

CITY OF GAINESVILLE
Office of the City Attorney

Legistar No. 980174
Memorandum
334-5011/Fax 334-2229
Box No. 46

TO: Mayor and City Commission
FROM: Marion J. Radson, City Attorney
SUBJECT: Ordinance No. 0-98-80


DATE: August 24, 1998
FIRST READING

An ordinance of the City of Gainesville, Florida, amending Article V of Chapter 27 of the Code of Ordinances relating to the stormwater management utility adding provisions for partially impervious area to the calculation of the stormwater management fee and clarifying definitions; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.


Recommendation: The City Commission adopt the proposed ordinance.

At its meeting on July 13, 1998, the City Commission authorized the City Attorney to draft and the Clerk to advertise an ordinance proposing an amendment relating to the stormwater management utility, to add a provision for "Partial Impervious Area" as well as to clarify other definitions contained in the ordinance.

Prepared by:


Patricia M. Carter
Assistant City Attorney

Approved and
Submitted by:


Marion J. Radson
City Attorney

MJR:PC:sw

1 **Ordinance No.** _____
2 **0-98-80**

3
4 **An ordinance of the City of Gainesville, Florida, amending Article V**
5 **of Chapter 27 of the Code of Ordinances relating to the stormwater**
6 **management utility adding provisions for partially impervious area to**
7 **the calculation of the stormwater management fee and clarifying**
8 **definitions; providing directions to the codifier; providing a**
9 **severability clause; providing a repealing clause; and providing an**
10 **immediate effective date.**

11
12 **WHEREAS**, at least 10 days notice has been given once by publication in a
13 newspaper of general circulation notifying the public of this proposed ordinance and of a
14 Public Hearing in the City Commission Auditorium in City Hall, City of Gainesville; and

15 **WHEREAS**, a Public Hearing was held pursuant to the published notice
16 described at which hearing the parties in interest and all others had an opportunity to be
17 and were, in fact, heard;

18 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF**
19 **THE CITY OF GAINESVILLE, FLORIDA:**

20 **Section 1.** Article V of chapter 27 of the Code of Ordinances of the City of Gainesville is
21 amended to read as follows:

22 **ARTICLE V. STORMWATER MANAGEMENT UTILITY PROGRAM**

23 **Sec. 27-236. Intent.**

24 It is the intent of this article that the City of Gainesville will establish stormwater
25 management as a Ccity utility enterprise in accordance with F.S. § 403.0893 and shall
26 establish a program of user charges and connection fees for stormwater management
27 service to be levied against all developed property within the Ccity to accomplish the
28 functions of said utility. These functions include, but are not limited to, maintenance,

1 planning, design, construction, regulation, surveying, and inspection as they relate to
2 stormwater management facilities of the Ceity.

3 **Sec. 27-237. Definitions.**

4 As used in this article:

5 *Adjusted impervious area* shall mean the stormwater ~~retention~~-basin area(s)
6 multiplied by the stormwater management facility impervious area factor plus the
7 impervious area(s) plus one half of the partial impervious area(s).

8 *City* shall mean the City of Gainesville, Florida, and its staff and elected officials.

9 *Department* shall mean the Ceity Public Works Engineering department.

10 *Developed property* shall mean any parcel of land that has been modified by the
11 action of persons to reduce the land's natural ability to absorb and hold rainfall. These
12 modifications include, but are not limited to, clearing, grading, cementing, filling, or
13 compacting the natural ground, or erecting or constructing buildings, parking lots,
14 driveways, patios, decks, walkways, and athletic courts.

15 *Drainage area* shall mean the watershed (acreage) contributing surface water runoff
16 to the Ceity's storm drainage system.

17 *Equivalent residential unit (ERU)* shall mean the basic unit for the computation of
18 stormwater service charges and is defined as 2,300 square feet of impervious area, which
19 represents the estimated average impervious area for all developed, detached single-
20 family properties in the City. ~~All single family and duplex units are considered one (1)~~
21 ~~ERU for each dwelling unit and based on data for Gainesville have an average~~
22 ~~impervious area of two thousand three hundred (2,300) square feet. All other properties~~
23 ~~will have ERU's computed using the following formula:~~

1
$$\text{No. of ERU} = \left[\frac{\text{Impervious Area (Sq. Ft.)}}{2,300 \text{ Sq. Ft.}} \right]$$

2 Impervious area shall means any part of any parcel of land that has an impermeable
3 cover~~been modified~~ caused to be erected or constructed by the action of persons, and such
4 covers include, but are not limited to, buildings, parking lots, driveways, patios, decks,
5 walkways, and athletic courts. ~~to reduce the land's natural ability to absorb and hold~~
6 ~~rainfall. This includes areas which have been cleared, graded, paved, graveled or~~
7 ~~compacted, or covered with structures. Excluded are all lawns, landscape areas, and~~
8 ~~gardens or farming areas.~~

9 Manager shall mean the City M~~anager~~ or designee.

10 Multi-family residential properties~~residential properties~~ shall include all duplex,
11 condo, trailer, apartment and other properties containing more than one ~~(1)~~ dwelling unit.
12 Common areas associated with such properties shall be included in the charge to the
13 "multi-family" units on said properties.

14 Nonresidential/commercial properties shall include all property zoned or used for
15 commercial, industrial, retail, governmental, or other nonresidential purposes and shall
16 include all developed real property in the City not classified as single-family or multi-
17 family as defined in this section.

18 Partial impervious area shall mean any part of any parcel of land that has been
19 modified by the action of persons to reduce the land's natural ability to absorb and hold
20 rainfall. This includes areas which have been cleared, graded, graveled, filled, or
21 compacted, and typically involve unpaved parking, unpaved vehicle and equipment

1 storage, and material storage. Excluded are all lawns, landscape areas, and gardens or
2 farming areas.

3 *Receiving water* shall mean those creeks, streams, rivers, lakes, sinkholes, and other
4 bodies of water into which surface waters are directed, either naturally or in manmade
5 ditches, pipes, or open systems.

6 *Retention credit factor* shall mean the numeric value generated by dividing the
7 stormwater retention volume by the standard retention volume, but the value cannot
8 exceed 1.0 ~~one (1)~~.

9 *Single-family property* shall include all single-family detached housing units.

10 ~~*Single-family/duplex property* shall include all single-family detached housing units~~
11 ~~and all two-unit dwelling structures. Attached single-family dwellings served by~~
12 ~~individual water meters shall also be considered under this category. All other residential~~
13 ~~development shall be classified as "multi-family."~~

14 *Standard retention volume* shall mean the quantity of stormwater runoff generated by
15 multiplying 7.9 inches by the adjusted impervious area.

16 *Stormwater basin area* shall mean the horizontal area occupied by stormwater
17 detention, retention, and/or detention/retention basins at the design maximum water
18 surface elevation.

19 ~~*Stormwater detention* shall mean the act of collection and containment of stormwater~~
20 ~~runoff that only allows the release of the stormwater by one or more of the following~~
21 ~~methods: Evaporation, percolation into the natural ground, percolation into a manmade~~
22 ~~filtration system that may convey the stormwater runoff to a stormwater management~~

1 ~~system or through a structure that is designed to control the rate of the release of the~~
2 ~~stormwater.~~

3 *Stormwater detention basin* shall mean a facility, either natural or manmade, that
4 collects and contains stormwater runoff and allows the release of the stormwater through
5 a structure that is designed to control the rate of the release of the stormwater, ~~performs a~~
6 ~~stormwater detention function as acknowledged by the Ceity Mmanager or designee.~~

7 Stormwater detention/retention basin shall mean a facility, either natural or
8 manmade, that performs a combination of both a stormwater detention basin and a
9 retention basin as acknowledged by the City Manager or designee.

10 *Stormwater management facility impervious area factor* shall mean the amount that
11 the stormwater retention basin area(s) are adjusted; the factor is derived by dividing 4.2
12 inches (which is the amount of rainfall generated by the twenty-five-year twenty-four-
13 hour rain storm event between the eleventh and thirteenth hours) by 7.9 inches (which is
14 the amount of rainfall generated by the twenty-five-year twenty-four-hour rain storm
15 event) which quotient is 0.53.

16 ~~Stormwater management plan~~ shall mean a plan for receiving, handling, and
17 ~~transporting storm and surface waters within the city as adopted by the city commission.~~

18 *Stormwater management system* shall include all natural and manmade elements used
19 to convey stormwater from the first point of impact with the surface of the earth to a
20 suitable receiving water body or location internal or external to the boundaries of the
21 Ceity. The stormwater management system includes all pipes, channels, streams, ditches,
22 wetlands, sinkholes, detention/retention basins, ponds, and other stormwater conveyance
23 and treatment facilities whether public or private. Regardless of whether or not the Ceity

1 shall have recorded rights-of-way or easements, it is presumed that the Ceity has a
2 prescriptive right of access to all stormwater management facilities for operation,
3 maintenance, rehabilitation, or replacement.

4 ~~Stormwater retention shall mean the act of collection and containment of stormwater~~
5 ~~runoff that only allows the release of the stormwater runoff by one or more of the~~
6 ~~following: Evaporation, percolation into the natural ground or percolation into a~~
7 ~~manmade filtration system that may convey the stormwater runoff to a stormwater~~
8 ~~management system.~~

9 *Stormwater retention basin* shall mean a facility, either natural or manmade, that
10 collects and contains stormwater runoff and only allows the release of the stormwater
11 runoff by one or more of the following: evaporation, percolation into the natural ground
12 and/or percolation into a manmade filtration system that may convey the stormwater
13 runoff to a stormwater management system, performs a stormwater retention function as
14 acknowledged by the Ceity Manager or designee.

15 ~~Stormwater retention basin area shall mean the horizontal area occupied by the~~
16 ~~stormwater retention basin at normal ground level.~~

17 *Stormwater retention volume* shall mean the maximum capacity of a stormwater
18 retention basin(s).

19 **Sec. 27-238. Utility established.**

20 There is hereby created and established in the Ceity a stormwater management utility in
21 accordance with section 403.0893 of the Florida Statutes. This utility shall be responsible
22 for the Ceity's stormwater management system and shall have equal status with the other
23 utility services provided by the Ceity.

1 **Sec. 27-239. Directors of the stormwater management utility.**

2 Directors of the stormwater management utility shall be the Ceity Commission~~council~~.

3 **Sec. 27-240. Duties and powers.**

4 The stormwater management utility shall have all powers necessary for the exercise of its
5 responsibility for the drainage from all properties within the Ceity including, but not
6 limited to, the following:

7 (1) Preparation of plans for improvements and betterments to the stormwater
8 management system.

9 (2) Construction of improvements and betterments to the stormwater management
10 system.

11 (3) Promulgation of regulations for the use of the stormwater management system,
12 including provisions for enforcement of said regulations.

13 (4) Review and approval of all new development permits within the Ceity for
14 compliance with stormwater management regulations included in present Ceity
15 ordinances or ordinances later adopted.

16 (5) Performance of routine maintenance and minor improvement to the stormwater
17 management system.

18 (6) Establishment of charges for connection and use of the stormwater management
19 system.

20 (7) Evaluation of water quality concerns for discharges to the stormwater
21 management system.

22 (8) Performance of all normal utility functions to include construction, operation, and
23 maintenance of the Ceity's stormwater management system including, but not

1 limited to, the hiring of staff, the selection of special consultants, the entering into
2 contracts for services and construction of facilities, and the handling of purchase,
3 lease, sale or other rights to property for the stormwater management system.

4 (9) Issuance of revenue bonds for the purpose of performing those duties as described
5 herein.

6 **Sec. 27-241. Authority for service charges.**

7 (a) *Authorization.* The stormwater management utility is empowered by this article to
8 establish charges for the use and discharge to the Ceity's stormwater management system.
9 Such charges shall be based on the cost of providing stormwater management services to
10 all properties within the Ceity and may be different for properties receiving different
11 classes of service. The monthly fee to be charged for stormwater management for each
12 equivalent residential unit (ERU) shall be five dollars (\$5.00).

13 (b) *Rates for stormwater management service.* There is levied against all owners or
14 occupants of all real property in the Ceity with improvements or uses thereon which
15 contribute stormwater runoff to and/or which benefit from the Ceity's stormwater
16 management system a monthly fee as established by separate ordinance in accordance
17 with the following definitions:

18 (1) *Single-family property service charges.* Each single-family property shall
19 be considered one ~~(1)~~ ERU for billing purposes. Monthly service charges for each
20 single-family dwelling unit shall be identical, provided that the ratio of
21 impervious area to total area of the lot does not exceed 50 ~~fifty (50)~~ percent. If the
22 ratio of impervious to total area exceeds 50 ~~fifty (50)~~ percent and the total area of

1 the lot exceeds 10,000 square feet, the rates established in subparagraph (b)(3)(4)e
2 shall apply.

3 (2) *Multifamily property service charges.* The monthly service charge for all
4 multi-family properties shall be:

5 Duplex units = 1 ERU/dwelling unit

$$\text{No. Base ERU's} = \left[\frac{\text{Impervious Area (Sq. Ft.)} + 0.5 [\text{Partial Impervious Area (Sq. Ft.)}]}{2,300 \text{ Sq. Ft.}} \right]$$

$$\text{No. Billable ERU's} = \text{No. Base ERU's} \times (1 - \text{Retention Credit Factor})$$

$$\text{Monthly Service Charge} = [\text{No. Billable ERU's}] \times [\text{Rate / ERU}]$$

6 Condominium units = 1 ERU/dwelling unit

7 Apartments units = 0.6 ERU/dwelling unit

8 Mobile homes = 0.6 ERU/dwelling unit

9 Definition of dwelling unit shall be those living areas served by individual electric
10 and/or water meters.

11 (3) *Nonresidential/commercial property service charge shall be:*

12 A minimum value of 1.0 ERU shall be assigned to each

13 nonresidential/commercial property unless said property has earned a 100 ~~one~~

14 ~~hundred (100)~~ percent retention credit, in which case, the property will be

15 assigned a value of 0.0 ERU. The impervious area of each

16 nonresidential/commercial property shall be determined by the City Manager

17 or designee. ~~The value of two thousand three hundred (2,300) square feet of~~

1 ~~impervious area per ERU is an average obtained using data of the City of~~
2 ~~Gainesville.~~

3 (4) *Application to all developed properties.* Service charges shall apply to all
4 developed properties within the Ceity, including those properties classified as
5 nonprofit or tax-exempt for ad valorem tax purposes. Service charges~~It~~ shall apply
6 to all government properties, including properties of the City of Gainesville,
7 including the Ceity-owned buildings, parks, and other properties.

8 (5) *Undeveloped property.* Stormwater management service charges shall not
9 be levied against undeveloped property that has not been altered from the natural
10 state as defined under section 27-237, "impervious area-" and "partial impervious
11 area." Farmland, gardens, and landscaped areas shall also be exempt except for
12 any roads, parking, or structures associated therewith.

13 (c) *Billing.* The fees imposed by this article shall be billed on a monthly basis and
14 may be billed in conjunction with the property owner or property user's monthly electric
15 bill issued by the Ceity through Gainesville Regional Utilities. Such fees shall be due and
16 payable at the same time and in the same manner and subject to the same penalties as
17 other utility fees. In the event a developed property ~~does~~shall not have other City utility
18 service(s) ~~at the time of the adoption of this article but is deemed to be contributing~~
19 ~~runoff to the city's stormwater management system,~~ a new account shall be developed and
20 that property shall be billed separately for the stormwater management charges. The
21 Ceity Manager or designee may create a new account for stormwater utility billing
22 purposes only for a property owner or a property user that may also have a valid City
23 electric and/or water utility account.

1 **Sec. 27-242. Stormwater management utility trust fund.**

2 (a) A stormwater management utility trust fund is hereby established into which all
3 revenues from user fees, connection charges, grants, or other funding sources shall be
4 deposited and from which all expenditures related to the Ceity's stormwater
5 management utility shall be paid. Accounting and reporting procedures shall be
6 consistent with state law and reported to the Ceity Ceommission by the Ceity
7 Mmanager or designee annually.

8 (b) Expenditures from the fund for activities that are not related to the Ceity's stormwater
9 management utility shall not be permitted, except for a prorated charge for general
10 Ceity government services as is in effect for other Ceity utility funds.

11 **Sec. 27-243. Appeals.**

12 (a) Any customer or property owner who feels that the stormwater management service
13 charge for their property has been assigned or computed incorrectly may petition in
14 writing to the Ceity Mmanager or designee for a review of said charges. "

15 (b) If not satisfied with the determination of the Ceity Mmanager or designee, the
16 petitioner may ask for a hearing before the Ceity Ceommission, whose decision shall
17 be final. Any credits authorized by the appeal process shall only be effective against
18 billings subsequent to the date of authorization.

19 **Sec. 27-244. Delinquent charges.**

20 (a) All charges not paid within 30 ~~thirty (30)~~ days after the bill is due, or that are not
21 under active appeal, shall be considered delinquent.

22 (b) All charges billed by Gainesville Regional Utilities shall be subject to the same
23 penalties for delinquencies as other City utility fees.

1 (c) All charges billed by Gainesville Regional Utilities to users of property which are
2 not paid within 60 ~~sixty (60)~~ days of billing may be billed to the owner of the property.

3 When the property owner is billed pursuant to this subsection, the provisions of
4 subsection (a) shall attach, and a late fee of one dollar ~~(\$1.00)~~ or two ~~(2)~~ percent of the
5 delinquent amount, whichever is greater, shall be assessed on all balances of more than
6 15 ~~fifteen~~ dollars ~~(\$15.00)~~ on each monthly statement reflecting a delinquent amount.

7 (d) All charges remaining delinquent after 60 ~~sixty (60)~~ days may be:

8 (1) Referred to a collection agency; or

9 (2) Referred to the Ceity ~~A~~ttorney to file suit thereon and collect all unpaid
10 charges, fees, interest, including reasonable attorney's fees and charges.

11 **Section 2.** It is the intention of the City Commission that the provisions of Section 1 of
12 this Ordinance shall become and be made a part of the Code of Ordinances of the City of
13 Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be
14 renumbered or relettered in order to accomplish such intentions.

15 **Section 3.** If any section, sentence, clause or phrase of this ordinance is held to be invalid
16 or unconstitutional by any court of competent jurisdiction, then said holding shall in no
17 way affect the validity of the remaining portions of this ordinance.

18 **Section 4.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
19 such conflict hereby repealed.

20 **Section 5.** This ordinance shall be effective immediately upon its adoption.

21
22 **PASSED AND ADOPTED** this _____ day of _____, 1998.
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24
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PAULA M. DeLANEY
MAYOR

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ATTEST:

Approved as to form and legality

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

This Ordinance passed on first reading this _____ day of _____, 1998.

This Ordinance passed on second reading this _____ day of _____,
1998.

carter:ordinances:0-98-80 SMU amendments