

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF CHAMBLEE, GEORGIA,  
APPENDIX A, "UNIFIED DEVELOPMENT ORDINANCE," TITLE 3: "DEVELOPMENT AND PERMITTING"  
AND FOR ALL OTHER LAWFUL PURPOSES**

BE IT ORDAINED AND IT IS HEREBY ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CHAMBLEE, GEORGIA THAT THE PROVISIONS OF THE "UNIFIED DEVELOPMENT ORDINANCE" BE AMMENDED AS FOLLOWS:

**PART I**

**Section 340-46. - Findings.**

(a) The Mayor and City Council make the following findings:

- (1) The City is authorized by the supplementary powers provisions of Article IX, section II, paragraph III(a)(6) of the Georgia Constitution to provide a stormwater collection and disposal system throughout the city.
- (2) The federal Clean Water Act as amended by the Water Quality Act of 1987 (33 U.S.C. § 1251 et seq.) and rules promulgated by the United States Environmental Protection Agency pursuant to the Act emphasizes the role of local governments in developing, implementing, conducting and funding stormwater programs which address water quality and the impact of stormwater runoff.
- (3) Stormwater management services and facilities will assist the City in meeting the regulatory obligations imposed by its national pollutant discharge elimination system (NPDES) permit by reducing pollution and increasing water quality within the City.
- (4) The City presently owns and operates stormwater management systems and facilities which have been developed over many years. The future usefulness of the existing stormwater systems owned and operated by the City, and of additions and improvements thereto, rests on the ability of the City to effectively manage, protect, control, regulate, use, and enhance stormwater systems and facilities in the City in concert with the management of other water resources in the City. To do so, the City must have adequate and stable funding for its stormwater management program's operating needs and capital.
- (5) Stormwater management services and facilities are needed throughout the City because most of those areas are developed. 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 City is consistent with the present and future needs of the community.
- (6) The provision of stormwater management services and facilities in the City promotes an essential regulatory purpose by controlling where stormwater runoff flows and how it is disposed, and thereby reducing flooding, erosion and water pollution caused by stormwater runoff.
- (7) Stormwater management services and facilities will provide a specific service to property owners by assisting in the property owner's legal obligation to control stormwater runoff from their property and ensure that runoff does not flow upon their neighbors in greater quantities than it would if the property were in an undeveloped state. By mitigating the impact of

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stormwater runoff from developed property, the stormwater management system helps prevent damage that would subject a property owner to civil liability.

- (8) The City is responsible for the protection and preservation of the public health, safety, and welfare of the community, and finds that it is in the best interest of the health, safety, and welfare of the citizens of the City to proceed with the development, implementation, and operation of a utility for stormwater management accounted for in the City budget as a separate enterprise fund dedicated solely to stormwater management and to institute funding methods associated therewith.
- (9) The City has undertaken a comprehensive review by staff and professional consultants of the need for, management of, and funding for, a stormwater utility. The staff reports and the professional engineering and financing feasibility analysis properly assess and define the stormwater management problems, needs, goals, program priorities and funding opportunities of the City.
- (10) As a result, the City finds that a stormwater utility provides the most practical and appropriate means of properly delivering storm water management services and facilities, and finds that a utility fee provides the most practical and appropriate means of funding stormwater management services in the City.
- ~~(3) Stormwater management is applicable and needed throughout the corporate limits 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 corporate limits of the City is consistent with the present and future needs of the community.~~
- ~~(4) The stormwater needs in the City include, but are not limited to, protecting the public health, safety and welfare. Provision of stormwater management programs and facilities renders and/or results in both service and benefit to all properties, property owners, citizens, and residents of the city in a variety of ways. The service and benefit rendered or resulting from provision of stormwater management systems and facilities may differ depending on many factors and considerations, including but not limited to, location, demands and impacts imposed on the stormwater systems and programs, and risk exposure.~~
- ~~(5) The county presently owns and operates stormwater management systems and facilities in the city which have been developed over many years. The future usefulness of the existing stormwater systems owned and operated by the county and of additions and improvements thereto, rests on the ability of the City and county to effectively manage, protect, control, regulate, use and enhance stormwater systems and facilities in the City in concert with the management of other water resources in the City and county. In order to do so, the City and county must have adequate and stable funding for the stormwater management program, operating capital and investment needs.~~
- ~~(6) The Mayor and City Council find, conclude and determine that a utility provides the most practical and appropriate means of properly delivering and funding stormwater management services in the city.~~
- ~~(7) An equitable approach to funding stormwater management services and facilities can be provided by adopting a schedule of service charges upon properties that is related to burden of stormwater quality control service requirements and costs posed by properties throughout the~~

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~~city. Such schedule of service charges can be complemented by other funding methods which address specific needs, including but not limited to, allocations of special purpose local option sales taxes to stormwater drainage improvement projects. A service charge credit is an appropriate means of adjusting service charges in recognition that private stormwater systems and/or actions can effectively reduce or eliminate the burden of stormwater quantity and quality control service requirements and costs that a property or properties pose for the City. Impervious area is the most important factor influencing stormwater service requirements and costs posed by properties throughout the city, and therefore is an appropriate parameter for calculating stormwater service charges and associated credits. In addition, the value to the stormwater utility of certain actions and practices performed by property owners and other stormwater utility customers may be recognized by credits based on other factors, including but not limited to, the avoided cost of public information and education realized by the utility when public information and education about stormwater management is provided by the public school system.~~

- ~~(8) The "Feasibility Study for a Stormwater Utility User Fee" prepared by HDR/WL Jorden, Inc., CH2M HILL, Brown Design Associates, Inc., and CFA International, LLC, properly assesses and defines the stormwater management problems, needs, goals, program priorities and funding opportunities for all of the county.~~
- ~~(9) Given the problems, needs, goals, program priorities and funding opportunities identified in the "Feasibility Study for a Stormwater Utility User Fee," 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 systems in the city in concert with similar programs in the county.~~
- ~~(10) It would be advantageous for the City and the county to enter into an intergovernmental agreement to effectively provide stormwater services and charge and collect reasonable fees for such services.~~

**Section 340-47. - Establishment of a utility and enterprise fund.**

- (a) There is hereby established a stormwater management utility within the city which shall be responsible for stormwater management throughout the City's corporate limits, and shall provide for the management, protection, control, regulation, use, and enhancement of stormwater systems and facilities. Such utility shall be under the direction of a stormwater utility director, appointed by the Planning and Development Director.
- (b) The Planning and Development Director shall establish a stormwater enterprise fund in the City budget and accounting system, separate and apart from its general fund, for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the utility, including but not limited to, rentals, rates, charges, fees and licenses as may be established by the City Council. All revenues and receipts of the stormwater utility shall be deposited promptly upon receipt into the stormwater enterprise fund, to be held and invested in trust for the purposes dedicated and expended exclusively for purposes of the utility, including capital project construction. No other funds of the City shall be deposited in the stormwater enterprise fund or commingled with dedicated stormwater revenues, except that other revenues, receipts and resources not accounted for in the stormwater enterprise fund, including grants, loans and bond proceeds may be combined

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with and applied to stormwater management capital projects as deemed appropriate by the City Council, upon recommendation of the stormwater utility director.

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

**Section 340-48. - Scope of responsibility for the drainage system in the city.**

- (a) The City drainage system consists of all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage ways, channels, ditches, swales, storm sewers, culverts, inlets, catch basins, pipes, head walls and other structures, natural or manmade, within the political boundaries of the City which control and/or convey stormwater through which the City intentionally diverts surface waters from its public streets and properties. The City ~~or the county~~ owns or has legal access for purposes of operation, maintenance and improvements to those segments of this system 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 City has adequate access for operation, maintenance, and/or improvement of systems and facilities.
- (b) Operation and maintenance of stormwater systems and facilities which are located on private property or public property not owned by the City ~~or county~~ and for which there has been no public dedication of such systems and facilities shall be and remain the legal responsibility of the property owner, or its occupant, except as that responsibility may be otherwise affected by the laws of the state and the Unites States of America.
- (c) It is the intent of this Article to protect the public health, safety and general welfare of all properties and persons in general, but not to create any special duty or relationship with any individual person or to any specified property within or without 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 upon the City, its officers, employees and agents arising out of any alleged failure or breach of duty or relationship as may not exist or hereafter be created. To the extent any permit, plan approval, inspection or similar act is required by the City as a condition precedent to any activity by or 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 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 City, its officers, employees or agents.

**Section 340-52. - Stormwater service fees established.**

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(a) In order to fully recover the cost of providing stormwater services and facilities while fairly and reasonably apportioning the cost among developed properties throughout the City, the City has set forth a stormwater service charge, which shall be established by resolution and set forth in a fee schedule kept and maintained by the office of the city clerk.

~~(a) In order to fully recover the cost of providing stormwater services and facilities while fairly and reasonably apportioning the cost among developed properties throughout the City, the following stormwater rates shall apply:~~

~~(1) *Residential properties:* The stormwater service charge shall be four dollars per month per unit, calculated as follows:~~

~~a. All single-family attached and detached dwellings shall be charged the rate applicable to one equivalent residential unit.~~

~~b. All multifamily and mixed-use multifamily dwellings shall be charged the rate applicable to 0.5 times the number of dwelling units located on the multifamily or mixed-use multifamily property.~~

~~(2) *All other properties:* The stormwater service charge shall be four dollars per month for each 3,000-square feet of impervious surface or increment thereof on the property.~~

**Section 340-53. - Exemptions and credits applicable to stormwater service charges.**

(a) Except as provided in this section, no public or private property shall be exempt from stormwater utility service charges or receive a credit or offset against such service charges. No exception, credit, offset, or other reduction in stormwater service charges shall be granted based on the age, tax or economic status, race, or religion of the customer, or other condition unrelated to the stormwater utility's cost of providing stormwater services and facilities.

(b) The following properties are exempt from stormwater utility fees:

(1) Undeveloped land.

(2) All public rights-of-way.

(3) Railroad rights-of-way (tracks). However, railroad stations, maintenance buildings, or other developed land used for railroad purposes shall not be exempt from stormwater service charges.

(4) Any property whereby 100 percent of the stormwater runoff is contained on the premises and no runoff enters into the stormwater management system.

(5) Developed land which by reason of topography discharges stormwater onto land or property which does not lie within the jurisdictional limits of the City.

(c) Credits are available based on the following:

(1) Property owners of developed land may receive a stormwater service charge credit for on-site systems or facilities. Stormwater service charge credits shall be determined based on the technical requirements, design and performance standards contained in the 2016 edition of the Georgia Stormwater Management Manual, as may be updated or amended from time to time. Stormwater service charge credits may total up to 40 percent of the service charge applicable to a property, and shall be granted in the following increments:

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- a. Ten percent credit for on-site systems or facilities sized and functioning to meet water quality in accordance with [City of Chamblee Code of Ordinances](#) and the 2016 edition of the Georgia Stormwater Management Manual, as may be updated or amended from time to time.
  - b. Ten percent credit for on-site systems or facilities sized and functioning to meet the channel protection in accordance with [City of Chamblee Code of Ordinances](#) and the 2016 edition of the Georgia Stormwater Management Manual, as may be updated or amended from time to time.
  - c. Ten percent credit for on-site systems or facilities sized and functioning to meet the overbank flood protection in accordance with [City of Chamblee Code of Ordinances](#) and the Georgia Stormwater Management Manual, as may be updated or amended from time to time.
  - d. Ten percent credit for on-site systems or facilities sized and functioning to meet the extreme flood protection properly [in accordance with City of Chamblee Code of Ordinances and the 2016 edition of the Georgia Stormwater Management Manual, as may be updated or amended from time to time.](#)
- (2) Property owners seeking service charge credits must apply for stormwater service charge credits through completion and submittal to the City of a stormwater service charge credit application prior to January 1 of the year in which stormwater service charges are to be billed. (Except for 2005, in which applications must be received by March 1, 2005). Credits will only be granted through applications approved by the City for the remainder of the year in which stormwater service charges are to be billed.
  - (3) Upon receipt of a timely filed, completed application, the chief executive officer or his designee shall review the application and make a determination as to whether the applicable criteria for a credit has been met. All decisions regarding the approval or disapproval of a stormwater credit shall be made within 45 days of the date the completed application was submitted to the City.
  - (4) Any credit allowed against the service charge is conditioned on:
    - a. Continuing compliance with the [City's](#) design and performance standards as stated in the 2016 edition of the Georgia Stormwater Management Manual, as may be updated or amended from time to time; and
    - b. Upon continuing provision of the systems or facilities provided, operated, and maintained by the property owner or owners upon which the credit is based.
- (d) The City may revoke any credit at any time for noncompliance with this Article.

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**PART II**

It is hereby declared to be the intention of the Mayor and City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sentences of this ordinance.

The foregoing was proposed by Council member \_\_\_\_\_ with a motion that the same be adopted. Said motion was seconded by Council member \_\_\_\_\_. Same was then put to a vote and \_\_\_\_\_ Council members voted in favor of the ordinance, and \_\_\_\_\_ Council members voted against the ordinance. Said motion was thereupon declared passed and duly adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Cherron Bouie  
City Clerk, City of Chamblee, Georgia

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
The Honorable Brian Mock  
Mayor, City of Chamblee, Georgia

Approved as to form: \_\_\_\_\_  
City Attorney

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_