

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF SUWanee, GEORGIA TO ESTABLISH A STORMWATER UTILITY PROGRAM AND ASSOCIATED ENTERPRISE FUND, AND FOR OTHER PURPOSES.

WHEREAS, the Mayor and Council of the City of Suwanee, Georgia are desirous of amending certain sections of the City's Code of Ordinances to further promote the health, safety and welfare of its inhabitants and visitors; and

WHEREAS, the Mayor and Council find that establishment of a stormwater utility, program, and associated user fees promote the health, safety and welfare of its inhabitants and visitors and hereby include those findings of fact that are further described in more detail herein; and

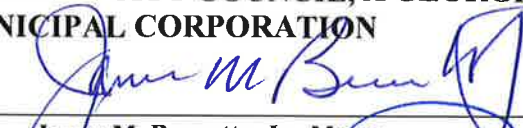
NOW THEREFORE, BE IT ORDAINED AND RESOLVED AND IT IS HEREBY ORDAINED AND RESOLVED BY THE AUTHORITY OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SUWanee, A GEORGIA MUNICIPAL CORPORATION, AS FOLLOWS:

Chapter 34, Environment, of the Code of Ordinances is hereby amended to add a new **Article X, STORMWATER UTILITY**, which is more specifically set forth on Exhibit "A" and incorporated herein by reference.

(Signatures on next page)

APPROVED AND ADOPTED THIS 28th DAY OF June, 2022.

SUWANEE CITY COUNCIL, A GEORGIA MUNICIPAL CORPORATION

BY: 
James M. Burnette, Jr., Mayor

BY: 
Larry Pettiford, Mayor Pro Tempore

BY: 
Heather Hall, Councilmember

BY: 
Linnea Miller, Councilmember

BY: 
Beth Hilscher, Councilmember

BY: 
Peter Charpentier, Councilmember

ATTESTED TO BY:


ROBYN O'DONNELL, CITY CLERK

APPROVED AS TO FORM:


GREGORY D. JAY, CITY ATTORNEY
CHANDLER, BRITT & JAY, LLC

Attachment "A"
CHAPTER 34. Environment
Article 10. Stormwater Utility

- Sec. 34-01. Findings**
- Sec. 34-02. Definitions**
- Sec. 34-03. Stormwater utility and enterprise fund established.**
- Sec. 34-04. Scope of responsibility for stormwater managements systems and facilities.**
- Sec. 34-05. Stormwater utility customer classes.**
- Sec. 34-06. Stormwater user fee charges.**
- Sec. 34-07. Stormwater user fee charge rates.**
- Sec. 34-08. Stormwater user fee charge exemptions.**
- Sec. 34-09. Stormwater user fee charge credits.**
- Sec. 34-10. Enforcement methods and inspections.**
- Sec. 34-11. Stormwater user fee charge billing, delinquencies, collections, and adjustments.**
- Sec. 34-12. Appeals, hearings.**
- Sec. 34-13. Conflict with other laws.**
- Sec. 34-14. Severability.**
- Sec. 34-15. Effective Date.**

Sec. 34-01 Findings.

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

- (a) The City of Suwanee (City) is authorized by the Georgia Constitution of 1983, including, without limitation, Article IX, Section II, Paragraph III thereof and O.C.G.A. § 36-82-62 to provide stormwater management services throughout Suwanee.
- (b) In order to protect the health, safety and welfare of the public, the City of Suwanee 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, the City of Suwanee is acting pursuant to authority granted by the Constitution of the State of Georgia and the Charter of Suwanee to provide for stormwater collection and disposal.
- (d) Improper management of stormwater runoff may cause erosion of lands, damage infrastructure, threaten businesses, residences and other facilities with water damage, and may environmentally impair the rivers, streams and other bodies of water within Suwanee.
- (e) A system for the collection, conveyance, storage, treatment and disposal of stormwater provides services to all properties within the City of Suwanee and surrounding areas.

**Suwanee
Stormwater Utility Ordinance
Proposed Enactment Date: June 28, 2022**

- (f) Suwanee presently owns and operates stormwater management systems and facilities that 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.
- (g) In addition to impacts on city facilities and environments, failure to effectively manage stormwater can adversely affect the operations of the sanitary sewer system operated by the Gwinnett County Department of Water Resource thereby increasing the likelihood of infiltration and inflow into the sanitary sewer system.
- (h) Failure to effectively manage stormwater contributes to the further degradation of the water quality in area waterbodies which may result in higher levels of treatment requirements imposed on the county and the county's wastewater treatment facilities and increased water treatment costs.
- (i) Proper management of stormwater is a key element of having clean water with adequate assimilative capacity for treated wastewater discharges and adequate potable drinking water that are essential to support existing development as well as future development and redevelopment in Suwanee.
- (j) The city is required under Federal and State regulations [i.e. the City's National Pollutant Discharge Elimination System (NPDES) Phase I Georgia Notice of Intent (NOI) and Stormwater Permit effective June 11, 2019] 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.
- (k) Compliance with the regulatory obligations of the NPDES permit, along with other city stormwater program activities, will substantially increase the cost of providing stormwater management services above what is currently being spent for water quality management, drainage system maintenance, flood control and other program activities.
- (l) The cost of operating and maintaining the Suwanee 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.
- (m) The professional engineering and financing analysis, known as the Stormwater Funding Feasibility Study (including amendments) and related documents, dated December 2020

and prepared by the city's consulting stormwater engineer, which report is incorporated herein by express reference, properly assesses and defines the city's stormwater management program problems, needs, goals, priorities as well as the stormwater management program funding strategy.

- (n) 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 systems within the city in concert with other water resource management programs.
- (o) 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 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.
- (p) 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 as described in the stormwater funding feasibility study.
- (q) The services and benefits rendered, or resulting from provision of stormwater management services, 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 render or result in services and benefits to such properties and the owners thereof.
- (r) A Stormwater Management Program (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 as described in the stormwater funding feasibility study, and the other related documents, which have been prepared for the city by its consultants.
- (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 that 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 city council.

- (t) The existence of privately owned and maintained on-site or off-site systems, facilities, activities or assets that 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 credit, and such reduction or credit should be conditional upon continuing provision of such services, systems, facilities, activities or assets in a manner complying with the standards and codes as determined by the City Manager, or stormwater manager designee (herein referred to as stormwater manager). Reductions or credits for privately owned and maintained stormwater management systems, facilities, activities or assets shall be generally proportional to the affect such systems have on the peak rate of runoff from the property.
- (u) 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.
- (v) It is imperative that the proceeds from all user fee charges for stormwater management services, together with any other revenues raised or otherwise allocated specifically to stormwater management services, 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.

Sec. 34-02 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, quadplexes, 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 homes.

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 or more bedrooms, a bathroom and a kitchen facility.

Equivalent runoff unit (ERU) means the statistical median horizontal impervious surface area of a detached single-family residential property within Suwanee as of the date of adoption of this article. The horizontal impervious surface area includes, but is not limited to, all areas covered by structures, roof extensions, patios, porches, driveways and sidewalks.

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 surface means those areas that 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,

**Suwanee
Stormwater Utility Ordinance
Proposed Enactment Date: June 28, 2022**

buildings or structures, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings, and other surfaces that 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 more than five hundred (500) square feet of impervious surfaces.

Non-single-family residential property or *NSFR* means improved property containing multiple-dwelling residential unit 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 (DSFR), or attached residential (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 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 Suwanee Stormwater Utility may perform maintenance and/or capital construction activities only within that portion of the public water influence zone that 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 that 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 Manager means the City Manager or the designee appointed 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 Suwanee 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 Suwanee 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 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.

Sec. 34-03 Stormwater utility and enterprise fund established.

- (a) There is hereby established a stormwater utility to be known as the Suwanee 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 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 Suwanee 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 Suwanee 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 manager for operation, maintenance and regulation of the SWMP and stormwater management services performed, owned and operated or maintained by Suwanee, 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.

Sec. 34-04 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; and/or
 - 2. On private property but within easements granted to, and accepted by, Suwanee, 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; and/or
 - 3. On private property but within a public water influence zone; and/or
 - 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; and/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 that 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 elected officials, officers, employees or agents.

Sec. 34-05 Stormwater utility customer classes.

- (a) There shall be one stormwater utility service area in Suwanee with specified customer classes to reflect variations in services provided to stormwater utility customers and the respective demand that those customers' properties place on the city stormwater management program and drainage system. The specified customer classes for the Suwanee Stormwater Utility are as follows:
1. Detached single-family residential (DSFR) customers as defined in Section 34-02 of this article.
 2. Attached residential (AR) customers shall consist of all properties as defined in Section 34-02 of this article.
 3. Non-single-family residential (NSFR) customers shall consist of all properties located in Suwanee that are not classified as DSFR, or AR.
- (b) Documentation pertaining to the Suwanee Stormwater Utility customer classes shall be kept on file in the office of the stormwater manager for public inspection.

Sec. 34-06 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 areas shall be equitably derived through methods that 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 that eliminate, mitigate or compensate for the impact 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 that impact the proper function of public stormwater management systems and facilities.

Sec. 34-07 Stormwater user fee charge rates.

- (a) Stormwater user fee charge rates shall be set and may be modified from time to time by the city council. A schedule of said rates shall be on file with the City of Suwanee City Clerk's Office. In setting or modifying such rates it shall be the goal of the city to establish rates that are fair and reasonable, and together with other sources of support available to the Suwanee Stormwater Utility, are sufficient to support the cost of the stormwater management services, including, but not limited to, the payment of principal and interest on debt obligations, lease payments, operating expenses, capital outlays, non-operating expenses, provisions for prudent reserves and other costs as deemed appropriate by the city.
 - 1. *Detached single-family residential (DSFR) customer class.* Each DSFR customer account shall be charged a flat rate of 1.00 ERU except as noted below:
 - i. If a DFSR customer account consists of more than eleven thousand four hundred seventy-five (11,475) square feet of impervious surface (or 3.0 ERUs), the customer account for that parcel will be charged as per the NSFR calculation described herein.
 - 2. *Attached residential (AR) customer class.* All AR properties as defined herein shall be charged the rate applicable to one ERU times the number of dwelling units located on the property (ERU total) times an adjustment factor (AF). The adjustment factor (AF) has been determined to be 0.40. For each annual user fee charge billing, the ERU total figure will be multiplied by the adjustment factor (AF) which adjusts the ERU total to equal the median impervious surface of a statistical comparison of AR properties versus DSFR properties in the city. Therefore, each attached residential dwelling unit will be charged a stormwater user fee of 0.40 ERU per dwelling unit per year.
 - 3. *Non-single-family residential (NSFR) customer class.* Each NSFR customer as defined herein shall be charged 1.00 ERU for every 3,825 square-foot increment, or portion thereof, of impervious surfaces located on the property to establish the total number of ERUs for billing. Fractional ERUs for NSFR properties will be

rounded to two decimal places to establish the actual number of ERUs for billing. If a NSFR property has less than 1.00 ERU, then the customer will be billed a minimum of 1.00 ERU.

- (b) Stormwater user fee charge rates shall be applied to customers as adopted by the Mayor and Council and shown on the city's of Suwanee fee schedule, which may be amended from time to time by City Council action. The initial user fees shall be established as follows and shall remain in effect until otherwise amended by the Mayor and Council:
1. The DSFR stormwater user fee flat rate charge shall be \$89.00 per year.
 2. The AR stormwater user fee charge for each ERU, or fractional ERU, shall be \$89.00 per ERU (3,825 square feet) per year.
 3. The NSFR stormwater user charge for each ERU, or fractional ERU, shall be \$89.00 per ERU (3,825 square feet) per year.

Sec. 34-08 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 Suwanee 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 500 square feet, or less, 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) Suwanee (city owned) public streets and rights-of-way shall be exempt from stormwater user fee charges. This exemption is in consideration for the city allowing the 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 manmade within

and owned by the city which controls and diverts surface water for the purposes of collecting, diverting, transporting and controlling surface and stormwaters. However, other improved property used for city purposes shall not be exempt from stormwater user fee charges. Additionally, impervious surfaces installed and maintained for the purposes of access to private or public parcels (i.e. driveways) on public rights-of-way shall not be exempt from stormwater user fee charges.

- (e) Any property whereby 100 percent 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.

Sec. 34-09 Stormwater user fee charge credits.

- (a) The stormwater manager shall grant credits or adjustments based on the technical and procedural criteria set forth in the Stormwater Utility Non-Single-Family Residential Technical Credit Manual or the Stormwater Utility Residential Technical Credit Manual. Copies of the Technical Credit Manuals will be maintained by and available from the stormwater manager.
 - 1. A stormwater user fee charge credit shall be determined based on the technical requirements, standards and criteria contained in the Technical Credit Manuals. The amount of credit, or reduction of the stormwater user fee charge, shall be in accordance with the criteria contained in the Technical Credit Manuals.
 - 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 Technical Credit Manuals 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 manager may revoke a credit at any time for noncompliance with applicable standards and criteria as established in the Technical Credit Manuals 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 manager for such purpose, and in accordance with the procedures outlined in the Technical Credit Manuals.
 - 4. Property owners may apply for any credits and/or adjustments in accordance with the Technical Credit Manuals.
 - 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 manager. Incomplete applications will not be accepted for consideration and processing.

- (b) When an application for a credit is deemed complete by the stormwater manager, they 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. 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 Technical Credit Manuals.

Sec. 34-10 Enforcement methods and inspections.

- (a) All property owners of improved property within the incorporated areas of Suwanee 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 Suwanee Municipal Court. Each day such violation exists shall constitute a separate offense, subject to the penalties set forth in the Suwanee Code of Ordinances.
- (b) Alternately, in the event a public nuisance is deemed to exist by the stormwater manager, the city may elect to sue in the Suwanee Municipal Court 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 Suwanee Municipal 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 Suwanee Municipal Court.
- (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.

Sec. 34-11 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 ultimately obligated to pay the appropriate stormwater user fee charge for that property.

(a) Billing.

1. Stormwater user fee charges shall begin to accrue January 1, 2023, and shall be billed prospectively. The initial billing cycle will be October 1, 2022. 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 the city council.
3. Frequency of the billing of stormwater user fee charges shall be annually or as specified by 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 Suwanee Stormwater Utility may back bill for a period of up to one 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 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.
 - i. If a stormwater utility fee is billed to a tenant of a property and the tenant fails to pay the fee, then property owner shall become liable for all charges. However, the city shall not be entitled to late fees accrued by the tenant.

(c) Adjustments.

1. The stormwater 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 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 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 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 manager, the stormwater manager shall have 30 calendar days within which to render a written decision. 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 manager shall consider whether the calculation of the stormwater utility user fee charge for the property is correct.
 - v. The stormwater 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. However, the credit shall not exceed an amount exceeding the amount paid within the past one year and shall not be entitled to any interest or any delinquency charges during the back billed period.
 - vii. If the result of an adjustment is that an increase in fees is warranted (due to under-billing), the city shall not be entitled to back charges, interest or any delinquency charges as a result of the error.

Sec. 34-12 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 designated stormwater manager. The appeal shall be taken

**Suwanee
Stormwater Utility Ordinance
Proposed Enactment Date: June 28, 2022**

within 30 days of the decision of the stormwater 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 manager shall forthwith transmit to the city manager documentation constituting the record upon which the decision appealed from was taken.

- (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 designated stormwater manager after hearing the evidence. If the decision of the designated stormwater 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) Appeals of a decision made by the City Manager may be made to the Zoning Board of Appeals following their normal requirements, schedules and deadlines whereby a hearing will be held and acted upon.
- (d) Decisions of the Zoning Board of Appeals 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.

Sec. 34-13. Conflict with other laws.

Should any section or provision of these rules be in conflict with any other applicable ordinance, rule, regulation, provision, requirement, or law, then the more restrictive ordinance, rule, regulation, provision, requirement, or law shall control.

Sec. 34-14. Severability.

In the event any article, section, subsection, sentence, clause, or phrase of this ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other articles, sections, subsections, sentences, clauses, or phrases of this resolution, which shall remain in full force and effect, as if the article, section, subsection, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof.

Sec. 34-15. Effective date.

The provisions of this ordinance shall become effective 30 days after adoption.

###END###