

ARTICLE VI. STORMWATER UTILITY¹

Sec. 38-180. Short title, authority and applicability.

- (a) This article shall be known and may be cited as the "City of Lawrenceville Stormwater Utility Ordinance."
- (b) The City of Lawrenceville has the authority to adopt this article pursuant to Ga. Const. art. IX, § II, ¶ III(a)(6), (c) and (d) and O.C.G.A. §§ 36-82-61(4)(C)(ii) and 36-82-62(a)(2).

(Ord. No. 2021-5, § 1, 5-24-2021)

Sec. 38-181. Findings.

The City Council of the City of Lawrenceville, Georgia, make the following findings:

- (1) 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 emphasizes the role of local governments in developing, implementing, conducting and funding stormwater programs which address water quality impacts of stormwater runoff.
- (2) Stormwater management services and stormwater management systems and facilities will assist the City in meeting the regulatory obligations imposed by its national pollutant discharge elimination system (NPDES) permits by reducing pollution and increasing water quality within the City.
- (3) Stormwater management services and stormwater management systems and facilities will assist the City in protecting the public health, safety and welfare and the environment. Provision of stormwater management services, stormwater management systems and facilities and regulation of the use thereof renders and/or results in both service and benefit to individual parcels, parcel owners, citizens and residents of the City and to all parcels, parcel owners, citizens and residents of the City concurrently and the environment in a variety of ways.
- (4) The City of Lawrenceville presently owns and operates stormwater management systems and facilities which have been developed over many years. The future usefulness of the existing stormwater management systems and facilities 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 management systems and facilities in the City in concert with the management of other public utilities in the City. In order to do so, the City must have adequate and stable funding for its stormwater management program's operating needs and capital program.
- (5) Stormwater management services and stormwater management systems and facilities are needed throughout the City. 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 City is consistent with the present and future needs of the community.

¹Editor's note(s)—Ord. No. 2021-5, § 1, adopted May 24, 2021, amended Art. VI in its entirety to read as herein set out. Former Art. VI, §§ 38-180—38-193, pertained to similar subject matter and derived from Code 2005, §§ 12-401—12-414; Ord. of 12-1-2008; Ord. No. 2018-30, §§ 1—3, 12-3-2018.

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- (6) The provision of stormwater management services and stormwater management systems and facilities in the City promotes an essential regulatory purpose by influencing where stormwater runoff flows and how it is managed, thereby reducing flooding, erosion and water pollution caused by stormwater runoff.
 - (7) By mitigating the impact of stormwater runoff from developed parcels, the stormwater management systems and facilities help prevent damage that would subject a parcel owner to civil liability.
 - (8) The City Council is responsible for the protection and preservation of the public health, safety, and welfare of the community, and the environment, and finds that it is in the best interest of the health, safety, and welfare of the citizens of the City and the community at large and the environment 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 stormwater management and to institute funding methods associated therewith.
 - (9) The City has undertaken a comprehensive review by staff and professional consultants of the need for, management of, and funding for, a stormwater utility. The City staff reports and the professional engineering analysis submitted to the City properly assesses and defines the stormwater management problems, needs, goals, program priorities and funding opportunities of the City.
 - (10) As a result, the City Council finds that a stormwater utility provides the most practical and appropriate means of properly delivering stormwater management services and stormwater management systems and facilities, and the City Council finds that a stormwater service fee provides the most practical and appropriate means of funding stormwater management services in the City of Lawrenceville.

(Ord. No. 2021-5, § 1, 5-24-2021)

Sec. 38-182. 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:

City standards means the City ordinances that govern water quality and water quantity, including, but not limited to, the development regulations, the floodplain management ordinance, the soil erosion and sediment control ordinance, the illicit discharge and illegal connection ordinance, the stream buffer protection ordinance, the stream buffer mitigation bank ordinance, the zoning resolution, the stormwater design manual, and all procedures, rules and policies pertaining thereto as these may be updated or amended from time to time.

Credit means a conditional reduction allowed against the stormwater service fee charged to an individual parcel based upon the technical requirements and the design and performance standards contained in the City's stormwater credits manual, to be adopted pursuant to this article, as it may be updated or amended from time to time.

Customer means all persons, parcels, and entities served by the utility's acquisition, management, maintenance, extension, and improvement of the public stormwater management systems and facilities and regulation of public and private stormwater systems, facilities, and activities related thereto, and persons, parcels, and entities which will ultimately be served or benefited as a result of the stormwater management program.

Developed land means all parcels not deemed as undeveloped land, as defined in this section.

Direct lien means a lien enforced against an individual or parcel prior to obtaining a judgment against the individual or parcel, such as liens established by operation of law for unpaid taxes.

Director means the City of Lawrenceville City Engineer or his designee.

Impervious surfaces means any paved, hardened or structural surfaces, including, but not limited to, buildings, dams, decks, driveways, parking areas, patios, streets, swimming pools, tennis courts, walkways or other structures which prevent or impede the infiltration of stormwater into the soil.

Parcel means a designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

Private stormwater management systems and facilities means those natural and manmade channels, swales, ditches, rivers, streams, creeks, branches, reservoirs, ponds, drainageways, inlets, catchbasins, 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, which are not public.

Public stormwater management systems and facilities(or City of Lawrenceville's Municipal Separate Storm Sewer System) means those natural and manmade channels, swales, ditches, rivers, streams, creeks, branches, reservoirs, ponds, drainageways, inlets, catchbasins, pipes, headwalls, storm drains, public streets, curbs and gutters, lakes and other physical works, properties and improvements which transfer, control, convey or otherwise influence either the movement of stormwater runoff or water quality, which are either owned by the City or over which the City has accepted an offer of dedication of an easement or other legally binding permanent right of use for stormwater drainage, and for which the City has the obligation of maintenance for stormwater drainage purposes.

Stormwater management services may address the quality and the quantity of stormwater runoff and include all services provided by the City which relate to the:

- (1) Transfer, control, conveyance or movement of stormwater runoff through the City;
- (2) Operation, maintenance, repair, enhancement and replacement of existing public stormwater management systems and facilities;
- (3) Planning, development, design and construction of additional stormwater management and facilities to meet current and anticipated needs;
- (4) Regulation of the use of stormwater management services or of stormwater management systems and facilities;
- (5) Education of the public as to stormwater issues;
- (6) Development plan review to require compliance with City standards;
- (7) Inspection for water quantity and water quality to require compliance with City standards;
- (8) Monitoring for water quantity and water quality to determine compliance with City standards, State water quality standards and stormwater management programs; and
- (9) Other services as the Director may deem appropriate.

Stormwater service fee means the periodic service charge imposed by the City to a parcel of developed land pursuant to this article for providing the stormwater management services and stormwater management systems and facilities, which fees shall be used only for the purpose of funding the City of Lawrenceville stormwater utility's cost of providing stormwater management services and stormwater management systems and facilities. Stormwater service fees shall be based on the relative contribution of each parcel to the demand for stormwater management services, shall be structured so as to be fair and reasonable and shall bear a substantial relationship to the cost of providing stormwater management services and stormwater management systems and facilities. The cost of operating expenses, capital investments and reserve accounts may be included in the stormwater service fees.

Undeveloped land means a parcel that has less than 100 square feet of impervious surface.

Water quality means the chemical, physical, and biological characteristics of the State's public utilities.

Water quantity means the volume of runoff which is not entirely confined and retained completely upon a parcel.

(Ord. No. 2021-5, § 1, 5-24-2021)

Sec. 38-183. Establishment of a stormwater utility.

- (a) There is hereby established a stormwater utility within the Engineering Department which shall be responsible for providing stormwater management services, for providing stormwater management systems and facilities, and for determining labor, material and administrative fees for the operation of the stormwater utility throughout the City.
- (b) The City Council hereby delegates management responsibility for stormwater services over the existing stormwater management systems and facilities and other related assets, including, but not limited to, properties upon which such facilities are located, easements, rights-of-entry and rights-of-access, and certain equipment to the stormwater utility authority, subject to the restrictions and guidelines set forth in this article.
- (c) The stormwater utility shall provide stormwater management services, shall provide stormwater management systems and facilities and shall collect stormwater service fees and other fees as provided in this article within the City in accordance with the terms of this article, subject to funding availability and to policy determinations made in the best interest of public health, welfare and safety and the environment; provided, however, that the stormwater utility shall not be authorized to operate outside of the boundaries of the City.
- (d) The stormwater utility shall be operated by the Stormwater Utility Authority. Said authority shall be comprised of the City Manager, the Assistant City Manager Public Works, the City Engineer, one member of the Lawrenceville City Council, and three citizens of the City of Lawrenceville or owners/employees of businesses located within the City of Lawrenceville. The quorum for conducting a regular meeting of this authority shall be fixed at four members. The City Engineer shall serve as the Chairman of the Authority. Except for the number of authority members, the definition of a quorum, and the selection of Chairman, the authority shall establish bylaws and rules for conducting its meetings and business as its first order of business.

(Ord. No. 2021-5, § 1, 5-24-2021)

Sec. 38-184. Scope of responsibility for the stormwater utility.

- (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 to policy determinations made in the best interest of the public health, welfare and safety and the environment. Additionally, the stormwater authority may request that the City Council accept the responsibility for providing stormwater management services to private stormwater management systems and facilities. The acceptance of any private stormwater management system or facility shall require action by the City Council, include a recorded easement, and shall conform to policies established by the City Council.
- (b) The City owns or has rights established by written agreements which allow the stormwater utility to provide stormwater management services and access those stormwater management systems and facilities which are located:
 - (1) Within public road rights-of-way maintained by the City and public road easements maintained by the City;

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- (2) On private property but within easements granted to and accepted by the City, or are otherwise permitted to be located on such private property by written agreements for rights-of-entry, rights-of-access, rights-of-use or other permanent provisions;
 - (3) On public land which is owned by the City or by another governmental entity, and with which the City has written agreements to provide stormwater management services and access to the stormwater management systems and facilities; or
 - (4) Any pipe which begins within the public road rights-of-way maintained by the City or public road easements maintained by the City that conveys water from the public road rights-of-way/road easement (maintained by the City) until said pipe ends. This shall not include any pipes that begin on private property, convey water to public rights-of-way/road easements and/or end on public rights-of-way/road easements.
- (c) Stormwater management systems and facilities which are located on private property or on public property not owned by the City or leased to the City by another political subdivision of the State of Georgia, and for which there has been no written agreement granting easements which have been dedicated to and accepted by the City, rights-of-entry, rights-of-access, rights-of-use or other form of dedication thereof to the City for operation, maintenance, improvement and access of such stormwater management systems and facilities, shall be and remain the legal responsibility of the property owner, except as otherwise provided for by the laws of the State and the United States.
 - (d) The stormwater utility may provide stormwater management services to privately owned stormwater management systems and facilities to ascertain that said facilities are functioning as designed and approved. 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, and in cases where such remedial maintenance is required, the City shall bill the owner of said private facility for the costs of such maintenance. The performance of any such services by the stormwater utility shall not constitute an acceptance of or any continued responsibility or liability for said private facilities. Said private facilities shall remain the responsibility of the private owner thereof.
 - (e) It is the express intent of this article to protect the public health, safety and welfare of people, property, and the environment, in general, but not to create any special duty or relationship with any individual person, or to any specific parcel within or outside the 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, 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 activity or change upon property not owned by the City pursuant to this article 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 it 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 or equitable remedies against the City, its elected officials, employees or agents.
 - (g) All contracts and other official documents, once approved in accordance with this article or the policies and procedures of the Authority and/or the City, shall be executed by the City Manager or his designee and attested by the City Clerk.

(Ord. No. 2021-5, § 1, 5-24-2021)

Sec. 38-185. Compensation.

Members of the stormwater utility shall receive compensation, if any, in an amount to be determined by the City Council. Employees and elected officials of the City shall be not eligible to receive said compensation.

(Ord. No. 2021-5, § 1, 5-24-2021)

Sec. 38-186. Establishment of enterprise fund.

- (a) 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 stormwater utility, including, but not limited to, rentals, rates, charges, fees, and licenses as may be established by the City Council.
- (b) Any revenues and receipts of the stormwater utility shall be placed in the stormwater enterprise funds and all expenses of the utility shall be paid from the stormwater enterprise fund, except that other revenues, receipts, and resources not in the stormwater utility enterprise fund may be applied to stormwater management operations and capital investments as deemed appropriate by the City Council, upon recommendation of the City Manager.
 - (1) The stormwater authority shall comply with all city ordinances and state laws setting forth procurement and bidding requirements. Any project in excess of \$300,000.00 shall require approval of the City Council.
- (c) The City may pledge all or any portion of all income and revenue of any nature derived from the operation of the stormwater management systems and facilities owned by the City or owned by another political subdivision of the State of Georgia and leased to the City, including periodic stormwater service charges and other charges for stormwater service, to the payment of principal of premium, if any, and interest on any revenue bonds or other obligations lawfully issued or otherwise contracted for by the City as may be provided in any resolution authorizing such bonds or obligations or in any trust instrument relating to such bonds or obligations. The stormwater authority may recommend that the City consider issuing revenue bonds as provided in this section; however, no revenue bonds shall be issued unless approved by the City Council.

(Ord. No. 2021-5, § 1, 5-24-2021)

Sec. 38-187. Rates of stormwater service fees to be established.

In order to recover the cost of providing stormwater services and stormwater management systems and facilities while fairly and reasonably apportioning the costs among developed properties throughout the City based on the use of stormwater services and stormwater management systems and facilities, the City Council shall establish by ordinance a stormwater service fee rate, which shall apply uniformly throughout the area of the City that may be included within the stormwater utility pursuant to the jurisdiction granted by this article. The fee is as established from time and time and as approved by separate ordinance of the City Council. The stormwater utility authority shall review the service fee rate on an annual basis and shall make a recommendation of any changes to said service fee to the City Council.

(Ord. No. 2021-5, § 1, 5-24-2021)

Sec. 38-188. Effective date of stormwater service charges.

The stormwater service fee shall accrue beginning September 1, 2007, and shall be billed periodically thereafter.

(Ord. No. 2021-5, § 1, 5-24-2021)

Sec. 38-189. Credits.

Owners of developed land may apply for and receive a stormwater service fee credit for on-site systems or facilities. The Director shall determine such stormwater service fee credits based on the technical requirements, design and performance standards contained in the City's stormwater credits manual, to be adopted by the Director pursuant to this article, as it may be updated or amended from time to time. All of the stormwater service fee credits that may be awarded pursuant to the stormwater credits manual shall not exceed 40 percent of the stormwater service fee applicable to a parcel. The Director shall establish objective standards for securing credits under this section and shall publish a written application for obtaining and calculating the credits.

(Ord. No. 2021-5, § 1, 5-24-2021)

Sec. 38-190. Stormwater service fee, billing, delinquencies and collections.

- (a) The stormwater service fee may be billed separately, on a customer statement and collected along with other fees for services, or on a customer ad valorem tax statement, at the City's sole discretion, provided that in no instance shall the service fee constitute a direct lien against the parcel. 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.
- (b) A stormwater service fee bill may be sent through the U.S. 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 nonpayment. 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 under-billed or if no bill is sent for developed land, the City may back bill for a period of up to one year, but shall not assess penalties for any delinquency due to the failure to send a bill or an under-billing. A ten percent per month late charge shall be assessed against the owner for the unpaid balance of any stormwater utility service charge that becomes delinquent.

(Ord. No. 2021-5, § 1, 5-24-2021)

Sec. 38-191. Stormwater utility inspections and enforcement.

- (a) Every occupant of real property located in the City, and every owner, contractor or developer who holds title to undeveloped real property located in the City, shall be obligated to provide stormwater management systems and facilities sufficient to collect, convey, detain, control and discharge stormwater in a safe manner consistent with all the City ordinances and development regulations, and the laws of the State of Georgia and the United States of America.
- (b) The Director shall be permitted to enter and inspect parcels and stormwater management systems and facilities at reasonable times as often as may be necessary to determine compliance with this article.

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- (c) If a parcel or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner, developer or contractor shall make the necessary arrangements to allow access to the Director.
 - (d) The owner, developer or contractor shall allow the Director ready access to all parts of the parcel or facility for the purposes of inspection, investigation, observation, monitoring, measurement, recording, enforcement, sampling and testing, photography and videotaping for the purpose of ensuring compliance with the provisions of this article. The owner, developer or contractor shall allow the Director to examine and copy any records that are required under the conditions of an NPDES permit or development permit. The Director shall duly notify the owner, developer or contractor of said parcel or the representative on site, except in the case of an emergency.
 - (e) The Director shall have the right to set up on any parcel or facility such devices as are necessary in the opinion of the department to conduct monitoring and/or sampling of discharges.
 - (f) The owner, developer or contractor may allow the City to install monitoring equipment and perform monitoring as necessary. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner, developer or contractor and shall be installed at the expense of the City. All devices used to measure flow and quality shall be calibrated to ensure their accuracy. Measurements, tests and analyses performed shall be completed in accordance with 40 CFR Part 136, unless the Director approves another method.
 - (g) Any temporary or permanent obstruction to safe and easy access to the parcel or facility to be inspected and/or sampled shall be promptly removed by the owner, developer or contractor at the written request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the owner, developer or contractor.
 - (h) Unreasonable delays in allowing the Director access to a facility or parcel shall constitute a violation of this article.
 - (i) If the Director has been refused access to any part of a parcel or facility from which stormwater is or would likely be discharged, and the Director is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued under this article, or to protect the overall public health, safety, environment and welfare of the community, then the department may seek issuance of a search warrant from any court of competent jurisdiction.
 - (j) The Director may determine inspection schedules necessary to enforce the provisions of this article.
 - (k) Any failure to meet the obligations set forth in this section shall constitute a nuisance and be subject to an abatement action filed by any damaged party or by the City in any court of competent jurisdiction. In the event a public nuisance is found by the Court to exist, which the owner, developer or contractor fails to properly abate within such reasonable time as allowed by the Court, the City may enter upon the parcel and cause such work as is reasonably necessary to abate the nuisance with the actual cost thereof assessed against the owner, developer, or contractor, if any, on a joint and several basis. From the 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 Gwinnett County. The City of Lawrenceville shall have the right, pursuant to the authority of this article, for its designated elected officials and employees to enter upon private and public parcels owned by entities other than the City, upon reasonable notice to the owner thereof, to inspect the parcel and conduct surveys and engineering tests thereon in order to ensure compliance with this section.

(Ord. No. 2021-5, § 1, 5-24-2021)

Sec. 38-192. Appeals.

- (a) Any customer who believes the provisions of this article have been applied in error may appeal in the following manner:
- (1) An appeal to the Stormwater Utility Authority must be filed in writing with the Director within 30 days of the decision that is appealed. The appeal must be on a form prepared by the City and shall include such information as is reasonably necessary to understand the issue appealed as requested by the Stormwater Utility Authority.
 - (2) The Stormwater Utility Authority shall conduct a technical review of the conditions on the parcel and respond to the appeal in writing within 30 days of receipt.
 - (3) In response to an appeal, the Stormwater Utility Authority may adjust the stormwater service fee applicable to a parcel in conformance with the general purpose and intent of this article.
 - (4) All decisions by the Stormwater Utility Authority shall be final.
- (b) The appeal process contained in this section shall be a condition precedent to an aggrieved customer seeking judicial relief. Any decision of the Stormwater Utility Authority may be appealed by application for writ of certiorari in the Superior Court of Gwinnett County, filed within 30 days of the date of receipt of service of the decision of the Stormwater Utility Authority.

(Ord. No. 2021-5, § 1, 5-24-2021)

Sec. 38-193. Authority to implement article.

The Director is authorized to make all necessary and reasonable rules, procedures and policies with respect to the enforcement of this article. All such rules, procedures and policies shall be consistent with the provisions of this article and shall be effective 30 days after being signed by the Director.

(Ord. No. 2021-5, § 1, 5-24-2021)

Secs. 38-194—38-200. Reserved.