

AN ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY, GEORGIA, CHAPTER 25, ARTICLE V PERTAINING TO A STORMWATER UTILITY, AND FOR OTHER PURPOSES.

WHEREAS, DeKalb County is responsible for the protection and preservation of the public health, safety, and welfare of the community;

WHEREAS, The Board of Commissioners of DeKalb County is authorized by Article IX, Section II, Paragraph III(a)(6) of the Georgia Constitution to provide a stormwater collection and disposal system throughout the unincorporated area of DeKalb County;

WHEREAS, 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 storm water runoff;

WHEREAS, DeKalb County has identified an ongoing need to fund water quality improvements in streams, creeks, and ditches within the County as well as the need to fund improvements for maintaining and improving water quality and to mitigate and prevent flooding from stormwater runoff into storm sewers and open channels;

WHEREAS, the County has undertaken a comprehensive review by staff and professional consultants of the need for, management of and funding for a Stormwater Utility; and

WHEREAS, the Board of Commissioners finds that it is in the best interest of the health, safety, and welfare of the citizens of the County and the community at large to proceed with the development, implementation, and operation of a utility for stormwater management accounted for in the County budget as a separate enterprise fund dedicated solely to stormwater management and to institute funding methods associated therewith;

Be it ordained by the Board of Commissioners of DeKalb County, Georgia, and it is hereby ordained by the authority of same, that Chapter 25, Article V, Sections 25-307 through 25-390 of the Code of DeKalb County, Georgia, is amended to read as follows:

Part I. Enactment

Sections 307 through 390, Article V, of Chapter 25 of the DeKalb County Code is hereby enacted to read as follows:

Sections 25-307 – 25-359. Reserved.

Article V. Stormwater Utility.

Section 25-360. Findings.

The Board of Commissioners of DeKalb County, Georgia makes the following findings:

- (a) Stormwater management is needed throughout the unincorporated area of DeKalb County. 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 unincorporated area of DeKalb County is consistent with the present and future needs of the community.
- (b) Addressing the stormwater management needs in DeKalb County is essential to protecting the public health, safety, and welfare. Provision of stormwater management programs and facilities results in both service and benefit to all properties, property owners, citizens, and residents of DeKalb County in a variety of ways.
- (c) DeKalb County presently owns and operates stormwater management systems and facilities which have been developed over many years. The future usefulness of the existing stormwater systems owned and operated by the County, and of additions and improvements thereto, rests on the ability of the County to effectively manage, protect, control, regulate, use, and enhance stormwater systems and facilities in DeKalb County in concert with the management of other water resources in the County. In order to do so, the County must have adequate and stable funding for its stormwater management program's operating needs and capital.
- (d) County staff reports and the professional engineering and financing feasibility analysis submitted to the County properly assess and define the stormwater management problems, needs, goals, program priorities and funding opportunities of the County.
- (e) As a result, the county's governing authority finds that a utility provides the most practical and appropriate means of properly delivering storm water management services and the county's governing authority finds that a utility fee provides the most practical and appropriate means of funding storm water management services in DeKalb County.

Section 25-361. Definitions.

The following definitions shall apply to this Article. Any word or phrase not defined below but otherwise defined in the Code of Ordinances shall be given

that meaning. All other words or phrases shall be given their common ordinary meaning unless the context clearly requires otherwise.

Channel Protection shall have the same meaning as the term is defined in the Georgia Stormwater Manual, Volume 2, as amended hereafter.

Credit shall mean a conditional reduction in the amount of a stormwater service charge to an individual property based upon the terms and conditions of this Article.

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

Developed land shall mean all property not deemed as Undeveloped Land.

Equivalent residential unit (ERU) shall mean the unit of measure which provides the basis for comparing the runoff generated by one parcel with that generated by another. An ERU shall be the median impervious coverage of a statistical sampling of single detached dwelling lots in DeKalb County, which has been determined to be three thousand (3000) square feet of impervious area.

Impervious Surfaces shall mean those areas, which prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development. Common impervious surfaces include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings.

Multiple dwelling lot shall mean a developed lot whereon more than one attached or detached residential dwelling units are located.

Other developed land shall mean, but shall not be limited to, commercial and office buildings, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools and universities, research stations, hospitals and convalescent centers, airports, and agricultural uses covered by impervious surfaces.

Overbank Flood Protection shall have the same meaning as the term is defined in the Georgia Stormwater Manual, Volume 2, as amended hereafter.

Service fees shall mean the stormwater management service fees applicable to a parcel of developed land, which charge shall be used to fund the DeKalb County stormwater utility's cost of providing stormwater management services and facilities.

Single dwelling lot shall mean a developed lot containing one dwelling structure with its principal use being a residential dwelling.

Stormwater Management System means any one or more of the various devices used in the collection, treatment, or disposition of storm, flood or surface drainage waters, including all manmade structures or natural watercourse for the conveyance or transportation of runoff, such as: detention areas, berms, swales, improved watercourses, open channels, bridges, gulches, streams, gullies, flumes, culverts, gutters, pumping stations, pipes, ditches, siphons, catch basins and street facilities; all inlets; collection, drainage or disposal lines; intercepting sewers; disposal plants; outfall sewers; all pumping, power, and other equipment and appurtenances; all extension, improvements, remodeling, additions, and alterations thereof; and any and all rights or interests in such stormwater facilities. Stormwater facilities expressly excludes any of the foregoing which exist for, or are used exclusively for the purpose of collection, treating, measuring, supplying, or distributing potable water within or as part of the county water supply and treatment system, or any of the foregoing which exist for or are used exclusively for the purpose of collecting, treating, or measuring effluent within or as part of the county sanitary sewer system.

Undeveloped Land shall mean a lot in its unaltered natural state and which has no pavement, asphalt, or compacted gravel surfaces or structures which create an impervious surface that would prevent infiltration of stormwater or cause stormwater to collect, concentrate, or flow in a manner materially different than that which would occur if the land was in an unaltered natural state.

Water Quality shall have the same meaning as the term is defined in the Georgia Stormwater Manual, Volume 2, as amended hereafter.

Section 25-362. Establishment of a utility.

- (a) There is hereby established a stormwater utility within the Public Works Department which shall be responsible for stormwater management throughout the County's jurisdictional limits, and shall provide for the

management, protection, control, regulation, use, and enhancement of stormwater systems and facilities.

- (b) The governing authority of DeKalb County hereby transfers to the stormwater utility operational control over the existing stormwater management systems and facilities owned and heretofore operated by the County and other related assets, including but not limited to properties upon which such facilities are located, easements, rights-of-entry and access, and certain equipment.

Section 25-363. Scope of Responsibility for the stormwater utility.

- (a) The stormwater utility shall monitor the design, operation, maintenance, inspection, construction, and use of all stormwater systems in the county. The stormwater utility shall be responsible for the design and construction of public stormwater facilities owned by the county and shall inspect, operate, and maintain them as prescribed herein. The stormwater utility shall be responsible for plan approval and construction inspection of both private stormwater facilities and public stormwater facilities not owned by the county. Additionally, the stormwater utility may accept the responsibility for the operation and maintenance of private stormwater facilities only when such services have been agreed to, contracted for, and approved by the governing authority of the county.
- (b) The stormwater utility shall provide for inspection of private facilities to ascertain that the stormwater facilities are functioning as designed and approved. The stormwater utility shall provide for remedial maintenance of facilities based upon the severity of stormwater problems and potential hazard to the public health, safety, and welfare.

Section 25-364. Establishment of enterprise fund.

- (a) The chief executive officer shall establish a stormwater enterprise fund in the County budget and accounting system for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the utility, including but not limited to rentals, rates, charges, fees, and licenses as may be established by the board of commissioners.
- (b) Except as provided pursuant to section 24-364(c), any revenues and receipts of the stormwater utility shall be placed in the stormwater enterprise fund 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 board of commissioners, upon recommendation of the chief executive officer.

- (c) The County 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 county, 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 county as may be provided in any resolution authorizing such bonds or obligations or in any trust instrument relating to such bonds or obligations.

Section 25-365. Stormwater Service fees established.

In order to fully recover the cost of providing stormwater services and facilities while fairly and reasonably apportioning the cost among developed properties throughout the unincorporated portion of the County, the following stormwater rates shall apply:

- (1) The stormwater service charge per equivalent residential unit shall be four dollars (\$4.00) per month or as amended by official action of the governing authority.
- (2) All single detached dwelling lots shall be charged the rate applicable to one (1) equivalent residential unit.
- (3) All multiple dwelling lots shall be charged the rate applicable to one (1) equivalent residential unit times the number of dwelling units located on the multiple dwelling unit property times an adjustment factor that adjust the ERU to equal the median impervious coverage of a statistical sampling of a single dwelling unit within a multiple dwelling lot in DeKalb County, which has been determined to be 0.7.
- (4) All other developed lands shall be billed for one (1) equivalent residential unit for each three thousand (3000) square feet of impervious surface or increment thereof on the property, rounded to the next highest tenth of an equivalent residential unit.

Section 25-366. Effective date of Stormwater service charges and termination of pond fees and other stormwater relates fees in force prior to effective date.

The stormwater service fee shall accrue beginning January 1, 2003 and shall be billed annually thereafter.

Section 25-367. Elimination of pond maintenance fees.

Beginning January 1, 2003, all fees collected for pond maintenance are hereby eliminated.

Section 25-368. Exemptions.

The following properties are exempt from stormwater utility fees:

- (1) Undeveloped land;
- (2) All public rights of way; and
- (3) Railroad rights of way (tracks). However, railroad stations, maintenance buildings, or other developed land used for railroad purposes shall not be exempt from stormwater service charges.
- (4) Any property whereby one hundred percent (100%) of the stormwater runoff is contained on the premises and no runoff enters into the Stormwater Management System.

Section 25-369. Credits.

- (a) Property owners of developed land may receive a stormwater service charge credit for on-site systems or facilities. Stormwater service charge credits shall be determined based on the technical requirements design and performance standards contained in the Georgia Stormwater Management Manual as may be updated or amended from time to time. Stormwater service charge credits may total up to forty (40) percent of the service charge applicable to a property, and shall be granted in the following increments:
 - (1) 10% credit for on-site systems or facilities sized and functioning to meet Water Quality in accordance with the DeKalb County Code and the Georgia Stormwater Management Manual as may be updated or amended from time to time.
 - (2) 10% credit for on-site systems or facilities properly sized and functioning to meet the Channel Protection in accordance with the with the DeKalb County Code and the Georgia Stormwater Management Manual as may be updated or amended from time to time.
 - (3) 10% credit for on-site systems or facilities sized and functioning to meet the Overbank Flood Protection in accordance with the with the DeKalb County Code and the Georgia Stormwater

Management Manual as may be updated or amended from time to time.

- (4) 10% credit for on-site systems or facilities sized and functioning to meet the Extreme Flood Protection properly as defined in the Statewide Stormwater Sizing Criteria for Stormwater Control and Mitigation [Georgia Stormwater Management Manual, Vol 2 (Technical Handbook), Section 1.3] as may be updated or amended from time to time.
- (b) Property owners seeking service charge credits must apply for stormwater service charge credits through completion and submittal to the County of a stormwater service charge credit application prior to January 1st of the year in which stormwater service charges are to be billed by the County. (except for 2003, in which applications must be received by March 1, 2003.) Credits will only be granted through applications approved by the County for the remainder of the year in which stormwater service charges are to be billed by the County.
- (c) Upon receipt of a timely filed completed application, the chief executive officer or his designee shall review the application and make a determination as to whether the applicable criteria for a credit has been met. All decisions regarding the approval or disapproval of a stormwater credit shall be made within forty-five (45) days of the date the completed application was submitted to the County.
- (d) Any credit allowed against the service charge is conditioned on (1) continuing compliance with the County's design and performance standards as stated in the Georgia Stormwater Management Manual as may be updated or amended from time to time; and (2) upon continuing provision of the systems or facilities provided, operated, and maintained by the property owner or owners upon which the credit is based. The County may revoke any credit at any time for non-compliance with this Article.

Section 25-370. Inspection of private facilities.

Continuing compliance with the County's design and performance standards may be verified by County inspection of the systems or facilities upon which the credit is based. No credit shall be given under this Article unless the property owner agrees in writing in its application that the County shall have the right for its designated officers, representatives, agents, and employees to enter upon private and public property, upon reasonable notice to the owner of such property, to inspect the property and conduct surveys and engineering testing, on such property in order to assure compliance with the County's design and performance standards. On-site systems or facilities determined to no longer

comply with the County's design and performance standards shall subject the property owner to revocation of all, or a portion of, stormwater service charge credits based on the County inspectors' estimate of capacity reduction for a period of not less than one (1) year.

Section 25-371. Stormwater service charge, billing, delinquencies and collections.

A stormwater service charge bill may be sent through the United States 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 non-payment. 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 underbilled or if no bill is sent for developed land, the County may backbill 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 one and one-half percent (1.5%) per month late charge shall be assessed against the owner for the unpaid balance of any stormwater utility service charge that becomes delinquent.

Section 25-372. Stormwater Utility Service charges inspections and enforcement.

- (a) The stormwater utility service charge may be billed separately, or on a customer statement and collected along with other utility services, at the County's sole discretion.
- (b) Every owner of real property located in the unincorporated area of the County, and every person who serves as a contractor or developer for the purpose of developing real property located in the unincorporated area of DeKalb County shall provide, manage, maintain, and operate on-site stormwater management systems and facilities sufficient to collect, convey, detain, control and discharge stormwater in a safe manner consistent with all DeKalb County ordinances and development regulations, and the laws of the State of Georgia and the United States of America. Any failure to meet this obligation shall constitute a nuisance and be subject to an abatement action filed by any damaged party or DeKalb County in any Court of competent jurisdiction. In the event a public nuisance is found by the Court to exist, which the owner fails to properly abate within such reasonable time as allowed by the Court, the County may enter upon the property and cause such work as is reasonably necessary to abate the nuisance with the actual cost thereof assessed against the owner or developer, if any, on a joint and several basis. From the date of the filing of such action, the County 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 DeKalb County.

DeKalb County shall have the right, pursuant to the authority of this Article, for its designated officers and employees to enter upon private and public property owned by entities other than the County, upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to assure compliance with this section.

Section 25-373. 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 must be filed in writing with the chief executive officer or designee within thirty (30) days of the decision that is appealed. In the case of service charge appeals, the appeal shall include a survey prepared by a registered land surveyor or professional engineer containing information on the total property area, the impervious surface area, and any other features or conditions which influence the hydrologic response of the property to rainfall events.
 - (2) The chief executive officer or his designee shall conduct a technical review of the conditions on the property and respond to the appeal in writing within thirty (30) days.
 - (3) In response to an appeal the chief executive officer or his designee may adjust the stormwater service charge applicable to a property in conformance with the general purpose and intent of this Article.
 - (4) All decisions by the chief executive officer 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 chief executive officer may be appealed by application for writ of certiorari in the Superior Court of DeKalb County, filed within thirty (30) days of the date of service of the decision of the chief executive officer.

Part II. Severability

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are repealed.

PART III. Effective Date

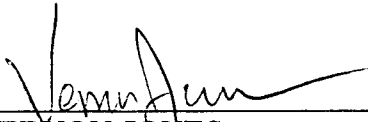
This ordinance shall become effective upon adoption by the Board of Commissioners and approval by the Chief Executive Officer.

ADOPTED by the DeKalb County Board of Commissioners, this 10th day of December, 2002.



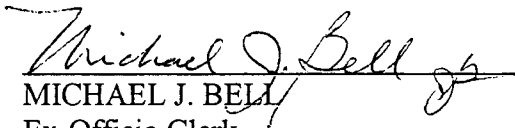
JACQUELINE SCOTT
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this 10th day of December, 2002.



VERNON JONES
Chief Executive Officer
DeKalb County, Georgia

ATTEST:



MICHAEL J. BELL
Ex-Officio Clerk
Board of Commissioners and
Chief Executive Officer
DeKalb County, Georgia

APPROVED AS TO FORM:



CHARLES G. HICKS
County Attorney
DeKalb County, Georgia

APPROVED AS TO SUBSTANCE:



TED RHINEHART
Director, Public Works
DeKalb County, Georgia