

AN ORDINANCE

TO AMEND THE STORMWATER MANAGEMENT ORDINANCE FOR THE CITY OF SPARTANBURG BY AMENDING SECTION 9.1, "FUNDING" OF DIVISION 9, "CHARGES AND FEES" AND BY ADOPTING DIVISION 10, "STORMWATER MANAGEMENT UTILITY" AND APPENDIX A.

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WHEREAS, the Stormwater Maintenance Ordinance for the City of Spartanburg was adopted September 8, 2008 ("Ordinance"), which complies with the provisions of the current, effective State of South Carolina NPDES General Permit for Stormwater Discharges from Regulated Small Municipal Separate Storm Sewer Systems, SC Water Pollution Control Regulations 61-9 and complies with the rules and regulations of the NPDES codified as 40 CFR 122-131, as amended; and

WHEREAS, this Ordinance, besides allowing for the management and mitigation of the effects of urbanization on stormwater drainage also prevents additional harm due to periodic flooding including loss of life and property and threats and inconveniences to public health, safety, welfare and the environment; and

WHEREAS, this Ordinance fully provided for the protection, conservation and promotion of orderly development so as to protect and conserve land and water resources; and

WHEREAS, the Ordinance protects the real property of its owners by and through its management and regulation of the control of stormwater; and

WHEREAS, the owners of the real property should finance the stormwater management system to the extent that they and the persons they permit to utilize their property contribute to

the need for the system; and

WHEREAS, it is in the best interests of the citizens of the City, and, most specifically, the owners of real property, that a stormwater management utility and stormwater management utility fee system be established by ordinance and implemented as part of the City's utility special revenue fund for the continuing funding of the stormwater management facilities components and management of same.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Members of Council of the City of Spartanburg, South Carolina, in Council assembled:

Section 1. To amend Section 9.1 by deleting the first sentence and adding at the end of the remaining sentence the words "either by separate ordinance or by and through the approval of the annual budget" so that after amendment, said Section 9.1 shall read as follows:

**DIVISION 9 CHARGES AND FEES**

**Sec. 9.1 Funding.**

**Establishment and revision of such fees shall be approved by the Spartanburg City Council either by separate ordinance or by and through the approval of the annual budget.**

Section 2. To adopt Division 10 in its entirety as follows:

**DIVISION 10 STORMWATER MANAGEMENT UTILITY**

**Sec. 10.1 Findings.**

**The City Council has made the following findings:**

- (a) The management and regulation of stormwater runoff and sediment is necessary to reduce pollution, siltation, sedimentation, local flooding and stream channel erosion, all of which impact adversely on land and water resources and the health, safety, property and welfare of the residents of the City;**

- (b) The City maintains a system of stormwater management facilities, including, but not limited to, inlets, conduits, manholes, outlets, ponds and certain drainage easements;**
- (c) The stormwater management facilities and components of the City need to be regularly maintained, rehabilitated, upgraded or improved, and additional stormwater management facilities and measures need to be installed throughout the City;**
- (d) The City needs to upgrade its capability to maintain existing and future stormwater management facilities and measures;**
- (e) All parcels of real property in the City, particularly those with improvements, both use or benefit from the stormwater management system and program; and the improvement of existing facilities and construction of additional facilities in the system will directly or indirectly benefit the owners of all real estate;**
- (f) Continued growth in the City will contribute to the need for improvements in and maintenance and regulation of the stormwater management system;**
- (g) The City can best manage and regulate the control of stormwater by a policy which regulates the use of real property, both private and public, and which takes reasoned, measured steps to involve the City in additional methods of participation and regulation;**
- (h) Owners of real property should finance the stormwater management system to the extent they and the persons they permit to utilize their property contribute to the need for the system, and fees or other charges therefore should bear a substantial relationship to the cost of the service; and**
- (i) It is in the best interests of the citizens of this City and, most specifically, the owners of real property, that a stormwater management utility and stormwater management utility fee system be established by ordinance and implemented as part of the City's utility special revenue fund, by whatever name designated.**

**Sec. 10.2 Stormwater Management Utility Established; Administration; Powers and Duties.**

The City Council hereby establishes a stormwater management utility to carry out the purposes, functions and responsibilities set forth in this division. The governing body of the stormwater management utility shall be the City Council. The Administrator shall administer the stormwater management utility through the public works department or such other departments and divisions as the City Manager shall designate. The stormwater management utility shall have the following powers and duties, which powers and duties are not necessarily exclusive to the stormwater management utility:

- (1) Stormwater management planning and preparation of comprehensive watershed master plans for stormwater management.
- (2) Regular inspections and maintenance of public stormwater management facilities and measures for the construction thereof, as well as regular inspections of private stormwater management facilities.
- (3) Maintenance and improvements of stormwater management facilities that have been accepted by the City for purposes of stormwater management.
- (4) Plan review and inspection of sediment control and stormwater management plans, measures and practices.
- (5) Retrofitting designated watersheds to reduce existing flooding problems or to improve water quality.
- (6) Acquisition of interests in land, including easements.
- (7) Design and construction of stormwater management facilities and measures and acquisition of equipment.
- (8) Water quantity and water quality management, including monitoring surveillance.
- (9) Any and all powers and duties delegated or granted to it as a local government implementing agency under the laws and regulations of the State and the Ordinances of the City.

**Sec. 10.3 Boundaries and Jurisdiction.**

The boundaries and jurisdiction of the stormwater management utility shall extend to the corporate limits of the City, as they may exist from time to time, and such areas lying outside the corporate limits of the City as shall be approved by the City Council.

**Sec. 10.4 Amount and Classification of Fees.**

Criteria for establishing fees. The City Council hereby establishes the amount and classifications of fees to be implemented to help fund the stormwater management utility and its programs and projects. In establishing such fees, the City Council has considered, among other things, the following criteria:

- (a) The fee system must be reasonable and equitable so that users pay to the extent they contribute to the need for the stormwater management utility, and so that fees or other charges bear a substantial relationship to the cost of service. The City Council recognizes that these benefits, while substantial, in many cases cannot be measured directly.
- (b) The components of the calculations used to establish fees must include, but may not be limited to, the following cost factors, which may be associated with the resolution of stormwater problems which the stormwater management utility shall seek to alleviate:
  - (1) Stormwater management planning and preparation of comprehensive watershed master plans for stormwater management;
  - (2) Regular inspection and maintenance of public stormwater management facilities and measures for the construction thereof, as well as regular inspections of private stormwater management facilities;
  - (3) Maintenance and improvement of stormwater management facilities that have been accepted by the City for purposes of stormwater management;
  - (4) Plan review and inspection of sediment control and stormwater management plans, measures and practices;
  - (5) Retrofitting designed watersheds to reduce existing flooding problems or to improve water quality;

- (6) Acquisition of interests in land, including easements;
  - (7) Design and construction of stormwater management facilities and measures and acquisition of equipment;
  - (8) Administration and enforcement;
  - (9) Water quantity and water quality management, including monitoring surveillance; and
  - (10) Debt service and financing costs.
- (c) The components of the calculations used to establish fees must be based on an equivalent residential unit (ERU), determined and approved by the City Council, with reasonable general adjustments being made for, but not limited to, the following factors:
- (1) Commercial, service and industrial land uses other than single-family residential;
  - (2) Open and/or forested land;
  - (3) Lot or tract size;
  - (4) The amount of site that is impervious; and
  - (5) Other generally accepted factors relevant to such calculations based upon the provisions of this article.
- (d) The practical difficulties and limitations related to establishing, calculating and administering such fees should be addressed with due regard for fairness, efficiency, ease of comprehension, and ease of administration.

**Sec. 10.5 Fee Structure.**

Stormwater management utility fees shall be fixed from time to time by the City Council and are set forth in the fee schedule in Appendix A to this Code. A copy of the initially proposed Appendix A is attached hereto. Fee categories are as follows:

- (a) Developed residential property. The fee structure for each parcel of developed residential property shall be allocated between two categories based on size of impervious area:

**(1) Developed residential properties with an impervious area of 1,640 square feet or less; and**

**(2) Developed residential properties with an impervious area greater than 1,640 square feet.**

**(b) Undeveloped residential property.**

**(c) Developed multi-residential and nonresidential property.**

**(d) Undeveloped multi-residential and nonresidential property.**

#### **Sec. 10.6 Review.**

**The fee structure adopted may be reevaluated in three to five years for its fairness in implementation and its capacity to fund adequately, but not excessively, the needs of the program.**

#### **Sec. 10.7 Adjustments.**

**The City may provide a system of adjustments against stormwater management utility fees which can be applied to properties on which stormwater management facility construction, or other comparable provisions of construction or design of the premises, substantially mitigates the effect of stormwater runoff from the property on the City's stormwater management system or materially reduces the cost for the City to provide a system of stormwater management.**

#### **Sec. 10.8 Determination of Amount of Impervious Area.**

**The Storm Water Manager or designee will determine the amount of impervious area on each developed multi-residential and nonresidential property. A determination will be made using information derived from digital and other photographic data, as maintained by the Storm Water Manager or designee, commonly designated as Geographic Information System (GIS) data, and such additional information, if available, as may reliably supplement such data. Upon written request, an owner, or lawful occupant obligated to the owner for payment of the fee, shall be provided a written determination of the amount of impervious area for which a fee has been established.**

**Sec. 10.9 Collection of Fees.**

- (a) Taxable property.** The Storm Water Manager or designee shall prepare and forward all information necessary to the county tax collector or his designee for the purpose of an annual billing of the stormwater management utility fee. Notice of the fee shall be included on the property owner's notice of ad valorem real property taxes, and the fee shall be due and payable simultaneously with the taxes. By resolution, the City Council may authorize the City Manager to implement other reliable means of billing.
- (b) Nontaxable property.** The City Council recognizes that nontaxable as well as taxable properties generate stormwater runoff and benefit from the stormwater management system and that the principle of fairness dictates that such properties be charged. The Storm Water Manager or his designee shall make arrangements for billing for nontaxable property in the same manner as taxable property. By resolution, the City Council may authorize the City Manager to implement other reliable means of billing.
- (c) Date of imposition of fee for developed properties.** Developed properties shall become subject to the imposition of the stormwater management utility fee at the billing cycle following final approval of site development by the City.

**Sec. 10.10 Use of Revenue; Investment of Funds; 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 stormwater management 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 management system, billing and administration, and 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 City for investment and reinvestment of funds. The City Council may use any form of borrowing authorized by law to fund capital acquisitions or expenditures for the stormwater management utility. The City Council, in its discretion and pursuant to standard budgetary procedures, may supplement such funds with amounts from the general fund.

**Sec. 10.11 Requests for Reconsideration; Appeals.**

**(a) Request for Reconsideration.**

- 1. A property owner of record, or a lawful occupant obligated to the owner for payment of the fee, may request a reconsideration of any determination or interpretation by the Storm Water Manager or designee in the operation of the stormwater management utility. Such request must be in writing and filed with the Storm Water Manager or designee, or such other person as the City Manager may designate, within thirty (30) days of receipt of notification of the determination or interpretation.**
- 2. The City shall review the application and make a decision on the request within thirty (30) days of receipt of the request.**
- 3. The request shall be made upon such forms and be accompanied by such information as the City, by written policy, shall require. The Appeal shall include a survey prepared 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 its hydrologic response to rainfall events.**

**(b) Appeals.**

- 1. Persons who are authorized to make a request and who are aggrieved by a decision of the City under this division shall have the right to appeal to the City Manager, or such person, committee or board as he may establish for such purpose.**
- 2. The appeal shall be in writing and shall set forth, in detail, the grounds upon which relief is sought. The person designated to review such appeal shall provide a hearing on the appeal within thirty (30) days of filing and render a decision within sixty (60) days of filing.**
- 3. The person designated to review such appeal shall have full authority to affirm, modify or reverse a decision being reviewed upon determining whether the decision was made in compliance with the standards, policies and criteria of this division.**

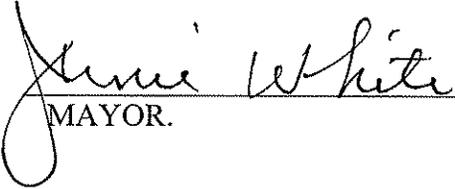
- (c) Payment of Fee Required. No provision of this division allowing for a request for reconsideration or for an administrative appeal shall be deemed to suspend the due date of the fee with payment in full. Any**

adjustment in the fee for the person pursuing a request for reconsideration or appeal shall be made by refund of the amount due.

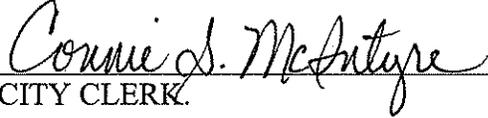
Sec. 10.12. Reserved.

Section 3. This Ordinance shall become effective upon the date of enactment.

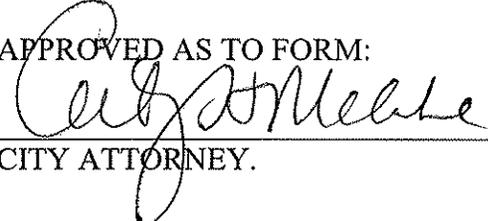
DONE AND RATIFIED this 10 day of May, 2010.

  
MAYOR.

ATTEST:

  
CITY CLERK.

APPROVED AS TO FORM:

  
CITY ATTORNEY.

4/26/10 1st Reading

5/10/10 2nd Reading

APPENDIX A: CITY OF SPARTANBURG STORMWATER UTILITY RATES

<b>Land Use Description</b>	<b>Fee Per Month</b>
Developed Residential (1640 sq ft or less)	\$2.50
Developed Residential (greater than 1640 sq ft)	\$3.50
Undeveloped Residential	\$2.50
Developed Commercial, Exempt or Industrial (Per ERU)	\$2.50
Undeveloped Commercial, Exempt or Industrial (Per ERU)	\$2.50