

AN ORDINANCE OF WALTON COUNTY, GEORGIA OA25-0126

AN ORDINANCE TO AMEND the Walton County Land Development Ordinance adopted 5-3-16 and amended as per attached errata dated 03/03/2025.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF WALTON COUNTY, GEORGIA, and it hereby ordained by the authority of the same, following a duly held and advertised Public Hearing by the Walton County Planning Commission and the Walton County Board of Commissioners to amend the Walton County Land Development Ordinance adopted 5-3-16, as amended as per errata sheet dated 03/03/2025.

AMENDMENT – STORMWATER MANAGEMENT

Approved by the Walton County Board of Commissioners on this 6th day of May 2025.

David G Thompson, Chairman
Walton County Board of Commissioners
Walton County, Georgia

Attest:

Rhonda Hawk, County Clerk
Board of Commissioners
Walton County, Georgia

Charles Ferguson
County Attorney
Walton County, Georgia

Amendment - Stormwater Management

Article 11 – Part 2 - Section 270 - To add special tax district for maintenance and repair of stormwater retention and detention facility.

PC ACTION 4/3/2025:

Presentation: Kristi Parr, Assistant Director, represented the case. This is an Amendment to the Stormwater Management Article 11 – Part 2 – Section 270 – to add special tax district for maintenance and repair of stormwater retention and detention facility within subdivisions.

Josh Ferguson asked if this would be for existing, and Ms. Parr stated if this is approved it would be for anything going forward.

Correction: This tax could apply to existing subdivisions within the county that have been neglected or improperly or insufficiently maintained and where the HOA has failed to comply with property maintenance.

Timothy Kemp asked so this would be something added for that area and Ms. Parr said it would be the same as the lights that are added to the property taxes and assessments within subdivisions.

Mr. Kemp asked do we know how much the taxes would be, and Ms. Parr stated that we do not at this time.

Josh Ferguson asked so no HOA would be responsible, and Ms. Parr stated that they would be responsible and if the HOA didn't do the maintenance, then we would have this in place that we, as the county would have funding for any repair.

Recommendation: John Pringle made a motion to recommend approval and was seconded by Michelle Trammel. The Motion carried unanimously.

STATE OF GEORGIA

COUNTY OF WALTON

AN ORDINANCE TO AMEND THE TEXT OF THE COMPREHENSIVE LAND DEVELOPMENT ORDINANCE OF WALTON COUNTY, GEORGIA TO PROVIDE FOR THE CREATION OF SPECIAL TAX DISTRICTS AND THE IMPOSITION OF TAX THEREIN FOR THE MAINTENANCE AND REPAIR OF STORMWATER RETENTION AND DETENTION FACILITIES SERVING RESIDENTIAL SUBDIVISIONS THEREIN AND FOR RELATED MATTERS.

WHEREAS, Paragraph VI of Section II of Article IX of the Georgia Constitution authorizes the creation by county ordinance of special districts within a county for the provision of local government services within such districts and the levying and collection of taxes, assessments, and fees within such districts to pay, wholly or partially, the cost of providing such services therein and to construct and maintain facilities therefor;

WHEREAS, Paragraph III of Section II of Article IX of the Georgia Constitution authorizes counties, and confers upon counties the power, to provide storm water collection and disposal systems in the unincorporated areas of counties;

WHEREAS, Section 180 of Part II of Article 11 of the Comprehensive Land Development Ordinance and Subdivision Regulations for Walton County, Georgia imposes upon each mandatory homeowners association in unincorporated Walton County the responsibility for the maintenance and repair of stormwater management facilities serving the residential subdivision development within the jurisdiction of such association and provides Walton County with certain remedies for the failure of such associations to properly maintain such facilities;

WHEREAS, the Board of Commissioners of Walton County, Georgia has determined that a need exists within the unincorporated areas of Walton County to address the failure of mandatory homeowners associations to properly maintain and repair stormwater retention and detention facilities and systems serving the residential subdivision developments within the jurisdiction of such homeowners associations and to provide for the maintenance and repair of the same in addition to the remedies for such failures set forth in Section 180 of Part II of Article 11 of the Comprehensive Land Development Ordinance and Subdivision Regulations for Walton County, Georgia; and

WHEREAS, the Board of Commissioners of Walton County has determined to enact an ordinance establishing a protocol by which to create special tax districts coterminous with residential subdivision developments whose mandatory homeowners associations have failed to properly maintain and repair storm water collection and disposal systems and related facilities serving such communities, and to provide for the imposition of taxes upon property within such special districts to pay for the maintenance and repair by Walton County of the storm water retention and detention systems and facilities serving such communities and to provide for such maintenance and repair by Walton County or its contractors or other utility providers;

NOW WHEREFORE it is hereby ordained that:

1.

Part II of Article 11 of the Comprehensive Land Development Ordinance and Subdivision Regulations for Walton County, Georgia is amended to include the following as Section 270 thereof:

"Section 270 Special Tax Districts for the Maintenance and Repair of Stormwater Retention and Detention Facilities.

Section 270.01 Intent

The intent of this ordinance is to protect public health, safety, morals, and general welfare of the residents of the unincorporated area of Walton County by establishing a protocol for the creation of special tax districts by which to fund the repair and maintenance by Walton County of storm water retention and detention facilities within such special tax districts by imposing taxes for that purpose upon the properties located within such districts in circumstances where a mandatory homeowners associations for a residential subdivision development has failed to properly maintain and repair such facilities, and to provide for the use by Walton County of such funds to maintain and repair such facilities, either by its own forces or by its contractors or separate utility providers. This ordinance is intended to supplement the rights and remedies provided to Walton County in Section 180 of this Article and not to replace them.

Section 270.02 Creation of a Special Tax District

A. Notification and Investigation.

Upon the receipt of information, either by the Walton County Board of Commissioners, Walton County Public Works or by the Walton County Department of Planning and Development that a storm water detention or retention facility serving a residential subdivision development in unincorporated Walton County has been neglected or improperly or insufficiently maintained, or has not been kept in proper repair, by the homeowners association for the residential subdivision development served by such facility, or that such homeowners association has failed to comply with its obligations under Section 180 of this Article, the Board of Commissioners may by motion direct the Public Works Department to investigate such matter. Upon such direction, the Public Works Department shall investigate such matter and report its findings to the Board of Commissioners within sixty (60) days after such direction.

B. Report of Investigation.

The report of the Public Works Department shall identify needed maintenance and repairs for such storm water detention or retention facilities, the failure of the applicable homeowners association to provide the same, and the cost to remedy the same on an ongoing basis. The report shall also specify, by way of a plat, the geographic area of the subdivision served by such facility. The report shall also identify the amount of taxes, by dollar amount and millage rate, required to be assessed and levied in said community to properly repair and to provide for the ongoing maintenance and repair of such facilities and the estimated time during which said taxes would be required to be imposed for said purpose. The report shall also address the compliance of the homeowners association for such community with its obligations under Section 180 of this Article.

C. Notice of Intent.

Should the Board of Commissioners, upon its consideration of the report of the Public Works Department, determine that creation of a special tax district as provided by this Section appears to be in the best interest of the public, then the Board of Commissioners may adopt a resolution to commence the process for the creation of a special tax district as prescribed herein. Said resolution shall identify by plat or appropriate legal description the area under consideration for a special tax district, the tax parcel numbers of the tax parcels within said proposed special tax district, the purpose of such special tax district, the date on which the hearing prescribed by paragraph D of this subsection will be held, and the millage rate or amount of the tax, or a key for the determination of the same, under consideration for the proposed special tax district, and the anticipated time period that such tax will remain in effect. Said resolution shall also specify the manner in which the funds collected by such tax will be utilized by the Walton County to provide to such special tax district the services for which said tax is imposed. Said resolution shall direct that notice of said hearing be given in the manner prescribed herein.

D. Hearing.

1. The Board of Commissioners shall conduct a public hearing for the purpose of receiving public input on the creation of the special tax district under consideration and the imposition of a special district tax therein.

2. Notice of such hearing shall be given by regular first class mail to the owner of record of each tax parcel within the boundaries of the proposed special tax district under consideration. Said notices shall be sent to the address of record of each such owner(s) and, if the address of record of the parcel owner is different than the street address of the parcel, such notice shall also be sent by regular first class mail to the street address of such parcel.

3. Notice of such hearing shall also be sent by regular first class mail to the address of record of any homeowners association with jurisdiction over the area under consideration by the Board of Commissioners for a special tax district, and to the registered agent for the same.

4. Notice of said hearing shall be published at least twice in the legal organ for Walton County, with said notices to each be published at least fifteen days, but not more than forty-five days, prior to the date of such hearing. Said notices shall not be published in the legal notices section of said legal organ and shall have a size of at least thirty (30) square inches.

5. Notice of such hearing shall also be posted in the proposed special tax district at least 15 days prior to the hearing.

6. Each of the hearing notices referenced herein shall identify the area under consideration for the special tax district with reasonable specificity, the amount of the tax or the millage rate to be imposed in the special tax district, the term and purpose of such tax, as well as the date, time, and location of the hearing.

E. Resolution Creating Special Tax District

1. Upon the conclusion of the hearing, and within sixty days thereafter, the Board of Commissioners shall vote on a resolution to create the special tax district and impose the tax therein. Said resolution shall contain a plat or other key to the boundaries of the special tax district thereby created, the tax parcels within the special tax district, the amount or millage rate of the tax, the effective date and term of the tax, and the purpose for which such tax is imposed. Said resolution shall also specify the manner in which Walton County will provide the services for which the tax is imposed.

2. Should the resolution creating the special tax district be adopted, notice of that fact shall be sent by United States regular first class mail to each of the record owners of the parcels of real property within the special tax district, along with a statement of the special tax to be imposed on such parcel. Notice of the creation of the special tax district shall also be sent by regular first class mail to the homeowners association for such community. Said notices shall be sent in the manner prescribed by subsections D(2) and D(3) of this Section 270.02.

3. The creation of the special tax district shall be effective upon the adoption by the Board of Commissioners of the resolution creating the same.

4. The creation of a special tax district and the imposition of a tax therein shall be within the sole discretion of the Walton County Board of Commissioners based upon its consideration of the best interests of the public.

Section 270.03 Implementation of the Special Tax

A. The special tax to be imposed in the special tax district shall be effective beginning on January 1 of the tax year immediately following the adoption of the resolution creating the special tax district and imposing the special tax therein, or at such other time established by resolution of the Board of Commissioners.

B. Upon the adoption of a resolution creating a special tax district and imposing a special district tax therein, notice of the same shall be provided to the Walton County Tax Commissioner and the Walton County Board of Tax Assessors, who shall then adjust their records and processes accordingly so as to provide for the implementation and collection of said tax in said district.

C. The charges for the services to be provided by Walton County in each special tax district, in accordance with the resolution imposing the same, shall be paid as a special district tax. Such special district tax shall be billed to and collected with respect to each parcel in such special tax district by the Walton County Tax Commissioner concurrently with the ad valorem property tax billed to and collected with respect to each tax parcel within such special tax district.

D. The tax collected in each special tax district shall be remitted by the Walton County Tax Commissioner to the Walton County Board of Commissioners in the same manner as other ad valorem property taxes collected by the Walton County Tax Commissioner.

Section 270.04 Disbursement of the Proceeds of the Special Tax and Provision of Storm Water Detention and Retention Services in Special Tax Districts

A. Walton County shall utilize the proceeds of such special district taxes solely for the maintenance and repair of storm water detention and retention facilities in the district from which they are collected, and shall handle, disburse, report, and account for the proceeds of such tax in the manner required by law.

B. Walton County shall provide for the maintenance and repair of storm water detention and retention facilities, to include any necessary construction with respect thereto, in each special tax district in accordance with the resolution creating such special tax district and imposing such special district tax therein and applicable state law.

C. Walton County shall provide maintenance and repair services for storm water detention and retention facilities, including any necessary construction related thereto, in the special tax districts created pursuant to this ordinance using either its own forces, public or private utility providers, or by contracting with private vendors for labor, materials and other services. Walton County shall utilize the funds collected from the special tax imposed in a special tax district solely for the purpose of providing maintenance and repair services for storm water detention and retention facilities in such special tax district. Revenue from the special district tax shall be expended solely with respect to the special tax district from which it was collected.

D. In providing storm water detention and retention services as referenced herein from private vendors, Walton County shall comply with all applicable local and state procurement requirements.

E. To the extent that the acquisition of interests in real property are necessary to provide for the proper maintenance and repair of the storm water detention or retention facilities in a special tax district, proceeds from the special tax provided for herein collected in such special tax district may be used to acquire such interests in real property. Walton County may utilize its power of eminent domain, in accordance with the procedures prescribed by law, to acquire such property interests.

F. For each special tax district created pursuant hereto, Walton County shall adopt an annual budget setting forth the expected expenses for maintenance and repair of storm water detention and retention facilities therein and expected revenues from such special tax district. Such budgets shall be adopted in the manner prescribed by applicable law. The annual assessment and millage rate(s) for each such special tax district shall be established in the manner prescribed by applicable law.

G. The special district tax to be assessed in each special tax district shall be established on an annual basis by the Walton County Board of Commissioners in accordance with applicable state law.

Section 270.05 Termination of Special Tax District

The Walton County Board of Commissioners shall have the right at any time to terminate a special tax district created pursuant to this ordinance and the tax imposed therein. Upon such termination, Walton County shall have no obligation to provide any further maintenance or repair services with respect to the storm water detention and retention facilities located in the terminated district and shall no longer collect a special district tax therein.

Section 270.06 Annexation

Should any portion of a special tax district be annexed by a municipality, such portion shall be removed from such special tax district. To the extent that the area removed continues to be served by a storm water detention or retention facility for which Walton County provides maintenance or repair services pursuant to this ordinance, Walton County shall negotiate with the annexing municipality a rate of fair and equitable compensation to be paid by such municipality to Walton County for such services.

Section 270.07 Obligations of Homeowners Association

The establishment of a special tax district pursuant to this ordinance, or the imposition of a tax therein, shall not relieve the homeowners association having jurisdiction of the development upon which such special tax district is imposed from its obligations under Section 180 of this Article. Nothing herein shall modify the rights and remedies of Walton County under Section 180 of this Article.

Section 270.08 Compliance with State Law

A. The creation of the special tax districts provided for herein, the imposition, collection, and expenditure of the special district taxes provided for herein, and the provision of maintenance and repair services for storm water detention or retention services in such districts shall be accomplished in a manner consistent with Georgia law.

B. Should any provision of this ordinance, or any resolution adopted pursuant hereto conflict with state law, state law shall take precedence.”

2.

Severability. Should any section of this ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

3.

Effectiveness. This ordinance shall take full force and effect upon approval by the Board of Commissioners.

4.

Repeal of conflicting ordinances. All ordinances, or provisions thereof, in conflict with the text of this ordinance are hereby repealed.

(Signatures appear on following page)

SO ORDAINED this _____ day of _____, 2024.

WALTON COUNTY, GEORGIA

[SEAL]

DAVID THOMPSON, CHAIRMAN
WALTON COUNTY BOARD OF
COMMISSIONERS

ATTEST:

Rhonda Hawk
County Clerk

RECOMMENDED for ADOPTION and APPROVAL at the regular meeting of the Walton County Planning Commission on _____.

READ, ADOPTED, APPROVED, and ORDAINED by the Board of Commissioners of Walton County on _____ after a duly noticed public hearing held on _____.