

## **Sugar Hill Stormwater Utility Ordinance**

The Mayor and Council of the City of Sugar Hill, Georgia hereby ordain that the Code of the City of Sugar Hill, Georgia shall be amended by adding a new Article (Article V. Stormwater Utility) to Chapter 74. Utilities which shall begin with Section 74-151 and shall appear and read as follows:

### **ARTICLE V. STORMWATER UTILITY**

#### **Section 74-151. Findings.**

The City of Sugar Hill Mayor and City Council make the following findings of fact:

- (a) The City of Sugar Hill, Georgia (hereinafter “the City” or “Sugar Hill”) is authorized by the Georgia Constitution of 1983, including, without limitation, Article IX, Section II, Paragraphs I and III thereof and O.C.G.A. § 36-82-62 to provide stormwater management services, systems and facilities throughout the corporate boundaries of the City.
- (b) In order to protect the health, safety and welfare of the public, the governing authority of Sugar Hill hereby exercises its authority to establish a Stormwater Utility Enterprise Fund and establish rates for stormwater management services.
- (c) In promulgating the regulations contained in this section, Sugar Hill is acting pursuant to authority granted by the Constitution and laws of the State of Georgia and its City Charter to provide for stormwater collection and disposal.
- (d) Improper management of stormwater runoff may cause erosion of lands, threaten businesses and residences, and other facilities with water damage and may environmentally impair the rivers, streams and other bodies of water within the City.
- (e) A system for the collection, conveyance, storage, treatment and disposal of stormwater provides services to all properties within the City and surrounding areas.
- (f) The City presently owns and operates stormwater management systems and facilities, which have been developed over many years. The future usefulness and operational function of the existing stormwater management systems and facilities owned and operated by the City, and the 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. In order to do so, the City must have both a comprehensive stormwater management program as well as an adequate and stable funding source for its comprehensive program operation and drainage-related capital improvement needs.

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- (g) Failure to effectively manage stormwater can adversely affect the operations of the sanitary sewer system operated by Gwinnett County thereby increasing the likelihood of infiltration and inflow into the sanitary sewer system.
- (h) Failure to effectively manage stormwater contributes to the potential degradation of the surface water quality in area waterbodies.
- (i) The City is required under Federal and State regulations [i.e. the Federal Clean Water Act, the City's National Pollutant Discharge Elimination System (hereinafter "NPDES") Phase I Stormwater Permit] to provide enhanced management of stormwater runoff quality to mitigate the impacts of pollutants which may be discharged from the public municipal separate storm sewer system (MS4) and stormwater conveyance system into State of Georgia or United States' waters. Therefore, it is appropriate for the City to impose a stormwater user fee charge upon all improved properties that may discharge, directly or indirectly, into the public MS4 and stormwater conveyance system, whether the property is private or public in nature.
- (j) Compliance with the regulatory obligations of the NPDES Phase I Stormwater Permit, Metropolitan North Georgia Water Planning District and along with other City stormwater program activities will affect the cost of providing stormwater management services, systems and facilities above what is currently being spent for water quality management, drainage system maintenance, flood control and other program activities.
- (k) The cost of operating and maintaining the City's stormwater management system and financing necessary repairs, replacements, improvements and extensions thereof should, to the extent practicable, be allocated in relationship to the services received from the system.
- (l) The professional engineering and financing analysis and related documents prepared by the City's consulting stormwater engineer properly assesses and defines the City's stormwater management program problems, needs, goals, priorities as well as the stormwater management program funding strategy.
- (m) Given the stormwater management program problems, needs, goals, priorities and funding strategy identified in the aforementioned professional engineering and financing analysis, it is appropriate to authorize the formation of an organizational and accounting entity dedicated specifically to the management, maintenance, protection, control, regulation, use, and enhancement of stormwater management services, systems and facilities within the City in concert with other water resource management programs.
- (n) 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 consistent with the present and future needs of the community.

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- (o) The stormwater 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 and a benefit to all properties, property owners, citizens, and residents of the City in a variety of ways.
- (p) The stormwater management services rendered may differ depending on many factors and considerations, including but not limited to location, demands and impacts imposed on the stormwater management systems and programs, and risk exposure. It is practical and equitable to allocate the cost of stormwater management among the owners of improved properties in proportion to the long term demands the properties impose on the City's stormwater management services which result in services to such properties and the owners thereof.
- (q) A Stormwater Management Program (hereinafter "SWMP") provides the most practical and appropriate means of properly delivering stormwater management services throughout the City, and the most equitable means to regulate the use of a higher level of stormwater management services within the City through stormwater user fee charges, user fees and other mechanisms.
- (r) The area of impervious surfaces on each improved property is the most important factor influencing the cost of the stormwater management services provided by the City or to be provided by the City in the future, and the area of impervious surfaces on each property is therefore the most appropriate parameter for calculating a periodic stormwater user fee charge.
- (s) A schedule of Stormwater Utility user fee charges based in part on the area of impervious surface located on each improved property is the most appropriate and equitable means of allocating the cost of stormwater management services throughout the City. Such user fee charges may be complemented by other types of charges which address specific needs, including, but not limited to, special service fees, special assessments, revenue bonds, use of proceeds from special purpose local option sales taxes and other forms of revenue, as deemed appropriate by the Mayor and City Council.
- (t) The existence of privately owned and maintained on-site or off-site systems, facilities, activities or assets which reduce or otherwise mitigate the impact of a particular property on the City's SWMP, and the Stormwater Utility's cost of providing stormwater management services and/or stormwater management systems and facilities, should be taken into account to reduce the user fee charge on that property either in the form of a direct reduction or a credit, and such reduction or credit should be conditioned upon continuing provision of such services, systems, facilities, activities or assets in a manner complying with the standards and codes as determined by the Stormwater Utility Manager. Reductions or credits for privately owned and maintained stormwater management systems, facilities, activities or assets shall be generally proportional to the affect that such systems have on the peak rate of runoff from the property.

- (u) It is imperative that the proceeds from all user fee charges for stormwater management services, systems or facilities, together with any other revenues raised or otherwise allocated specifically to stormwater management services, systems or facilities, be dedicated solely to those purposes, and such proceeds of user fee charges and revenues shall therefore be deposited into the enterprise accounting fund of the City Stormwater Utility and shall remain in that fund and be dispersed only for stormwater management capital, operating and non-operating costs, lease payments and debt service of bonds or other indebtedness for stormwater management purposes.

## **Section 74-152. 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:

*Act* means and refers to the Clean Water Act as amended by the Water Quality Act of 1987 (33 U.S.C. § 1251 *et seq.*), as amended, and the rules and regulations promulgated by the United States Environmental Protection Agency pursuant thereto.

*Attached Residential Property* shall mean improved property containing individually owned, attached dwelling units such as duplexes, triplexes, quadraplexes, townhouses, or other residential structures not listed herein where one or more family groups commonly and normally reside or could reside. Improved property may be classified as an Attached Residential Property despite the presence of incidental structures associated with residential uses such as garages, carports and small storage buildings. Improved property may be classified as an Attached Residential Property despite the presence of a commercial use. Attached Residential Property shall not include improved property containing: structures used primarily for non-residential purposes, hotels, motels, retirement centers, nursing homes and assisted living home.

*Credit* means a reduction in the amount of a stormwater user fee charge to the owner of a particular property for the existence and use of privately owned, maintained and operated on-site or off-site stormwater systems or facilities, or continuing provision of services or activities that reduce or mitigate the City's cost of providing stormwater management services for that particular property.

*Customers of the Stormwater Utility* shall include all persons, properties, and entities serviced by and/or benefiting from the services provided by the City's SWMP 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 public stormwater management systems for the handling of stormwater runoff of private and public properties, and the regulation of the public and private stormwater management systems, controls, facilities, and activities.

*Detached single family residential property* or *DSFR* means improved property containing one residential structure which is not attached to another dwelling, and which contains one or more bedrooms, with bathroom and kitchen facilities, designed for

occupancy by one family. A detached single family residential property may include a “stick-built,” industrialized, or manufactured home located on one or more individual lots or parcels of land. Improved property may be classified as a detached single family residential property even if there is present incidental structures associated with residential uses such as garages, carports, storage buildings, guest houses, servants or caretakers quarters, cottages or barns, or the presence of a commercial use within the residence, as long as such use does not result in additional areas of impervious surfaces. Detached single family residential properties shall not include improved property containing structures used primarily for nonresidential purposes, manufactured homes located within manufactured home parks where the land is owned by someone other than the owners of the manufactured homes, or multiple dwelling unit residential properties.

*Dwelling Unit* shall mean a structure, which contains one (1) or more bedrooms, a bathroom and a kitchen facility.

*Hydrologic Response* defines the manner and means whereby stormwater collects, remains, 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 vegetative canopy, the parcel’s groundwater, the parcel’s antecedent moisture and the parcel’s geologic condition.

*Impervious area* shall mean the area, usually expressed in square feet, that is covered by an impervious surface.

*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. 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.

*Improved property* means property altered from its natural state by construction or installation of one thousand (1,000) square feet or more of impervious surfaces.

*Non-single family residential property* or *NSFR* means improved property containing multiple dwelling unit residential properties, condominiums, apartments, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, storage buildings and storage areas, parking lots, parks, recreation properties, tennis courts, swimming pools, public and private schools and universities, research facilities and stations, hospitals and convalescent centers, airports, agricultural uses, water and wastewater treatment plants, and any other form of use not otherwise mentioned which is not a detached single family residential (hereinafter “DSFR”), or attached residential (hereinafter “AR”) property, and which has private parking lots and private drives or roads.

*Public Water Influence Zone* means those areas lying downstream of a culvert, or other stormwater management conveyance system. On the downstream side of the conveyance system, the public water influence zone will extend for a length of six (6) times the diameter (or width) of the culvert from which runoff is being discharged (Field Manual for Erosion and Sediment Control in Georgia, Third Edition, pg. 99), and within the horizontal limits set forth in the aforementioned field manual. For example, if a 48-inch diameter culvert is discharging to a private property, the public water influence zone shall extend 24 feet (6 times 48-inches) from the end of the culvert and for the specified width (i.e. typically the width of the creek). The Sugar Hill Stormwater Utility may perform maintenance and/or capital construction activities only within that portion of the public water influence zone which the City has an ownership interest in, or for which a dedicated easement has been granted to, and accepted by the City for such purpose...

*Service area* means the entire land area within the corporate limits of the City.

*Stormwater management services* mean all services provided by the City which relate to the:

- (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.

Stormwater management services may address the quality of stormwater runoff as well as the quantity thereof.

*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, lakes and other physical works, properties and improvements which transfer, control, convey, detain, retain, treat or otherwise influence the movement of stormwater runoff.

*Stormwater Utility Manager* means the person designated by the City Manager to administer the provisions of this article.

*Stormwater user fee charge* means the periodic user fee charge imposed pursuant to this article by the Sugar Hill Stormwater Utility for providing stormwater management services. This term shall exclude special charges to the owners of particular properties for services, systems or facilities related to stormwater management, including, but not limited to, charges for development plan review, inspection of development projects, on-site stormwater control systems and other stormwater management services provided by Sugar Hill for which a corresponding fee is collected for the service rendered.

*Undeveloped Land* means land in its unaltered natural condition or which is modified to such a minimal degree as to have a Hydrologic Response comparable to land in an unaltered natural condition shall be deemed undeveloped. Undeveloped Land shall have minimal Impervious Surface, which impedes the infiltration of stormwater runoff or causes stormwater runoff to collect, concentrate or flow in a manner materially different from what would occur if the land were in an unaltered natural condition. For purposes of this Article, Undeveloped Land includes property altered from its natural condition by the creation or installation of five hundred (500) square feet or less of Impervious Surface.

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

**Section 74-153. Stormwater Utility and Enterprise Fund Established.**

- (a) There is hereby established a Stormwater Utility to be known as the Sugar Hill Stormwater Utility, which shall be responsible for stormwater management services throughout the incorporated areas 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 services.
- (b) There is hereby established a Stormwater Utility Enterprise Fund in the City budgeting and accounting systems for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the Sugar Hill SWMP and Stormwater Utility, including, but not limited to, rates, charges, and fees as may be established by the City Council from time to time, and other funds that may be transferred or allocated to the Sugar Hill Stormwater Utility. All revenues and receipts of the Stormwater Utility shall be placed in the Stormwater Utility Enterprise Fund and shall be used solely for stormwater management services. All expenses and capital investments of the Stormwater Utility shall be paid from the Stormwater Utility Enterprise Fund; provided, however, that other revenues, receipts and resources not accounted for in the Stormwater Utility Enterprise Fund may be applied to stormwater management services as deemed appropriate by the City.
- (c) The City shall place responsibility with the Stormwater Utility Manager for operation, maintenance and regulation of the SWMP and stormwater management services performed, owned and operated or maintained by Sugar Hill, 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 74-154. Scope of Responsibility for Stormwater Management Systems and Facilities.**

- (a) The City owns or has rights established by written agreements which allow it to operate, maintain, improve and access those stormwater management systems and facilities which are located:

1. Within public road rights-of-way;
  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 for operation, maintenance, improvement and access to the stormwater management system facilities located thereon;
  3. On private property but within a public water influence zone after the City secures a right-of-entry, right-of-access, permanent easement, temporary easement or other form of written consent from the property owner;
  4. On land dedicated to, and accepted by, the City solely for the operation, maintenance, improvement and access to the stormwater management systems and facilities located thereon; or
  5. On public land which is owned by the City and/or land of another governmental entity upon which the City has agreements providing for the operation, maintenance, improvement and access to the stormwater management systems and facilities located thereon.
- (b) 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 dedication thereof to the City for operation, maintenance, improvement and access of such stormwater management and systems and facilities shall be and remain the legal responsibility of the property owner, except as otherwise provided for by the state and federal laws and regulations.
- (c) 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 individual person, or to any specific property 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, officers, employees and agents arising out of any alleged failure or breach of duty or relationship.
- (d) 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 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, negligent issuance of a permit, negligent plan approval, or negligent maintenance of any permitted stormwater management system or facility not expressly dedicated to and accepted by the City for



further maintenance in an action seeking the imposition of money damages or equitable remedies against the City, its council members, mayor, officers, employees or agents.

**Section 74-155. Stormwater User Fee Rate.**

- (a) In order to adequately fund the cost of providing stormwater services and facilities while fairly and equitably apportioning the cost of providing stormwater services and facilities among improved properties throughout the City, the City Council has established the following Stormwater user fee charge rates. A copy of the user fee charge rate schedule shall be on file in the office of the City Clerk.
- (b) Stormwater User Fee Charge Rates shall be assigned to all improved properties as follows:
  - 1. Properties shall be treated as containing one billing unit for each 1,000 square feet of impervious area located on the property to establish the total number of billing units for billing. (Ex. a property with 1,990 square feet of impervious area shall contain 1 billing unit.)
  - 2. The stormwater user fee charge rate shall be \$18.00 per 1,000 square feet of impervious area per year (\$1.50 per month per 1,000 square feet per month if billed monthly).
  - 3. All properties shall be billed periodically for stormwater services on a schedule established by the City Council
- (c) The stormwater user fee rate has been established above and may be amended from time to time by official action of the Mayor and City Council at their discretion.

**Section 74-156. Stormwater User Fee Charges.**

- (a) It shall be the policy of the City that user fee charges for stormwater management services to be provided by the Stormwater Utility in the designated service area shall be equitably derived through methods which have a demonstrable relationship to the varied demands and impacts imposed on the stormwater management services by individual properties and/or the level of service rendered by, or resulting from, the provision of stormwater management services. Stormwater user fee charge rates shall be structured so as to be uniform within the customer class, and the resultant user fee charges shall bear a substantial relationship to the cost of providing stormwater management services. User fee charge rates shall be in addition to other rates, charges, or fees employed for stormwater management within the incorporated areas of the City, including, but not limited to, plan review and inspection fees, fees for special services, fees in lieu of regulatory requirements, system development charges and special assessments.
- (b) To the extent practicable, credits against stormwater user fee charges shall be provided for on-site stormwater control systems and activities constructed, operated, maintained

and performed to the City's standards by public and private property owners which eliminate, mitigate or compensate for the impact that the property or person may have upon stormwater runoff discharged to public stormwater management systems and facilities or to private stormwater management systems and facilities which impact the proper function of public stormwater management systems and facilities.

**Section 74-157. Stormwater User Fee Charge Exemptions.**

Except as provided in this section or otherwise provided by law, no public or private property located in the incorporated area of Sugar Hill 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 or other condition unrelated to the Stormwater Utility's cost of providing stormwater management services and facilities.

Exemptions to the stormwater user fee charges are as follows:

- (a) Parcels which contain less than one thousand (1,000) square feet of impervious surfaces shall be exempt from stormwater user fee charges.
- (b) Railroad rights-of-way (tracks) shall be exempt from stormwater user fee charges. However, railroad stations, maintenance buildings, and/or other improved property used for railroad purposes shall not be exempt from stormwater user fee charges.
- (c) 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 services undertaken by GDOT in association with GDOT rights-of-way and road 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 properties are subject to the user fee charges on the same basis as private properties.
- (d) Gwinnett County (County) 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.
- (e) In consideration for the City allowing the Stormwater Utility to use the City's existing street, curbs, gutters, drainage ways and ditches, storm sewers, culverts, inlets, catch basins, pipes, head walls and other structures, natural and man-made within and owned by the City which controls and diverts surface water for the purposes of collecting, diverting, transporting and controlling surface and storm waters; the utility shall not charge the City a stormwater user fee charge for the City's impervious surface area resulting from the City's impervious surfaces which are owned and/or maintained by the City within the public right of ways.

- (f) Any property whereby one hundred percent (100%) of the stormwater runoff is contained or infiltrated on the property and no stormwater runoff is discharged, via overland flow or manmade conveyance to adjacent properties or rights-of-way for all storm events up to and including the 100-year 24-hour storm event.

**Section 74-158. 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 Technical Manual, which shall be adopted and amended by and at the discretion of the Stormwater Utility Manager as an operating policy of the Stormwater Utility. Copies of the Credit Technical Manual shall be maintained by and available from the Stormwater Utility Manager.
  - 1. A stormwater user fee charge credit shall be determined based on the technical requirements, standards and criteria contained in the Credit Technical Manual. The amount of credit, or reduction of the stormwater user fee charge, shall be in accordance with the criteria contained in the Credit Technical Manual.
  - 2. 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 Technical Manual and/or upon continuing provision of the controls, systems, facilities, services, and activities provided, operated, and maintained by the property owner or owners upon which the credit is based. The Stormwater Utility Manager may revoke a credit at any time for noncompliance with applicable standards and criteria as established in the Credit Technical Manual or this article.
  - 3. In order to obtain a credit, the property owner 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 Technical Manual.
  - 4. Property owners may apply for any credits and/or adjustments in accordance with the Credit Technical 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 established by the Stormwater Utility Manager. 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 shall have 30 days from the date the complete application is accepted to either grant the credit in whole, grant the credit in part, or deny the credit. If the Stormwater Utility Manager fails to render a decision within 30 days, the credit application shall automatically be deemed denied, but said denial shall be subject to appeal to the City Manager as set forth in this Article. Credits applied for by the property owner and

granted in whole or in part, shall apply to all stormwater user fee charges in accordance with the terms defined in the Credit Technical Manual.

**Section 74-159. Enforcement Methods and Inspections.**

- (a) All property owners of improved property within the incorporated areas of Sugar Hill shall provide, manage, maintain, and operate on-site stormwater management systems sufficient to collect, convey, detain, and discharge stormwater runoff in a safe manner consistent with all applicable City development regulations, ordinances, and State and Federal laws. Any failure to meet this obligation shall constitute a violation of this article and be subject to citation and prosecution in the Sugar Hill Municipal Court. Each day such violation exists shall constitute a separate offense, subject to the penalties set forth in Section 1-7 of the Code of the City of Sugar Hill.
- (b) Alternately, in the event a public nuisance is deemed to exist by the Stormwater Utility Manager, the City may elect to sue in the Superior Court of Gwinnett County to abate such nuisance. In the event a public nuisance is found by the court to exist, which the property owner fails to abate within such reasonable time as allowed by the Superior Court, the City may enter upon the property and cause work as is reasonably necessary to be performed, with the actual cost thereof assessed against the property owner in the same manner as a tax levied against the property. From date of filing of such abatement 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.
- (c) The City shall have the right for its designated officers and employees to enter upon public and private property during reasonable hours, and after reasonable notice to the owner thereof, in order to assure compliance with the provisions of this article, and State and Federal law. Such inspections shall generally be limited to the following purposes:
  - 1. Inspecting or conducting engineering analyses on existing stormwater management systems and facilities located on-site; or
  - 2. Determining that stormwater management systems and facilities need to be constructed.

**Section 74-160. Stormwater User Fee Charge Billing, Delinquencies, Collections, Adjustments.**

Failure to receive a Stormwater Utility bill is not justification for non-payment. The property owner, as identified from public land records of Gwinnett County, shall be obligated to pay the appropriate stormwater user fee charge for that property.

- (a) Billing.

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1. Stormwater user fee charges shall begin to accrue January 1, 2009, and shall be billed thereafter. A bill for stormwater user fee charges may be sent through the United States Postal Service or by alternative means, notifying the owner of the property being billed of the amount of the stormwater user fee charge, less credits, the date the payment is due and the date when payment is past due.
2. The stormwater user fee charge will be billed and collected as deemed most effective and efficient by ordinance of the City Council.
3. Frequency of the billing of stormwater user fee charges shall be specified by ordinance of the City Council.
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 obligated to pay stormwater user fee charges and any interest on delinquent stormwater user fee charge payments.
5. If a property is unbilled, or if no bill is sent for a particular tract of improved property, the Sugar Hill 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 collection.**

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 of 10% of the amount due per year 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. 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.
  - i. If a customer believes their 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.

- ii. Customers requesting the adjustment shall be required, at their own expense, to provide 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 adjustment request.
- iii. Once a completed adjustment request and all required information are received by the Stormwater Utility Manager, the Stormwater Utility Manager shall have 30 calendar days within which to render a written decision. If the Stormwater Utility Manager fails to render a decision within 30 days, the adjustment request shall automatically be deemed denied, but said denial shall be subject to appeal to the City Manager as set forth in this Article. Concurrent payment of any charges allocated to the property is not required as a condition precedent to this request for review.
- iv. In considering an adjustment request, the Stormwater Utility Manager shall consider whether the calculation of the stormwater utility user fee charge for the property is correct.
- v. 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.
- vi. 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 bill.

**Section 74-161. Appeals, Hearings.**

- (a) Appeals. An appeal to the City Manager 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 Manager 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 Manager all documentation constituting the record upon which the decision appealed from was taken.

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- (b) Hearing. The City Manager 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 Manager 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, then such refund or credit shall be calculated retroactive to the date of the initial appeal.
- (c) The decision of the City Manager shall be final, and there shall be no further administrative action. Any person aggrieved or dissatisfied with the decision of the City Manager may appeal that decision to the Superior Court of Gwinnett County by Writ of Certiorari.

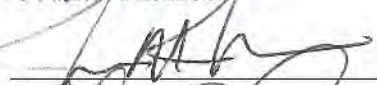
**Sections 76-162 – 76-175. Reserved.**

IT IS HEREBY ORDAINED that this ordinance shall be and become effective upon its adoption by the Council of the City of Sugar Hill, Georgia.

IT IS SO ORDAINED this 11th day of August, 2008.

Those voting in favor:

  
\_\_\_\_\_  
Council Member

  
\_\_\_\_\_  
Council Member

  
\_\_\_\_\_  
Council Member

  
\_\_\_\_\_  
Council Member

  
\_\_\_\_\_  
Council Member

Those voting in opposition:

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

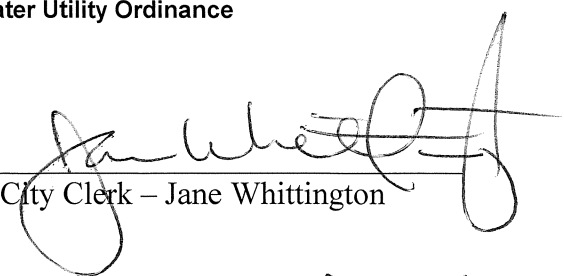
\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

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Council Member

**Sugar Hill  
Stormwater Utility Ordinance**

Attest:

  
City Clerk – Jane Whittington

Submitted to the Mayor:

August 11, 2008

Approved by the Mayor this 11 day of August, 2008.

  
Mayor – Gary Pirkle



## ORDINANCE

The Mayor and Council of the City of Sugar Hill hereby ordain that the Code of the City of Sugar Hill, Georgia shall be amended as follows:

Redesignate "ARTICLE V. STORMWATER UTILITY" of Chapter 74 as "ARTICLE VI. STORMWATER UTILITY" of Chapter 74. This redesignation is to correct an inadvertent error in the Ordinance originally adopted on August 11, 2008 establishing the Stormwater Utility that caused there to be two (2) Article 5's within Chapter 74. This redesignation confirms that Article V. Rain Sensor Shut-Off Switch shall remain in full force and effect as adopted on November 12, 2007 and that the Stormwater Utility Article shall remain in full force and effect as adopted on August 11, 2008, including any amendments thereto.

Delete Section 74-160 in its entirety and replace it with the following, which shall read and appear as set forth below:

**Section 74-160. Stormwater User Fee Charge Billing, Delinquencies, Collections, Adjustments.**

(a) Billing.

1. Stormwater user fee charges shall begin to accrue on January 1, 2009, and shall be billed thereafter. A bill for stormwater user fee charges may be sent through the United States Postal Service or by alternative means, notifying the owner of the property being billed of the amount of the stormwater user fee charge, less credits, the date the payment is due and the date when payment is past due.
2. The City Council appoints the Gwinnett County Tax Commissioner ("Tax Commissioner") as its agent and representative for the billing and collection of stormwater user fee charges. The City Council authorizes the Tax Commissioner to bill and collect the Sugar Hill Stormwater User Fee Charge as part of the property/ad valorem tax bill. The City Council further authorizes the Tax Commissioner to charge and collect penalties and interest as set forth in Subsection (b) of this Section.

In the event the Tax Commissioner is unable or unwilling to serve as the City's agent or is unable or unwilling to bill or collect taxes or stormwater user fee charges on behalf of the City, the City Council authorizes the City Manager to bill and collect the stormwater user fee charge. The City Manager shall be authorized to bill and collect the stormwater user fee charge as an additional line item on the City's Gas Utility or through a separate one time yearly statement to be billed on or before October 1 of each year with a due date on or before November 15 of each year. The City Manager may use his discretion in determining the most efficient and economical manner of collection.

3. If a bill for a stormwater user fee charge for a particular parcel is generated, failure of the customer to receive the bill shall not be justification for nonpayment.
4. Regardless of the party to whom the bill is initially directed, the owner of the property, as identified from the public land records of Gwinnett County, shall be obligated to pay the appropriate stormwater user fee charge for that property and any interest and/or penalties that have accrued.
5. If a property is unbilled, or if no bill is sent for a particular tract of improved property, the Sugar Hill Stormwater Utility may back bill for a period of up to one (1) year, but shall not be entitled to any interest or any penalty charges during the back billed period.

(b) Delinquencies and collection.

1. A penalty or late charge in the amount of five percent (5%) of the amount due and unpaid on the due date shall be assessed against the customer.
2. In addition to the penalty stated above, interest in the amount of one percent (1%) per calendar month (12% annually) shall accrue on all unpaid amounts beginning on November 16 of the year in which the payment is due.
3. The City shall assess all costs of collection, including attorneys' fees and court costs, against the property owner.
4. Unpaid stormwater user fee charges shall be collected in any manner permissible by Georgia law, including but not limited to: utilizing the services of a collection agency, by filing suit to collect on an unpaid account, or by using all methods allowed by Georgia law to collect on any judgment obtained, including enforcement of any lien resulting from any such judgment. Unless reduced to a judgment and a Writ of Fieri Facias (FiFa) issued, the unpaid user fee charge shall not constitute a direct lien against the owner and/or the property.

(c) Adjustments.

1. The Stormwater Utility Manager shall administer the procedures and standards for the adjustment of the stormwater user fee charge.
  - i. If a customer believes their 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.

- ii. Customers requesting the adjustment shall be required, at their own expense, to provide 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 adjustment request.
- iii. Once a completed adjustment request and all required information are received by the Stormwater Utility Manager, the Stormwater Utility Manager shall have 30 calendar days within which to render a written decision. If the Stormwater Utility Manager fails to render a decision within 30 days, the adjustment request shall automatically be deemed denied, but said denial shall be subject to appeal to the City Manager as set forth in this Article. Concurrent payment of any charges allocated to the property is not required as a condition precedent to this request for review.
- iv. In considering an adjustment request, the Stormwater Utility Manager shall consider whether the calculation of the stormwater utility user fee charge for the property is correct.
- v. 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.
- vi. 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 bill.

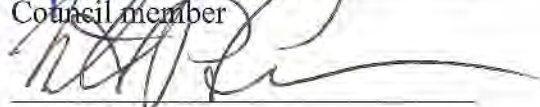
IT IS HEREBY ORDAINED that this ordinance shall be and become effective upon its adoption by the City Council.

IT IS SO ORDAINED this 13 day of April, 2009.

Those voting in favor:

  
\_\_\_\_\_  
Council member

  
\_\_\_\_\_  
Council member

  
\_\_\_\_\_  
Council member

Those voting in opposition:

\_\_\_\_\_  
Council member

\_\_\_\_\_  
Council member

\_\_\_\_\_  
Council member

Council member

Susi Gajewski  
Council member

Council member

Council member

Attest:

Jane Whittington  
City Clerk – Jane Whittington

Submitted to the Mayor:

April 14, 2009

Approved by the Mayor this 14 day of April, 2009.

Gary Pirkle  
Mayor – Gary Pirkle