

ORDINANCE NO. 2403

**STORMWATER UTILITY ORDINANCE
FOR THE CITY OF SUMTER, SOUTH CAROLINA**

**AN ORDINANCE ESTABLISHING
STORMWATER UTILITY RATES, PROCEDURES,
FEES, PENALTIES, AND OTHER MATTERS
RELATED THERETO**

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SECTION 1. FINDINGS

The City Council of Sumter, South Carolina makes the following findings of fact:

- (1) Stormwater management activities, including but not limited to the maintenance of the city's stormwater system, including pipes, ditches, channels, catch basins, outfalls and drainage easements, are critical to reducing pollution, sedimentation, flooding and erosion. These maintenance activities and practices help to protect the health and safety of the city's residents.
- (2) A schedule of stormwater utility service charges based on the area of impervious coverage on each property is an appropriate means of allocating the cost of stormwater management services and stormwater management systems and facilities throughout the city. Such charges can be complemented by other funding methods which address specific needs, including but not limited to allocations of other revenues available to the city, special service fees, special assessments, and other revenues as deemed appropriate by the city council.
- (3) Credits against stormwater utility service charges are an appropriate means of adjusting fees, rates, rentals, charges, fines, and penalties in certain cases, and should be granted for properties providing on-site or off-site services, systems, facilities, activities, or assets which reduce or otherwise mitigate the impact of said property on the city's cost of providing stormwater management services and/or stormwater management systems and facilities, and that such credits should be conditional upon continuing provision of such services, systems, facilities, activities, or assets in a manner complying with the standards and codes as determined by the city manager or designee.
- (4) The stormwater fee schedule will be applicable for the duration of an initial 2-year interim period. During this interim period, a stormwater utility rate study will be developed to determine the accurate fees needed to manage, protect, regulate and enhance the stormwater systems and facilities of the city, and to determine what fees are appropriate, fair, and reasonable to charge the citizens of the community in the future. The stormwater utility rate study shall establish the appropriate credits that may be available once the accurate fees have been determined. The base rate will be revised upon completion of the rate study to meet long term needs of the stormwater management program.
- (5) The runoff associated with impervious surfaces on each property is the principal factor influencing the cost of the stormwater management services and stormwater management systems and facilities provided by the city or to

be provided by the city in the future, and that the area of impervious surfaces on each property is therefore the most appropriate parameter for calculating a periodic stormwater service charge.

- (6) All revenues raised through the implementation of the stormwater utility shall be allocated specifically to stormwater management services and stormwater management systems. Such revenues shall be deposited into the enterprise accounting fund of the stormwater utility and shall remain in that fund and be dispersed only for stormwater management capital, operating, and non-operating costs and debt service of bonds for stormwater management purposes.

SECTION 2. AUTHORITY

This ordinance may be cited as the Stormwater Utility Ordinance and is adopted pursuant to S.C. Code Ann. § 48-14-10, et seq., S.C. Code Ann. § 5-7-30 and S.C. Land Resources Conservation Commission Regulations 72-300 to 72-316.

SECTION 3. ESTABLISHMENT OF UTILITY AND ENTERPRISE FUND

Rules of language and interpretation.

- (1) The word "shall" is mandatory; the word "may" is permissive.
- (2) The particular shall control the general.
- (3) Words used in present tense shall include the future, and words used in the singular include the plural, and plural the singular, unless the context clearly indicates the contrary.

The city council hereby establishes a stormwater utility within the stormwater utility department under the direction of public services. The utility shall support stormwater management throughout the city's incorporated limits, and shall provide for the management, maintenance, protection, control, regulation and enforcement, use, and enhancement of stormwater systems and facilities.

The city council directs that a stormwater fund be established in the city budget and accounting system 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 city council. All revenues and receipts of the stormwater utility shall be placed in the stormwater fund and all expenses of the utility shall be paid from the stormwater fund, except that other

revenues, receipts, and resources not accounted for in the stormwater utility fund may be applied to stormwater management operations and capital investments as deemed appropriate by the city.

The city council hereby transfers to the stormwater utility the existing stormwater systems and facilities owned and operated by the city and other interests and assets including but not limited to easements, rights-of-entry and access, and certain equipment. The city council declares that the economic value to the city of the stormwater systems, facilities, and other interests and assets hereby transferred to the utility is equal to the economic value to the city of the utility assuming future responsibility for the management, maintenance, protection, control, regulation, use, and enhancement of the stormwater systems, facilities, and programs.

SECTION 4. BOUNDARIES AND JURISDICTION

The boundaries and jurisdiction of the stormwater utility shall extend to the corporate limits of the city, including all areas hereafter annexed thereto.

SECTION 5. LIMITATIONS OF THE STORMWATER UTILITY SYSTEM

The stormwater system shall be limited to those drainage ways, channels, ditches, swales, storm sewers, culverts, inlets, catch basins, head walls and other structures which control and/or convey stormwater and which:

- (1) Are located within public streets, rights-of-way, and easements except in case those facilities are owned by the South Carolina Department of Transportation or are within the South Carolina Department of Transportation's right-of-way;
- (2) Are subject to 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.
- (4) Stormwater systems and facilities which are located on private or public property not owned by the city and which are not subject to public dedication of the systems, facilities, easements, rights-of-way, or other adequate access for operation, maintenance, and/or improvement of the systems and facilities shall be and remain the responsibility of the property owner, except as that responsibility may be affected by the laws of the State of South Carolina and the United States of America.

SECTION 6. REQUIREMENTS FOR ON-SITE STORMWATER SYSTEMS; ENFORCEMENT METHODS AND INSPECTION

(1) All property owners and developers of real property to be developed within the city shall provide, manage, maintain, and operate on-site stormwater systems and facilities sufficient to collect, convey, detain, control, and discharge stormwater in a safe manner consistent with all city development regulations and the laws of the State of South Carolina and the United States of America. Any failure to meet this obligation shall constitute a nuisance if the owner fails to properly abate within such reasonable time as allowed by the court, the city may enter upon the property and cause such work as is reasonably necessary to be performed, with the actual cost thereof charged to the owner in the same manner as a stormwater service charge.

(2) The city shall have the right, pursuant to the authority of this ordinance, for its designated officers and employees to enter upon private and public property owned by other than the city, upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to assure compliance with this ordinance.

SECTION 7. DEFINITIONS

The following words, terms, and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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; and/or continuing provision of a service or activity that reduces the stormwater utility's cost of providing stormwater management services and stormwater management systems and facilities; and/or on the direct discharge of runoff to a receiving water that is not operated, maintained, improved, and regulated, now or in the future, by the city.

Commercial properties shall include all properties developed initially for the retail of goods and services, other business activities, non-profit activities, office buildings, government buildings or property otherwise assessed as commercial use.

Customers of the stormwater utility shall include those persons, properties, and entities served by and/or benefiting from the utility's acquisition, management, maintenance, extension, and improvement of the public stormwater systems and facilities and regulation of public and private stormwater, stormwater systems,

facilities, and activities related thereto, and persons, properties, and entities which will ultimately be served or benefited as a result of the stormwater management program.

Developed land shall mean property altered from its natural state by construction or installation of more than two hundred (200) contiguous square feet of impervious surfaces as defined in this ordinance.

Impervious surfaces are those areas which prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development. Common impervious areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings, and other surfaces which prevent or impede the natural infiltration of stormwater runoff which existed prior to development.

Industrial Properties shall include all properties developed for uses other than residential and commercial properties, as defined in this ordinance.

Residential properties shall include but are not limited to the following categories which will be identified as the appropriate dwelling unit classifications to be utilized in applying the stormwater utility fee structure to the designations contained within the City of Sumter: Single-family, Apartments, Townhouses, Condominiums, Mobile home parks, Mobile home lots.

Stormwater management services are those activities and functions conducted by the city that together result in the collection, conveyance, and disposal of stormwater runoff, including support activities and functions necessary to accomplish the mission of the stormwater management program, and shall include but not be limited to the administration, engineering, operation and maintenance, regulation and enforcement, and improvement of systems and facilities, review of development proposals and of the installation and maintenance of stormwater systems on private properties, provision of stormwater quality management programs to eliminate or mitigate the impact of pollutants contained in stormwater runoff, and flood emergency response and recovery measures.

Stormwater management systems and facilities include, but are not limited to, rivers, streams, creeks, lakes, ponds, channels, ditches, swales, gutters, other drainage ways, storm sewers, culverts, inlets, catch basins, headwalls, dams, reservoirs and other impoundments, flumes, stormwater detention and retention storage areas, filters, riparian areas, plants, works, instrumentalities, properties, and other structural and nonstructural components that control, capture, collect, convey, route, restrict, store,

detain, retain, infiltrate, cleanse, or otherwise affect or influence the flow of stormwater within the city and the quality of stormwater discharged from the city.

Stormwater service charges shall mean the periodic service charge imposed pursuant to this ordinance by the city for the purpose of funding costs related to stormwater management services and stormwater management systems and facilities. The use of the area of impervious surface on 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 (1) or more classes of similarly-situated properties whose impact on city's cost of providing stormwater management services and stormwater management systems and facilities is relatively consistent. 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 the city.

SECTION 8. STORMWATER SERVICE CHARGE RATES

Stormwater service charge rates may be determined and modified from time to time by the city council so that the total revenue generated by said charges and any other sources of revenues or other resources allocated by the city council to the stormwater 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 related to stormwater as deemed appropriate by the city council. The initial stormwater service charge rates shall apply, as follows:

- (1) *Residential properties.* Residential properties, as defined by this ordinance, shall be billed for the stormwater service charges, as defined by this ordinance, of \$2.50 per month.
- (2) *Commercial properties.* Commercial properties, as defined by this ordinance, shall be billed for the stormwater service charges, as defined by this ordinance, of \$5.00 per month.

- (3) *Industrial properties.* Industrial properties, as defined by this ordinance, shall be billed for the stormwater service charges, as defined by this ordinance, of \$5.00 per month.

SECTION 9. STORMWATER SERVICE CHARGE BILLING, DELINQUENCIES AND COLLECTIONS

A stormwater service charge bill may be sent though 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. These fees, including late fees, shall be levied, collected and paid in the same manner as user fees applied to annual tax bills. The stormwater service charge bill may also be billed and collected along with other charges, including but not limited to other city assessments, or property taxes, as deemed most effective and efficient by the city council. Failure to receive a bill is not justification for nonpayment. If a customer is underbilled or if no bill is sent for developed land, the city may back-bill for a period of up to one-year, but shall not assess penalties for any delinquency during that back-billed period. The city shall have the authority to discontinue water services for failure to pay stormwater utility fees at such time fees are payable. Services shall be reinstated only in accordance with the rules and regulations in force and effect at the time.

SECTION 10. APPEALS

Any customer aggrieved by a final assessment of the provisions of this ordinance may appeal the decision in the following manner and sequence.

- (1) An appeal must be filed in writing with the city manager (or designee). At the discretion of the city, the appeal may require 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 the hydrologic response of the property to rainfall events.

- (2) Using information provided by the appellant, a technical committee comprised of the Assistant City Manager for Public Services, Stormwater Manager and one (1) other persons appointed by the city manager 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 Assistant City Manager for Public Services or designee may adjust the stormwater service charge applicable to the property in conformance with the general purposes and intent of this ordinance.

(3) A decision of the technical committee that is adverse to an appellant may be further appealed to the city manager within thirty (30) days of the adverse decision. Notice of the appeal shall be delivered to the city manager by the appellant, stating the grounds for further appeal. The city manager shall issue a written decision on the appeal within thirty (30) days. All decisions by the city manager 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 city manager shall be final, except that this provision shall not abridge the right of any person to seek relief in a court of competent jurisdiction.

(4) No person shall be subject to penalties until ten (10) days after notice of denial of appeal or until after judgment of a competent jurisdiction upholding such denial.

**SECTION 11. UNLAWFUL DAMAGE TO, ALTERATION OF, OR
TAMPERING WITH CITY'S STORMWATER SYSTEM**

It shall be unlawful and a violation of this ordinance for any person to damage, deface, alter, change, or tamper with the city's stormwater system; and upon conviction, said person shall be guilty of a misdemeanor and punished by a fine of up to \$500.00 and/or sentenced to serve up to 30 days; and such person shall be subject to paying full costs incurred by the city as a way of restitution.

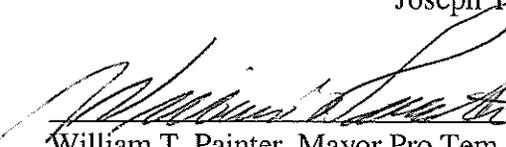
SECTION 12. EFFECTIVE DATE

The provisions of this Ordinance shall become effective as of July 1, 2011.

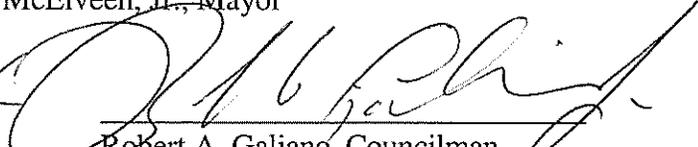
**ADOPTED BY THE SUMTER CITY COUNCIL, DULY ASSEMBLED, THIS
21ST DAY OF JUNE, 2011.**

CITY OF SUMTER, SOUTH CAROLINA

Joseph T. McElveen, Jr., Mayor



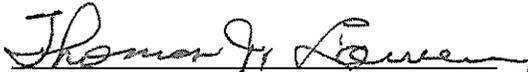
William T. Painter, Mayor Pro Tem



Robert A. Galiano, Councilman

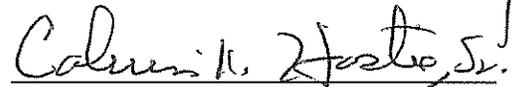


Walter G. Newman, Councilman



Thomas J. Lowery, Councilman

Ione J. Dwyer, Councilwoman



Calvin K. Hastie, Sr., Councilman

ATTEST:



Linda D. Hammett, City Clerk

First Reading: May 17, 2011
Second/Final Reading: June 21, 2011