



MEMORANDUM

Office of the City Attorney

Phone: 334-5011/Fax 334-2229
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TO: Mayor and City Commission

DATE: May 13, 2002

FROM: City Attorney

FIRST READING


SUBJECT: **Ordinance No. 0-02-20**

An ordinance of the City of Gainesville, Florida, amending Chapter 27, Article V, Stormwater Management Utility; clarifying the intent and application of the charges and fees; making certain other changes for consistency and clarification; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission adopt the proposed ordinance.

The City is currently in the process of validating stormwater utility bonds. During the course of the proceeding, which is ongoing, issues were raised as to the application of the City's ordinance. The City Attorney is requesting authorization to amend certain sections of the ordinance to more specifically clarify that the City's stormwater utility charges are only made for services provided by the City to the City's stormwater management system.

Prepared by:


Elizabeth A. Waratuke
Litigation Attorney

Approved and
Submitted by:


Marion J. Radson
City Attorney

EAW:MJR:nmh

Ordinance No. 002679
0-02-20

An ordinance of the City of Gainesville, Florida, amending Chapter 27, Article V, Stormwater Management Utility; clarifying the intent and application of the charges and fees; making certain other changes for consistency and clarification; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

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

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

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

Section 1. Subsection (6) of Section 27-240 of the Code of Ordinances of the City of Gainesville is amended to read as follows:

Sec. 27-240. Same – Duties and powers.

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

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

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

3 (3) Promulgation of regulations for the use of the stormwater management system,
4 including provisions for enforcement of such regulations.

5 (4) Review and approval of all new development permits within the city for compliance
6 with stormwater management regulations included in present city ordinances or
7 ordinances later adopted.

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

10 (6) Establishment of charges for the city's stormwater management system.

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

13 (8) Performance of all normal utility functions to include construction, operation, and
14 maintenance of the city's stormwater management system, including, but not limited
15 to, the hiring of staff, the selection of special consultants, the entering into contracts
16 for services and construction of facilities, and the handling of purchase, lease, sale or
17 other rights to property for the stormwater management system.

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

20 **Section 2.** Subsection (b) of Section 27-241 of the Code of Ordinances of the City of
21 Gainesville is amended to read as follows:
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Sec. 27-241. Authority for service charges.

(b) *Rates for stormwater management service.* There is charged to all owners or occupants of real property in the city, with improvements or uses thereon which contribute stormwater runoff to the city's stormwater management system, a monthly fee as established by separate ordinance in accordance with the following definitions:

(1) *Single-family property service charges.* Each single-family property shall be considered one ERU for billing purposes. Monthly service charges for each single-family dwelling unit shall be identical, provided that the ratio of impervious area to total area of the lot does not exceed 50 percent and the total area of the lot exceeds 10,000 square feet. If the ratio of impervious to total area exceeds 50 percent and the total area of the lot exceeds 10,000 square feet, the rates established in subsection (b)(3) shall apply.

(2) *Multifamily property service charges.* The monthly service charge for all multifamily properties shall be:

Duplex units = One ERU/dwelling unit

Condominium units = One ERU/dwelling unit

Apartment units = 0.6 ERU/dwelling unit

Mobile homes = 0.6 ERU/dwelling unit

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

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

$$\text{No. Base ERU's} = \frac{\text{Impervious Area (sq. ft.)} + 0.5 (\text{Partial Impervious Area (sq. ft.)})}{2,300 \text{ sq. ft.}}$$

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

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

A minimum value of 1.0 ERU shall be assigned to each nonresidential/commercial property unless such property has earned a 100-percent retention credit, in which case, the property will be assigned a value of 0.0 ERU.

The impervious area of each nonresidential/commercial property shall be determined by the city manager or designee.

(4) *Application to all developed properties.* Service charges shall apply to all developed properties within the city using the city's stormwater management system, including those properties classified as nonprofit or tax-exempt for ad valorem tax purposes. Service charges shall apply to all government properties, including properties of the city, including the city-owned buildings, parks, and other properties.

(5) *Undeveloped property.* Stormwater management service charges shall not be charged to undeveloped property that has not been altered from the natural state as defined under section 27-237, "impervious area" and "partial impervious area."

1 Farmland, gardens, and landscaped areas shall also be exempt except for any roads,
2 parking, or structures associated therewith.

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

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

8 **Section 5.** This ordinance shall take effect immediately upon its adoption.

9 **PASSED AND ADOPTED** this _____ day of May, 2002.

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THOMAS D. BUSSING
MAYOR

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17 ATTEST:

Approved as to form and legality

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KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

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24 This Ordinance passed on first reading this _____ day of _____, 2002.

25 This Ordinance passed on second reading this _____ day of _____, 2002.

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