resources (DNR) and federal Environmental Protection Agency (EPA) stormwater regulations developed pursuant to the Clean Water Act. These requirements include:
    - i. Control the discharge of stormwater and contribution of pollutants to the municipal storm sewer system (MS4) by stormwater discharges associated with impervious area and the quality of stormwater discharged from sites' impervious areas;
    - ii. Prohibit illicit connections and/or discharges to the MS4;
    - iii. Control discharge to municipal storm sewers of spills, dumping or disposal of materials other than stormwater; and
    - iv. Control, through intergovernmental agreements, contribution of pollutants from one municipal/county system to another.
  - (6) Adverse effects of increased stormwater runoff and land development within flood hazard areas.
- (d) The City presently owns and operates a stormwater management system, known as an "MS4", and related facilities, which have been developed over

many years. The future usefulness and operational function of the existing stormwater management system and facilities owned and operated by the City, and future additions and improvements thereto, rests on the ability of the City to effectively manage, protect, control, regulate, use, and enhance stormwater systems and facilities within the City in concert with the management of other water resources within the City and in accordance with applicable City of Savannah Code of Ordinances.

- (e) Compliance with the regulatory obligations of the City's Federally-mandated NPDES Wastewater Discharge Permit as well as the NPDES Phase I MS4 Stormwater Permit; the National Flood Insurance Program (NFIP); the Georgia State Water Management Plan; the City's Watershed Assessment and Watershed Protection Plan; and other applicable State and Federal water resources-related regulations, as well as other identified stormwater management program needs, will affect the cost of providing stormwater management services, systems, and facilities above what is currently being spent for stormwater quality management, drainage system maintenance, flood plain management, capital drainage projects and other stormwater management program activities funded through appropriations in the City's annual budget. To provide an accurate and transparent accounting of the cost of providing stormwater management it is appropriate for the City to establish a Stormwater Utility Enterprise Fund.
- (f) The City of Savannah implements a stormwater management program to address storm water runoff quality and quantity and to mitigate the impacts of pollution and flooding which may impact the public MS4, private property and downstream receiving waters of the State of Georgia and/or United States.
- (g) Given the stormwater management program problems, needs and goals, it is appropriate that the City authorize the formation of an organizational and accounting entity dedicated specifically to the management, maintenance, protection, control, regulation, use, and enhancement of stormwater management services, systems, and facilities within the City in concert with other water resources management programs.
- (h) Stormwater management is applicable and needed throughout the incorporated areas of the City. While specific service and facility demands may differ from area to area at any given point in time, a stormwater management system and service area encompassing all lands and water bodies within the incorporated areas of the City is appropriate given the present and future needs of the City.
- (i) Stormwater management needs in the City include, but are not limited to, protection of the public health, safety, and welfare of the community. Provision of stormwater management services renders and/or results in both a service to customers and benefit to properties, property owners, citizens, and residents of

the City in a variety of ways although the benefits may be indirect or immeasurable.

- (j) The Stormwater Utility Enterprise Fund will likely be funded from various sources, including, but not limited to, user fees, General Fund allocations, revenue bonds, use of proceeds from special purpose local option sales taxes (SPLOST) and other forms of revenue, as deemed appropriate by the Mayor and City Council.
- (k) It is required that all revenues are deposited into the City of Savannah Stormwater Utility Enterprise Fund be utilized specifically and solely for stormwater management services, systems, or facilities. Such revenues shall be deposited into the City of Savannah Stormwater Utility Enterprise Fund and held in a fiduciary capacity for those purposes. The revenues shall remain in the enterprise fund, and be dispersed only for stormwater management capital improvements, facilities, equipment, operating and non-operating costs, allocated share of City administrative expenses, lease payments, debt service payments, or other indebtedness related to the stormwater management program.
- (l) In order to protect the health, safety and welfare of the public, the governing authority of the City of Savannah hereby exercises its authority to establish a Stormwater Utility Enterprise Fund, as the best available means of addressing the foregoing stormwater management program organizational, operational and accounting needs and priorities.

### **Section 5-5003. Definitions**

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

- (a) *Act* means and refers to the Clean Water Act codified at 33 U.S.C. § 1251, *et seq*, and the rules and regulations promulgated by the United States Environmental Protection Agency pursuant thereto.
- (b) *Customers of the Stormwater Utility* shall include all persons, properties, and entities serviced by and/or benefitting from the services provided by the City's stormwater management program and the Stormwater Utility. These services include, but are not necessarily limited to, the Stormwater Utility's administration, management, maintenance, expansion, and improvement of the stormwater management systems for the handling and disposal of stormwater runoff from private and public properties, and the regulation of the public and private stormwater management systems, controls, facilities, and activities.

- (c) *Enterprise Fund* means a fund used to account for operations that are financed and operated in a manner similar to private business enterprises.
- (d) *Fiduciary Fund* means a trust or agency fund used to account for assets held by a local government in a trustee capacity.
- (e) *Hydrologic Response* defines the manner and means whereby stormwater runoff collects, remains, diverts, infiltrates, and is conveyed from a property. Hydrologic Response is dependent on several factors including, but not limited to, the presence of impervious surface, the parcel's size, the parcel's shape, the parcel's topography, the parcel's vegetative canopy, the parcel's groundwater characteristics, the parcel's on-site operations, the parcel's stormwater controls, the parcel's antecedent moisture as well as the parcel's geologic and hydro-geologic characteristics.
- (f) *Impervious area* shall mean and have the same definition as impervious surface.
- (g) *Impervious surface* means those areas which prevent or impede the infiltration of stormwater into the soil in the manner in which it entered the soil, in natural conditions, prior to development and causes stormwater runoff to collect, concentrate or flow in a manner materially different from what would occur if the land were in an unaltered/undeveloped natural condition. Common impervious surfaces include, but are not limited to, rooftops, buildings or structures, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, 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.
- (h) *Municipal Separate Storm Sewer System (MS4)* shall mean the same thing as Public stormwater management systems and facilities.
- (i) *Property or Parcel* shall mean a designated parcel or tract, established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.
- (j) *Partial impervious surface* shall mean those areas which allow for limited infiltration of rainfall and surface water runoff into the soil in the manner that is more similar to natural conditions than “impervious surface” as defined above. Partial impervious surfaces influence and affect stormwater runoff such that the runoff is collected, concentrated and/or flows in a manner that is materially different from what would occur if the land were in an unaltered natural condition. Common partial impervious surfaces include, but are not limited to, compacted gravel and/or compacted soils.

- (k) *Private stormwater management systems and facilities* shall mean those natural and manmade channels, swales, ditches, rivers, streams, creeks, branches, reservoirs, ponds, drainageways, inlets, catch basins, pipes, headwalls, storm drains, lakes and other physical works, properties and improvements which transfer, control, convey or otherwise influence the movement of stormwater runoff or water quality, for which operation and maintenance is the responsibility of the owner or successor or assignee thereof, and which have not been conveyed or dedicated to the City for future maintenance.
- (l) *Public stormwater management systems and facilities* shall mean that portion of the drainage system consisting of natural and/or man-made structures, within the political boundaries of the city which channel or convey storm water from its point of collection to a point of discharge, owned by the City, over which the City has a legal right of access, have been formally dedicated to and accepted by the City for maintenance, or over which the City exercises dominion and control.
- (m) *Service area* means the entire land area within the corporate limits of the City.
- (n) *Stormwater management services* mean all water quality and water quantity related services provided by the City which relate to the following:
- (1) Transfer, control, conveyance or movement of stormwater runoff through the incorporated portions of the City;
  - (2) Maintenance, repair and replacement of existing stormwater management systems and facilities;
  - (3) Planning, development, design and construction of additional stormwater management systems and facilities to meet current and anticipated needs;
  - (4) Regulation of the use of stormwater management services, systems and facilities; and
  - (5) Compliance with applicable State and Federal stormwater management regulations and permit requirements;
  - (6) Other services as deemed appropriate by the City.
- (o) *Stormwater management systems and facilities* mean those natural and manmade channels, swales, ditches, rivers, streams, creeks, branches, reservoirs, ponds, drainage ways, inlets, catch basins, pipes, headwalls, storm sewers, public streets, curbs and gutters, lakes and other physical works, properties and improvements which transfer, control, convey, detain, retain, treat or otherwise influence the movement of stormwater runoff.
- (p) *Stormwater Utility Manager* means the person appointed by the City Manager to administer the provisions of this article.

- (q) *User* is defined as any person who uses property, which maintains connection to, discharges to, or otherwise receives stormwater management services from the City.

**Section 5-5004. Stormwater Utility and Enterprise Fund Established**

- (a) There is hereby established a Stormwater Utility to be known as the City of Savannah Stormwater Utility, which shall be responsible for stormwater management services throughout the incorporated area of the City, and which shall provide for the management, protection, control, regulation, use and enhancement of the City's stormwater management systems and facilities and stormwater management program services.
- (b) There is hereby established a Stormwater Utility Enterprise Fund in the City accounting systems for the purpose of dedicating and protecting all funding allocated to and generated for stormwater management for the operation of the stormwater management program and Stormwater Utility, including, but not limited to, rates, charges, and fees as may be established by the Mayor and Aldermen from time to time, and other funds that may be allocated to the Stormwater Utility. Such Fund shall be both an Enterprise Fund and a Fiduciary Fund, consistent with the definitions within this chapter.
- (c) All revenues allocated to and generated for stormwater management shall be segregated and placed into the Stormwater Utility Enterprise Fund in trust and shall be expended solely for stormwater management purposes; provided; however, such fund may also pay a reasonable allocation of costs provided to the Stormwater Utility by the City's General Fund, or other utilities of the City, in order to account for application overhead costs.
- (d) Under the supervision and oversight of the City Manager or his/her designee, the City shall place responsibility with the Stormwater Utility Manager for operation, maintenance and regulation of the Stormwater Utility and stormwater management systems and facilities owned and operated, or maintained by the City, and other related assets, including, but not limited to, properties, other than road rights-of-way, upon which such stormwater management systems and facilities are located, easements, rights-of-entry and access and certain equipment used solely for stormwater management.

**Section 5-5005. Stormwater Utility Service Area**

- (a) There shall be a defined Stormwater Utility Service Area within the City of Savannah which shall encompass the municipal boundaries of the City as amended from time to time.

- (b) The City of Savannah has established that all parcels within the Stormwater Utility Service Area receive stormwater management program services from the City to varying degrees depending on parcel characteristics.

**Section 5-006. Scope of Responsibility for Stormwater Management Systems and Facilities**

- (a) The Stormwater Utility shall provide stormwater management services for existing and proposed public stormwater management systems and facilities as defined in this article, subject to funding availability and policy considerations made in the best interest of the public health, safety and general welfare, and of the environment. Additionally, the Stormwater Utility may accept the responsibility for providing stormwater management services to private stormwater management systems and facilities, acceptance of which conforms to policies established by the Mayor and Aldermen.
- (b) The City owns in fee simple, or has legal Interests established by written agreements, which allow it to operate, maintain, improve, and access those stormwater management systems and facilities which are located:
  - (1) On property owned by, or within the possession and control of, the City;
  - (2) Within public rights-of-way of the municipal or public street system;
  - (3) On private property but within legally dedicated easements granted to, and accepted by, the City; which have been properly recorded in County land records;
  - (4) On private property where the City has been granted, by written agreements, rights-of-entry, rights-of-access, rights-of-use or other provisions for operation, maintenance, improvement and access to the stormwater management system facilities located thereon; or
  - (5) On public land which is owned by another governmental entity with whom the City has a written agreement providing for the operation, maintenance, improvement and access to the stormwater management systems and facilities located thereon.
- (c) Operation, maintenance and/or improvement of stormwater management systems and facilities which are located on private or public property not owned by the City, and for which there has been no written agreement granting easements, rights-of-entry, rights-of-access, rights-of-use or other form of license to the City for operation, maintenance, improvement and access of such stormwater management systems and facilities, shall be and will remain the legal responsibility of the property owner and/or tenant, except as otherwise provided for by State and Federal laws and regulations.



- (d) The Stormwater Utility may provide periodic inspection, testing, or engineering assessment of privately owned stormwater management systems and facilities to ascertain that said facilities are functioning as designed and approved. After notice to the property owner, the Stormwater Utility may provide for remedial maintenance of said private facilities based upon the severity of stormwater problems and potential hazard to the public health, safety, and welfare and the environment. In cases where such remedial maintenance is required to be performed by the City, the City shall have the right to bill the owner of the private facility for the costs of such maintenance .
- (e) It is the express intent of this article to protect the public health, safety and welfare of people and property in general, but not to create any special duty or relationship with any person or entity, or to any specific property within or outside the municipal boundaries of the City. The City expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages or equitable remedies upon the City, its elected officials, officers, employees, and agents arising out of any alleged failure or breach of duty or relationship.
- (f) If any permit, plan approval, inspection, or similar act is required by the City as a condition precedent to any land disturbance or construction activity upon property not owned by the City pursuant to this or any other regulatory code, 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 it afford the basis for any action seeking the imposition of money damages or equitable remedies against the City, its Mayor and Aldermen, officers, employees or agents. This includes any action based on failure to permit, negligent issuance of a permit, negligent plan approval, negligent construction of permitted system or facility, or negligent maintenance of any permitted stormwater management system or facility, not expressly dedicated to and accepted by the City.

SECTION 2: All ordinances and Code sections, or parts thereof, in conflict with the foregoing are expressly repealed.

SECTION 3: Should any provision of this ordinance be rendered invalid by any court of law, the remaining provisions shall continue in force and effect until amended or repealed by action of the municipal governing authority.

SECTION 4: Except as modified herein, City of Savannah Code of Ordinances, is hereby reaffirmed and restated. The codifier is hereby granted editorial license to include this amendment in future supplements of said Code by appropriate section, division, article or chapter.

SECTION 5: This ordinance shall become effective immediately upon adoption on second and final reading.

ADOPTED AND APPROVED: \_\_\_\_\_

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Van R. Johnson II, Mayor

ATTEST:

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Mark Massey, Clerk of Council

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