

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

ORDINANCE NO. 2007-32

AN ORDINANCE TO AMEND THE GEORGETOWN COUNTY CODE OF ORDINANCES IN ORDER TO ESTABLISH A STORMWATER UTILITY ENTERPRISE FUND AND STORMWATER UTILITY USER FEE RATES

WHEREAS, Georgetown County is authorized by the South Carolina Constitution and the General Statutes of South Carolina to perform stormwater management in pursuit of its responsibility to protect and preserve the public health, safety, and welfare of the community and to protect the natural resources of the County; and

WHEREAS, Georgetown County is authorized by the South Carolina Constitution and the General Statutes of South Carolina to fund stormwater management programs, improvements, and activities through appropriately structured service charges upon properties and persons; and

WHEREAS, the South Carolina General Assembly adopted the Stormwater Management and Sediment Reduction Act S.C. Code Section 48-14-10 et seq. (the Act) which authorizes the establishment of a Stormwater Management Utility; and the South Carolina Land Resources Commission has promulgated comprehensive regulations under the Act which regulate implementation of a Stormwater Management Utility; and

WHEREAS, the federal Clean Water Act as amended by the Water Quality Act of 1987 (33 U.S.C 1251 et seq.), other amendments, and rules promulgated by the United States Environmental Protection Agency pursuant to the Act and its amendments place increased emphasis on the role of local governments in developing, implementing, conducting, and funding stormwater management programs which address water quality impacts of stormwater runoff; and

WHEREAS, the Georgetown County Council has determined that existing and continuing development has created stormwater management problems in the County, and that the continued economic development of Georgetown County is itself dependent upon effective solutions to the existing and continuing stormwater problems and preservation of the quality of waters in the lakes, marshes, streams, rivers, bays, estuaries, and marine waters of the County; and

WHEREAS, through a detailed analysis conducted by experienced engineers and other professionals, Georgetown County has carefully examined the stormwater management problems, needs, and priorities of the County; has evaluated the management and funding options available to the County; and has determined that a countywide stormwater management program organized as a Stormwater Management Utility supported by adequate and stable funding is needed to address both stormwater quantity and stormwater quality; and

WHEREAS, Georgetown County has engaged a consultant to prepare cost of services and rate analyses for a stormwater service charge, and has considered the results of the consultant's analyses that identify the cost of the County's stormwater management programs, services, systems and facilities, project the rate base available within the County to meet such costs, and determine the rates that must be charged to recover the cost of service; and

WHEREAS, the Georgetown County Council finds and concludes from these analyses that substantial stormwater management problems and funding needs exist, and that adequate, stable, and dedicated funding will be essential if the County is to meet its future stormwater management program operational, regulatory, and capital improvement needs; and

WHEREAS, it is the desire of the Georgetown County Council to proceed with the adoption of a schedule of fees, rates, rentals, charges, fines, and penalties appropriate to and sufficient to fund the Stormwater Management Utility program; and

WHEREAS, the County is required to apply for, obtain, and comply with a National Pollutant Discharge Elimination System (NPDES) Phase II permit for discharges of stormwater runoff into the waters of the State of South Carolina; and

WHEREAS, it is the desire of the Georgetown County Council to proceed with the establishment, development, implementation, and operation of a Stormwater Management Utility dedicated specifically and solely to the management, construction, maintenance, protection, control, regulation, use, and enhancement of stormwater systems and programs, that shall be accounted for in the County budget as a separate enterprise accounting unit.

NOW, THEREFORE, BE IT ORDAINED AND DECREED by Georgetown County Council that Georgetown County Code of Ordinances should be amended as follows:

Chapter 8, Article III is added as follows:

Sec 8-31. Findings

The Council does hereby find that:

- (a) South Carolina Constitution and the General Statutes of South Carolina authorize Georgetown County to perform stormwater management in pursuit of its responsibility to protect and preserve the public health, safety, and welfare of the community and to protect the natural resources of the County.

(b) The South Carolina Constitution and the General Statutes of South Carolina authorize Georgetown County to fund stormwater management programs, improvements, and activities through appropriately structured service charges upon properties and persons.

(c) Georgetown County has carefully examined the stormwater management problems, needs, and priorities of the County, and has evaluated the management and funding options available to the County; and has determined that a countywide stormwater management program organized as a Stormwater Management Utility supported by adequate and stable funding is needed to address both stormwater quantity and stormwater quality.

Sec. 8-32 Definitions

Unless the context specifically indicates otherwise, the meaning of words and terms used in this article shall be as set forth in S.C. Code Section 48-14-20, and 26 S.C. Code Regulation 72-301, mutatis mutandis.

Credits - Credit shall mean a conditional reduction in the amount of a stormwater service charge or other fees, rates, rentals, charges, fines, and penalties to an individual property based on the provision and continuing presence of an effectively maintained and operational on-site stormwater system or facility, or continuing provision of a service or activity that reduces the stormwater demand the property places on the Stormwater Utility.

Customers of the Stormwater Utility - Customers of the stormwater utility shall include all persons, properties, and entities served by the utility's stormwater management programs, systems and facilities regulated public and private stormwater systems, facilities and activities related thereto, and persons, properties, and entities which will ultimately be served as a result of the stormwater management program.

Detached single-family dwelling unit - Detached single-family dwelling unit shall mean developed land containing one structure, which is not attached to another dwelling, that contains one or more bedrooms with a bathroom and kitchen facilities, and is designed for occupancy by one family. Detached dwelling units may include single-family houses, single duplex, triplex or quadraplex units under common ownership, patio homes, manufactured homes, and mobile homes located on individual lots or parcels of land. Developed land may be classified as a detached single-family dwelling unit despite the presence of incidental structures that are associated with residential uses such as garages, carports, or small storage buildings. Detached single-family dwelling units shall not include developed land containing: structures used primarily for non-residential purposes; manufactured homes and mobile homes located within manufactured home or mobile home parks or in groups on a single land parcel where the land is not owned by the manufactured home or mobile home owners, and; town home or condominium complexes or multiple residential dwelling units other than duplexes, triplexes and quadraplexes on individual land parcels.

Developed Land - Developed land shall mean property altered from its natural state by construction or installation of improvements such as buildings, structures, or other impervious surfaces, or by other alteration of the property that results in a meaningful change in the hydrology of the property during and following rainfall events.

Equivalent Residential Unit - For the purposes of this ordinance, an Equivalent Residential Unit shall mean three thousand seven hundred seventy (3,770) square feet of impervious area. The equivalent residential unit shall be used as the basis for determining stormwater service charges to detached single-family dwelling unit properties and other properties.

Exemption - Exemption shall mean not applying to or removing from a parcel the application of the Stormwater Management Utility service charge. Permanent exemption shall not be granted based on taxable or non-taxable status or economic status of the property owner. An exemption may be granted based on agreements between the County and other persons, governmental and non-governmental entities, and organizations whereby the latter perform on-site and/or off-site stormwater quantity and quality management, including acquiring, designing, building, operating, and maintaining systems and facilities, and performing measures and actions which equal or exceed the stormwater management program performed by the Stormwater Management Utility. Exemptions may be removed or rescinded at any time by the County.

Impervious surface area - Impervious surfaces are those areas which prevent the infiltration of or impede the rate of infiltration of stormwater into the soil as compared with the natural conditions prior to development. Common impervious areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, engineered and compacted gravel surfaces used for vehicular travel or parking, awnings and other fabric or plastic coverings, and other surfaces which prevent or impede the natural infiltration of stormwater runoff that existed prior to development.

Multiple-dwelling unit residential properties - Multiple-dwelling unit residential properties shall mean developed land whereon more than one residential dwelling unit is located, and shall include, but not be limited to apartment houses, residential townhouse and condominium developments, attached single-family homes, boarding houses, group homes, hotels and motels, retirement centers, and other structures in which more than one family group commonly and normally reside or could reside. In the application of stormwater service charges, multiple-dwelling unit properties shall be treated as other developed lands as defined in this Article.

Other developed lands - Other developed lands shall mean land parcels not otherwise defined in this section with more than 400 square feet of impervious surface. Other developed lands shall include, but not be limited to, multiple-dwelling unit residential properties, manufactured home and mobile home parks, commercial and office buildings, public buildings and structures, 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 facilities and stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, and water and wastewater treatment plants. Properties containing detached single-family dwelling units that are used for other than single-family residential use shall be deemed other developed lands for the purpose of calculating stormwater service charges.

Stormwater - Stormwater runoff, snowmelt runoff, and surface runoff and drainage.

Stormwater Management Facilities and Systems - The conveyance or system of conveyances (including roads with drainage systems, highways, rights-of-way, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, detention ponds, and other stormwater facilities) which is (a) designed or used for collecting or conveying stormwater; (b) not a combined sewer system; and (c) not part of a Publicly Owned Treatment Works (POTW).

Stormwater service charges - Stormwater service charges shall mean the periodic service charge imposed pursuant to this Article for the purpose of funding costs related to Stormwater Management Services and Stormwater Management Systems and Facilities. The use of the impervious area of each property as a stormwater service charge rate parameter shall not preclude the use of other parameters, or of grouping of properties having similar characteristics into classes or categories, grouping of properties having similar characteristics through the use of ranges or rounding up or down to a consistent numerical interval, or the use of flat-rate charges for one or more classes of similarly-situated properties whose demand on Georgetown County for providing Stormwater Management Services and Stormwater Management Systems and Facilities incurs relatively consistent cost. Stormwater service charges may also include special charges to individual properties or persons for services, systems, or facilities related to stormwater management, including but not limited to charges for development plan review, inspection of development projects and on-site stormwater control systems, and enhanced levels of stormwater service above and beyond the levels normally provided by Georgetown County.

Sec. 8-33 Establishment of a Stormwater Management Utility and Stormwater Management Enterprise Fund

(a) There is hereby established within the Public Services Department of Georgetown County a Stormwater Management Utility for the purpose of conducting the County's stormwater management program.

(b) The County Administrator shall establish and maintain a Stormwater Management Utility enterprise fund in the County budget and accounting system, which shall be and remain separate from other funds. All revenues of the Utility shall be placed into the Stormwater Management Utility enterprise fund and all expenses of the Utility shall be paid from the fund, except that other revenues, receipts, and resources not accounted for in the Stormwater Management Utility enterprise fund may be applied to

stormwater management programs, services, systems, and facilities as deemed appropriate by the Georgetown County Council.

- (1) The County Administrator may designate within the Stormwater Management Utility enterprise fund such sub-units as necessary for the purpose of accounting for the geographical generation of revenues and allocation of expenditures pursuant to interlocal governmental agreements as may be established with the cities and towns of Georgetown County.

Sec. 8-34 Purpose and Responsibility (SC)

(a) Purpose. This ordinance establishes a Stormwater Management Utility as an identified fiscal and accounting fund for the purpose of comprehensively addressing the stormwater management needs of the County through programs designed to protect and manage water quality and quantity by controlling the level of pollutants in stormwater runoff, and the quantity and rate of stormwater received and conveyed by structural and natural stormwater and drainage systems of all types. It sets forth a schedule of charges and defines the control, collection, and disbursal of funds including penalties, appeals, exemptions and credits.

(b) Responsibility.

- (1) Georgetown County owns or has legal access for purposes of operation, maintenance, and improvement of those systems and facilities which: (1) are located within public streets, rights-of-way, and easements; (2) are subject to easements, rights-of-entry, rights-of-access, rights-of-use, or other permanent provisions for adequate access for operation, maintenance, and/or improvement of systems and facilities; or (3) are located on public lands to which the County has adequate access for operation, maintenance, and/or improvement of systems and facilities.
- (2) Operation, maintenance, and/or improvement of stormwater systems and facilities, which are located on private property or public property not owned by Georgetown County and for which there has been no public dedication of such systems and facilities for operation, maintenance, and/or improvement of the systems and facilities shall be and remain the legal responsibility of the property owner, except as that responsibility may be otherwise affected by the laws of the State of South Carolina and the United States of America.
- (3) It is the express intent of this Ordinance to protect the public health and safety, and the welfare of all properties and persons 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 County. Georgetown County expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary

damages upon the County, its officers, employees and agents arising out of any alleged failure or breach of duty or relationship as may now exist or hereafter be created.

- (4) To the extent that any permit, plan approval, inspection or similar act pursuant to this or any other regulatory ordinance, regulation, or rule of the County or under Federal or State law is required by the County as a condition precedent to any activity or change upon property not owned by the County, 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 or negligent issuance of a permit, seeking the imposition of money damages against the County, its officers, employees, or agents

Sec. 8-35 Boundaries and Jurisdiction

The boundaries and jurisdiction of the Stormwater Management Utility shall encompass all those portions of unincorporated Georgetown County, as they may exist from time to time. The boundaries and jurisdiction of the Stormwater Management Utility shall also encompass additional areas lying inside the corporate limits of those cities and towns in Georgetown County as shall or in the future may be subject to interlocal agreements for stormwater management as approved by County Council.

Sec. 8-37 General funding policy

(a) It shall be the policy of Georgetown County that funding for the stormwater management utility program, services, systems, and facilities shall be equitably derived through methods which have a demonstrable relationship to the varied demands imposed on the stormwater program, services, systems, and facilities by individual properties or persons and/or the level of service rendered by or resulting from the provision of stormwater programs, systems, and facilities. Stormwater service charge rates shall be structured so as to be fair and reasonable, and the resultant service charges shall bear a substantial relationship to the cost of providing services and facilities throughout the County. Similarly situated properties shall be charged similar rentals, rates, charges, fees, or licenses. Service charge rates shall be structured to be consistent in their application and shall be coordinated with the use of any other funding methods employed for stormwater management within the County, whether wholly or partially within the unincorporated portions of the County or within the cities and towns. Plan review and inspection fees, special fees for services, fees in-lieu of regulatory requirements, impact fees, system development charges, special assessments, general obligation and revenue bonding, and other funding methods and mechanisms available to the County may be used in concert with stormwater service charges and shall be coordinated with such charges in their application to ensure a fair and reasonable service charge rate structure and overall allocation of the cost of services and facilities.

(b) The cost of stormwater management programs, systems, and facilities subject to stormwater service charges may include operating, capital investment, and non-operating expenses, prudent operational and emergency reserve expenses, and stormwater quality as well as stormwater quantity management programs, needs, and requirements.

(c) Credits against stormwater service charges and/or other methods of funding stormwater management may be provided for on-site stormwater control systems and activities constructed, operated, maintained and performed to the County's standards by private property owners or by a city or town or by a planned unit development which reduce the demand for stormwater service placed on the County Stormwater Management Utility by improving the quality of the runoff, reducing the runoff discharges, reducing the volume of stormwater runoff, or improving the function of public stormwater systems or facilities. The monetary value of any provided credits shall bear a substantial relationship to the stormwater service demand reduction caused by the control systems or activities constructed, operated, maintained, or undertaken.

Sec. 8-38 Stormwater Utility Service Charges

Stormwater service charge rates may be determined and modified from time to time by the Georgetown County Council so that the total revenue generated by said charges and any other sources of revenues or other resources allocated to stormwater management by the County Council to the Stormwater Management Utility shall be sufficient to meet the cost of stormwater management services, systems, and facilities, including but not limited to the payment of principal and interest on debt obligations, operating expense, capital outlays, non-operating expense, provisions for prudent reserves, and other costs as deemed appropriate by the County Council.

Sec. 8-38.1 Impervious Surface Area and Equivalent Residential Unit

(a) Impervious surface area on a given land parcel directly relates to the volume, rate and pollutant loading of stormwater runoff discharged from that land parcel to the County's structural and natural drainage systems and facilities. Therefore, impervious surface area shall be the primary parameter for establishing a rate structure to distribute the cost of services associated with the operation, repair, improvement, maintenance, and ongoing regulatory compliance of public drainage systems and facilities through a schedule of rates, fees, charges, and penalties related to the operation of a Stormwater Management Utility and Stormwater Management Enterprise Fund.

(b) Based on an analysis by the County of impervious surface area on properties throughout the County, an impervious surface area of three thousand seven hundred seventy (3,770) square feet shall be designated as one (1) Equivalent Residential Unit (ERU).

Sec. 8-38.2 Schedules of Fees and Charges

The following stormwater service charge rates shall apply:

- (a) Detached single-family dwelling units - Detached single-family dwelling units, as defined by this article, shall be billed for one (1) equivalent residential unit, as defined in this ordinance.
- (b) Other developed lands - All developed lands not classified as detached single-family dwelling units, as defined by this article, shall be billed for one (1) equivalent residential unit for each three thousand seven hundred seventy (3,770) square feet or fraction thereof of impervious area on the subject property.
- (c) There will be no service charge for developed lands with less than four hundred (400) square feet of impervious area.
- (d) The rates and charges for Stormwater Management Utility services and facilities shall be determined by the County Council from time to time and remain on file in the office of the Director of Public Services. The annual utility service charge for one (1) equivalent residential unit as initially codified shall be fifty-two (52) dollars per year.

Sec. 8-38.3 Exemptions and Credits applicable to stormwater utility service charges

- (a) Credits - Credits against stormwater management utility service charges are an appropriate means of adjusting fees, rates, rentals, charges, fines and penalties, under some circumstances, to account for applicable mitigation measures. Credit mechanisms may be established by the County Council and, if established, the means and measures for identifying, issuing and obtaining credits will be provided in a Credit Manual approved by the County Council. No exception, credit, offset, or other reduction in stormwater management service charges shall be granted based on age, race, tax status, economic status or religion of the customer, or other condition unrelated to the demand for and cost of services provided by the Stormwater Management Utility.
- (b) Exemptions - Except as provided in this section, no public or private property shall be exempt from Stormwater Management Utility service charges and fees, with the following exceptions:
 - (1) Public road rights-of-way that have been conveyed to and accepted for maintenance by the South Carolina Department of Transportation, and that are available for use by the general public for transportation purposes, shall be exempt from County Stormwater Management Utility service charges.
 - (2) Public road rights-of-way that have been conveyed to and accepted for maintenance by Georgetown County, and that are available for use by the general public for transportation purposes shall be exempt from County Stormwater Management Utility service charges.

- (2) Railroad rights-of-way with a stone base and used only for trackage shall be exempt from County Stormwater Management Utility service charges.

Sec. 8-39 Billing and Collections

(a) Method of Billing - A stormwater service charge bill may be attached as a separate line item to the County's property tax billing or 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. The stormwater service charge bill may be billed and collected along with other charges, including but not limited to the Georgetown County property tax billing, other Georgetown County utility bills, or assessments as deemed most effective and efficient by the Georgetown County Council. 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 land shall be ultimately obligated to pay such charges and any associated fines or penalties, including but not limited to interest on delinquent service charges. If a customer is under-billed or if no bill is sent for a particular property, Georgetown County may retroactively bill for a period of up to one-year, but shall not assess penalties for any delinquency during that previous unbilled period.

(b) Declaration of Delinquency - A stormwater service charge shall be declared delinquent if not paid within sixty (60) days of the date of billing or upon the date of delinquency of the annual property tax billing if the stormwater service charge is placed upon the annual property tax billing or enclosed with or attached to the annual property tax billing.

(c) Collection of Delinquencies - The administrative remedies provided in section 8-41 shall be exhausted before recourse to a court of competent jurisdiction

Sec. 8-40 Investment and Reinvestment of Funds and Borrowing

Funds generated for the Stormwater Management Utility from fees, bond issues, other borrowing, and other sources shall be utilized only for those purposes for which the Utility has been established, including but not limited to: regulation; planning; acquisition of interests in land, including easements; design and construction of facilities; maintenance of the stormwater system; billing and administration; water quantity and water quality management, including monitoring, surveillance, private maintenance inspection, construction inspection; and other activities which are reasonably required. Such funds shall be invested and reinvested pursuant to the same procedures and practices established by the County for investment and reinvestment of funds. County Council may use any form of borrowing authorized by the laws of the State of South Carolina to fund capital acquisitions or expenditures for the Stormwater Management Utility. County Council, in its discretion and pursuant to standard budgetary procedures, may supplement such funds with amounts from the General Fund.

Sec. 8-41 Appeals

Any customer who believes the provisions of this Article have been applied in error may appeal in the following manner and sequence.

(a) An appeal of a stormwater service charge must be filed in writing with the Georgetown County Public Services Director or his/her designee within thirty (30) days of the charge being mailed or delivered to the property owner and stating the reasons for the appeal. In the case of stormwater service charge appeals, the appeal shall include a survey prepared and sealed 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 that influence the overall intensity of development of the property and its hydrologic response to rainfall events.

(b) Using information provided by the appellant, the County Public Services Director (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. In response to an appeal, the County Public Services Director may adjust the stormwater service charge applicable to the property in conformance with the general purposes and intent of this Ordinance.

(c) A decision of the County Public Services Director that is adverse to an appellant may be further appealed to the County Administrator or his designee within thirty (30) days of the adverse decision. The appellant, stating the grounds for further appeal, shall deliver notice of the appeal to the County Administrator or his designee. The County Administrator or his designee shall issue a written decision on the appeal within thirty (30) days. All decisions by the County Administrator or his designee shall be served on the customer personally or by registered or certified mail, sent to the billing address of the customer. All decisions of the County Administrator or his designee shall be final.

Sec. 8-42 Conflict

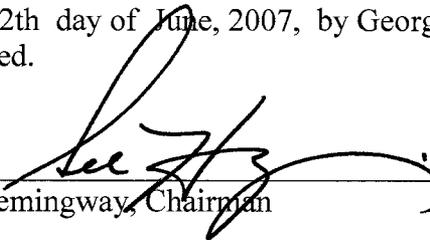
If a Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Georgetown County, then the preceding Section, Sub-section or part shall be deemed repealed and no longer in effect.

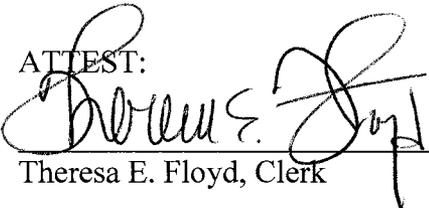
Sec. 8-43 Severability

Should any word, phrase, clause or provision of this Ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect this Ordinance as a whole or any part hereof, except that specific provision declared by such court to be invalid or unconstitutional.

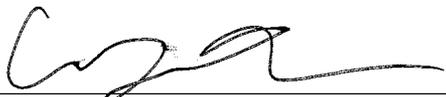
Following adoption on third reading, this Ordinance, #2007-32, shall take effect on July 1, 2007.

DONE, RATIFIED AND ADOPTED this 12th day of June, 2007, by Georgetown County Council, in a meeting duly assembled.


Sel Hemingway, Chairman

ATTEST:

Theresa E. Floyd, Clerk

This Ordinance No. 2007-32 has been reviewed by me and is hereby approved as to form and legality.


Wesley P. Bryant
Georgetown County Attorney

First Reading: May 8, 2007

Second Reading: May 22, 2007

Third Reading: June 12, 2007