

Ordinance # 09-16-01

Cornelia Storm water Utility Ordinance

The Mayor and Commission of the City of Cornelia, Georgia hereby ordain that the Code of the City of Cornelia, Georgia by amending Chapter 40, Article VIII to provide for Storm water Utility. Utilities which shall begin with Division 6, Section 40-515 and shall appear and read as follows:

Division 6 STORMWATER UTILITY

Section 40-515. Findings

The City of Cornelia Mayor and City Commission make the following findings of fact:

(a) The City of Cornelia, Georgia (hereinafter "the City" or "Cornelia") is authorized by the Georgia Constitution of 1983, including, without limitation, Article IX, Section II, Paragraphs I and III thereof and O.C.G.A. § 36-82-62 to provide storm water management services, systems and facilities throughout the corporate boundaries of the City.

(b) In order to protect the health, safety and welfare of the public, the governing authority of Cornelia hereby exercises its authority to establish a Storm water Utility Enterprise Fund and establish rates for storm water management services.

(c) A system for the collection, conveyance, storage, treatment and disposal of storm water provides services to all properties within the City and surrounding areas.

(d) In promulgating the regulations contained in this section, Cornelia is acting pursuant to authority granted by the Constitution and laws of the State of Georgia and its City Charter to provide for storm water collection and disposal.

(e) Improper management of storm water runoff:

(1) May cause erosion of lands, threaten businesses and residences, and other facilities with water damage and may environmentally impair the rivers, streams and other bodies of water within and downstream of the City.

(2) Can adversely affect the operations of the sanitary sewer system operated by the City Of Cornelia thereby increasing the likelihood of infiltration and inflow into the sanitary sewer system.

(3) Contributes to the potential degradation of both the surface water and groundwater quality in area waterbodies.

(f) The City presently owns and operates storm water management systems and facilities, which have been developed over many years. The future usefulness and operational function

of the existing storm water management systems and facilities owned and operated by the City, and the additions and improvements thereto, rests on the ability of the City to effectively manage, protect, control, regulate, use, and enhance storm water systems and facilities within the City in concert with the management of other water resources within the City. In order to do so, the City must have both a comprehensive storm water management program as well as an adequate and stable funding source for its comprehensive program operation and drainage-related capital improvement needs.

(g) The City desires to provide enhanced management of storm water runoff quality and quantity to mitigate the impacts of pollution and flooding which may impact the public municipal separate storm sewer system (MS4), private property and downstream receiving waters of the State of Georgia and/or United States. Therefore, it is appropriate for the City to establish a Storm water Utility and impose a storm water user fee charge upon all improved properties that may discharge, directly or indirectly, into the public MS4 and storm water conveyance system, whether the property is private or public in nature.

(h) Compliance with the obligations of the City storm water program activities will affect the cost of providing storm water management services, systems and facilities above what is currently being spent for water quality management, drainage system maintenance, flood control and other program activities.

(i) The cost of operating and maintaining the City's storm water management system and financing necessary repairs, replacements, improvements and extensions thereof should, To the extent practicable, be allocated in relationship to the services received from the system.

(j) The professional engineering analysis and related documents prepared by the City's consulting storm water experts properly assesses and defines the City's storm water management program problems, needs, goals, priorities as well as the storm water management program funding strategy.

(k) Given the storm water management program problems, needs, goals, priorities and funding strategy identified in the aforementioned professional engineering and financing analysis, 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 storm water management services, systems and facilities within the City in concert with other water resource management programs.

(l) Storm water management is applicable and needed throughout the incorporated areas of the City. While specific service and facility demands may differ from area to area at any given point in time, a storm water management system and service area encompassing all lands and water bodies within the incorporated areas of the City is consistent with the present and future needs of the community.

(m) Provision of storm water management services renders and/or results in both a service to customers and at least some benefit to all properties, property owners, citizens, and residents of the City, although the benefits may be indirect or immeasurable.

(n) The storm water management services rendered may differ depending on many factors and considerations, including but not limited to location, demands and impacts imposed on the storm water management systems and programs, and risk exposure. It is practical and equitable to allocate the cost of storm water management among the owners of improved properties in proportion to the long term demands the properties impose on the City's storm water management services which result in services to such properties and the owners thereof.

(o) A storm water Management Program (hereinafter "SWMP") provides the most practical and appropriate means of properly delivering storm water management services throughout the City, and the most equitable means to regulate the use of a higher level of storm water management services within the City through storm water user fee charges, user fees and other mechanisms.

(p) The area of impervious surfaces on each improved property is the most important factor influencing the cost of the storm water management services provided by the City or to be provided by the City in the future, and the area of impervious surfaces on each property is therefore the most appropriate parameter for calculating a periodic storm water user fee charge.

(q) A schedule of Storm water Utility user fee charges based in part on the area of impervious surface located on each improved property is the most appropriate and equitable means of allocating the cost of storm water management services throughout the City. Such user fee charges may be complemented by other types of charges which address specific needs, including, but not limited to, special service fees, special assessments, revenue bonds, use of proceeds from special purpose local option sales taxes and other forms of revenue, as deemed appropriate by the Mayor and City Commission.

(r) The existence of privately owned and maintained on-site or off-site systems, facilities, activities or assets which reduce or otherwise mitigate the impact of a particular property on the City's SWMP, and the Storm water Utility's cost of providing storm water management services and/or storm water management systems and facilities, should be taken into account to reduce the user fee charge on that property either in the form of a direct reduction or a credit, and such reduction or credit should be conditioned upon continuing provision of such services, systems, facilities, activities or assets in a manner complying with the standards and codes as determined by the Storm water Utility Manager. Reductions or credits for privately owned and maintained storm water management systems, facilities, activities or assets shall be generally proportional to the affect that such systems have on the peak rate of runoff from the property.

(s) It is imperative that the proceeds from all user fee charges for storm water management services, systems or facilities, together with any other revenues raised or otherwise allocated

specifically to storm water management services, systems or facilities, be dedicated solely to those purposes, and such proceeds of user fee charges and revenues shall therefore be deposited into the enterprise accounting fund of the City Storm water Utility and shall remain in that fund and be dispersed only for storm water management capital, operating and non-operating costs, lease payments and debt service of bonds or other indebtedness for storm water management purposes.

Section 40-516. Definitions

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

Act means and refers to the Clean Water Act as amended by the Water Quality Act of 1987 (33 U.S.C. § 1251 *et seq.*), as amended, and the rules and regulations promulgated by the United States Environmental Protection Agency pursuant thereto.

Attached Residential Property shall mean improved property containing individually owned, attached dwelling units such as duplexes, triplexes, townhouses, or other residential structures not listed herein where one or more family groups commonly and normally reside or could reside. Improved property may be classified as an Attached Residential Property despite the presence of incidental structures associated with residential uses such as garages, carports and small storage buildings. Improved property may be classified as an Attached Residential Property despite the presence of a commercial use. Attached Residential Property shall not include improved property containing: structures used primarily for non-residential purposes, hotels, motels, retirement centers, nursing homes and assisted living home.

Credit means a reduction in the amount of a storm water user fee charge to the owner of a particular property for the existence and use of privately owned, maintained and operated on-site or off-site storm water systems or facilities, or continuing provision of services or activities that reduce or mitigate the City's cost of providing storm water management services for that particular property.

Customers of the Storm water Utility shall include all persons, properties, and entities serviced by and/or benefiting from the services provided by the City's SWMP and the Storm water Utility. These services include, but are not necessarily limited to, the Storm water Utility's administration, management, maintenance, expansion, and improvement of the public storm water management systems for the handling of storm water runoff of private and public properties, and the regulation of the public and private storm water management systems, controls, facilities, and activities.

Detached single family residential property or *DSFR* means improved property containing one residential structure which is not attached to another dwelling, and which contains one or more bedrooms, with bathroom and kitchen facilities, designed for occupancy by one family. A detached single family residential property may include a "stick-built," industrialized, or

manufactured home located on one or more individual lots or parcels of land. Improved property may be classified as a detached single family residential property even if there is present incidental structures associated with residential uses such as garages, carports, storage buildings, guest houses, servants or caretakers quarters, cottages or barns, or the presence of a commercial use within the residence, as long as such use does not result in additional areas of impervious surfaces. Detached single family residential properties shall not include improved property containing structures used primarily for nonresidential purposes, manufactured homes located within manufactured home parks where the land is owned by someone other than the owners of the manufactured homes, or multiple dwelling unit residential properties.

Dwelling Unit shall mean a structure, which contains one (1) or more bedrooms, a bathroom and a kitchen facility.

Equivalent Residential Unit (ERU) means the storm water user fee charge billing unit increment related to the median horizontal impervious surface area footprint of 3,300 square feet for a typical single family dwelling unit within the City.

Hydrologic Response defines the manner and means whereby storm water collects, remains, infiltrates, and is conveyed from a property. Hydrologic Response is dependent on several factors including, but not limited to, the presence of impervious surface, the parcel's size, the parcel's shape, the parcel's vegetative canopy, the parcel's groundwater, the parcel's antecedent moisture and the parcel's geologic condition.

Impervious area shall mean the area, usually expressed in square feet, that is covered by an impervious surface.

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

Improved property means property altered from its natural state by construction or installation of five hundred (500) square feet or more of impervious surfaces.

Non-single family residential property or *NSFR* means improved property containing multiple dwelling unit residential properties, condominiums, apartments, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, storage buildings and storage areas, parking lots, parks, recreation properties, tennis courts, swimming pools, public and private schools and universities, research facilities and stations, hospitals and convalescent centers, airports, agricultural uses, water and wastewater treatment plants, and any other form of use not otherwise mentioned which is not a detached single family residential (hereinafter "DSFR"), or attached residential (hereinafter "AR") property, and which has private parking lots and private drives or roads.

Public Water Influence Zone means those areas lying downstream of a culvert, or other storm water management conveyance system. On the downstream side of the conveyance system, the public water influence zone will extend for a length of six (6) times the diameter (or width) of the culvert from which runoff is being discharged (Field Manual for Erosion and Sediment Control in Georgia, Third Edition, pg. 99), and within the horizontal limits set forth in the aforementioned field manual. For example, if a 48-inch diameter culvert is discharging to a private property, the public water influence zone shall extend 24 feet (6 times 48-inches) from the end of the culvert and for the specified width (i.e. typically the width of the creek). The Cornelia Storm water Utility may perform maintenance and/or capital construction activities only within that portion of the public water influence zone which the City has an ownership interest in, or for which a dedicated easement has been granted to, and accepted by the City for such purpose.

Service area means the entire land area within the corporate limits of the City.

Storm water management services mean all services provided by the City which relate to the:

- (1) Transfer, control, conveyance or movement of storm water runoff through the incorporated portions of the City;
- (2) Maintenance, repair and replacement of existing storm water management systems and facilities;
- (3) Planning, development, design and construction of additional storm water management systems and facilities to meet current and anticipated needs;
- (4) Regulation of the use of storm water management services, systems and facilities; and
- (5) Compliance with applicable State and Federal storm water management regulations and permit requirements. Storm water management services may address the quality of storm water runoff as well as the quantity thereof.

Storm water management systems and facilities mean those natural and manmade channels, swales, ditches, rivers, streams, creeks, branches, reservoirs, ponds, drainage ways, inlets, catch basins, pipes, headwalls, storm sewers, lakes and other physical works, properties and improvements which transfer, control, convey, detain, retain, treat or otherwise influence the movement of storm water runoff.

Storm water user fee charge means the periodic user fee charge imposed pursuant to this article by the Cornelia Storm water Utility for providing storm water management services. This term shall exclude special charges to the owners of particular properties for services, systems or facilities related to storm water management, including, but not limited to, charges for development plan review, inspection of development projects, onsite storm water control systems and other storm water management services provided by Cornelia for which a corresponding fee is collected for the service rendered.

Undeveloped Land means land in its unaltered natural condition or which is modified to such a minimal degree as to have a Hydrologic Response comparable to land in an unaltered natural condition shall be deemed undeveloped. Undeveloped Land shall have minimal Impervious Surface, which impedes the infiltration of storm water runoff or causes storm water runoff to collect, concentrate or flow in a manner materially different from what would occur if the land were in an unaltered natural condition. For purposes of this Article, Undeveloped Land includes property altered from its natural condition by the creation or installation of five hundred (500) square feet or less of Impervious Surface.

User is defined as any person who uses property, which maintains connection to, discharges to, or otherwise receives services from the City for storm water management.

Section 40-517. Storm water Utility and Enterprise Fund Established

(a) There is hereby established a Storm water Utility to be known as the Cornelia Storm water Utility, which shall be responsible for storm water management services throughout the incorporated areas of the City, and which shall provide for the management, protection, control, regulation, use and enhancement of the City's storm water management systems and facilities and storm water management services.

(b) There is hereby established a Storm water Utility Enterprise Fund in the City budgeting and accounting systems for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the Cornelia SWMP and Storm water Utility, including, but not limited to, rates, charges, and fees as may be established by the City Commission from time to time, and other funds that may be transferred or allocated to the Cornelia Storm water Utility. All revenues and receipts of the Storm water Utility shall be placed in the Storm water Utility Enterprise Fund and shall be used solely for storm water management services. All expenses and capital investments of the Storm water Utility shall be paid from the Storm water Utility Enterprise Fund; provided, however, that other revenues, receipts and resources not accounted for in the Storm water Utility Enterprise Fund may be applied to storm water management services as deemed appropriate by the City.

(c) The City shall place responsibility with the City Manager for operation, maintenance and regulation of the SWMP and storm water management services performed, owned and operated or maintained by Cornelia, and other related assets, including, but not limited to, properties, other than road rights-of-way, upon which such storm water management systems and facilities are located, easements, rights-of-entry and access and certain equipment used solely for storm water management.

Section 40-517.1. Storm water Utility Service Area

(a) There shall be one Storm water Utility service area in the City which shall encompass the municipal boundaries of Cornelia. The City has established that all developed parcels within the municipal boundaries receive storm water management program services from the City. Improved/developed properties within the defined service area will receive a storm water user fee charge bill because they contribute storm water runoff to the public drainage system,

are directly or indirectly connected to the City's drainage system, and/or receive storm water management services from the City to varying degrees.

Section 40-518. Scope of Responsibility for Storm water Management Systems and Facilities

(a) The City owns or has rights established by written agreements which allow it to operate, maintain, improve and access those storm water management systems and facilities which are located:

- (1) Within public road rights-of-way;
- (2) On private property but within easements granted to and accepted by the City, or are otherwise permitted to be located on such private property by written agreements for rights-of-entry, rights-of-access, rights-of-use or other permanent provisions for operation, maintenance, improvement and access to the storm water management system facilities located thereon;
- (3) On private property but within a public water influence zone after the City secures a right-of-entry, right-of-access, permanent easement, temporary easement or other form of written consent from the property owner;
- (4) On land dedicated to, and accepted by, the City solely for the operation, maintenance, improvement and access to the storm water management systems and facilities located thereon; or
- (5) On public land which is owned by the City and/or land of another governmental entity upon which the City has agreements providing for the operation, maintenance, improvement and access to the storm water management systems and facilities located thereon.

(b) Operation, maintenance and/or improvement of storm water management systems and facilities which are located on private or public property not owned by the City, and for which there has been no written agreement granting easements, rights-of-entry, rights of access, rights-of-use or other form of dedication thereof to the City for operation, maintenance, improvement and access of such storm water management and systems and facilities shall be and remain the legal responsibility of the property owner, except as otherwise provided for by the state and federal laws and regulations.

(c) It is the express intent of this article to protect the public health, safety and welfare of people and property 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 City. The City expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages or equitable remedies upon the City, its elected officials, officers, employees and agents arising out of any alleged failure or breach of duty or relationship.

(d) If any permit, plan approval, inspection or similar act is required by the City as a condition precedent to any activity or change 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 it afford the basis for any action, including any action based on failure to permit, negligent issuance of a permit, negligent plan approval, or negligent maintenance of any permitted storm water management system or facility not expressly dedicated to and accepted by the City for further maintenance in an action seeking the imposition of money damages or equitable remedies against the City, its Commission members, mayor, officers, employees or agents.

Section 40-518.1. Storm water Utility Customer Classes

(a) The Storm water Utility shall establish specified customer classes within the service area to reflect differences in impervious surface and storm water runoff characteristics; storm water management program services provided by the City to the Storm water Utility customers; and the respective demand that those customers' properties place on the City storm water management program and drainage system components. All publicly owned developed properties, other than streets or roads, are subject to the user fee charges on the same basis as private properties. The Storm water Utility classes will encompass all developed and undeveloped properties within the City and are defined as follows:

- (1) The Single Family Residential (SFR) Class shall consist of all developed properties classified as SFR customers per the applicable definition.
- (2) The Non-Single Family Residential (NSFR) Class shall consist of all developed properties classified as NSFR customers per the applicable definition.
- (3) The Undeveloped Class shall consist of properties classified as undeveloped per the applicable definition.

(b) Documentation pertaining to the Storm water Utility customer classes shall be kept on file in the office of the City Manager for public inspection.

Section 40-519. Storm water User Fee Charges

(a) It shall be the policy of the City that user fee charges for storm water management services to be provided by the Storm water Utility in the designated service area shall be equitably derived through methods which have a demonstrable relationship to the varied demands and impacts imposed on the storm water management services by individual properties and/or the level of service rendered by, or resulting from, the provision of storm water management services. Storm water user fee charge rates shall be structured so as to be uniform within the customer class, and the resultant user fee charges shall bear a substantial relationship to the cost of providing storm water management services. User fee charge rates shall be in addition to other rates, charges, or fees employed for storm water management within the incorporated areas of the City, including, but not limited to, plan review and

inspection fees, fees for special services, fees in lieu of regulatory requirements, system development charges and special assessments.

(b) To the extent practicable, credits against storm water user fee charges shall be provided for on-site storm water control systems and activities constructed, operated, maintained and performed to the City's standards by public and private property owners which eliminate, mitigate or compensate for the impact that the property or person may have upon storm water runoff discharged to public storm water management systems and facilities or to private storm water management systems and facilities which impact the proper function of public storm water management systems and facilities.

Section 40-519.1. Storm water User Fee Billing Rates

(a) The Storm water Utility shall impose a storm water user fee charge on all developed properties within the service area in accordance with the provisions of this Ordinance. The Storm water Utility shall apportion the cost of delivering storm water services to all developed properties based on the demand the property places on the City's storm water management program, the storm water services provided by the City and the benefits derived by the property as a result of the provision of services.

(b) The Mayor and City Commission shall establish by resolution the storm water user fee rate, and the commencement date of billing. The billing rates may be modified by the Mayor and City Commission from time to time to meet the financial and operational needs of the Cornelia Storm water Utility. A current schedule of said rates shall be on file in the office of the City Clerk of Cornelia. In setting or modifying such rates, it shall be the goal of the City to establish rates that are fair, equitable and reasonable, and which, together with other funding sources available to the Cornelia Storm water Utility for services, systems, and/or facilities related to storm water management are sufficient to support the cost of the storm water management program, including, but not limited to, the payment of principal and interest on debt obligations, lease payments, operating expenses, capital outlays, non-operating expenses, provisions for prudent reserves and other Storm water Utility related costs as deemed appropriate by the City.

(c) Storm water user fee charges shall be based upon the total number of Equivalent Residential Units (ERUs) associated with developed properties within the City. Each ERU shall correspond to 3,300 square feet of impervious surface.

(d) Gravel and compacted soil driveways, parking areas, and roads on private property will be considered partial impervious surface and included in the customer's ERU calculation because of the Hydrologic Response characteristics of these materials. However, the total surface area associated with these materials will be calculated at 90% of the total ERUs to reflect the hydrologic response characteristics of these materials.

(e) The periodic storm water user fee charges imposed on all developed properties shall be calculated by multiplying the storm water user fee billing rate (per ERU) times the number of

ERUs for each customer account. The number of ERUs that will be utilized to calculate the user fee charge for each customer account shall be in general accordance with the following:

- (1) SFR Customer Class: Each SFR customer account shall be charged 1.0 ERU per month unless the conditions outlined below applies.
 - i. If two customer accounts are assigned to a SFR property (i.e. a duplex) then each customer account on that parcel will be charged 0.5 ERU per month for billing purposes.
- (2) NSFR Customer Class: Each NSFR customer shall be charged 1.0 ERU for each 3,300 square feet, or increment thereof, of impervious surface located on the property to establish the total number of ERUs for billing. Fractional ERUs will be rounded to one decimal place to establish the number of ERUs for billing each month.
- (3) Undeveloped Land Customer Class: Undeveloped land shall be assigned 0 ERUs and will not receive a storm water user fee bill.

Section 40-520. Storm water User Fee Charge Exemptions

Except as provided in this section or otherwise provided by law, no public or private property located in the incorporated area of Cornelia shall be exempt from the storm water user fee charges. No exception, credit, offset, or other reduction in storm water user fee charges shall be granted based on age, tax status, economic status, race, religion or other condition unrelated to the Storm water Utility's cost of providing storm water management services and facilities. Exemptions to the storm water user fee charges are as follows:

(a) Parcels which contain less than five hundred (500) square feet of impervious surfaces shall be exempt from storm water user fee charges.

(b) Railroad rights-of-way (tracks) shall be exempt from storm water user fee charges. However, railroad stations, maintenance buildings, and/or other improved property used for railroad purposes shall not be exempt from storm water user fee charges.

(c) Georgia Department of Transportation (GDOT) streets and rights-of-way shall be exempt from storm water user fee charges. This exemption is in recognition of routine drainage system maintenance and capital construction services undertaken by GDOT in association with GDOT rights-of-way and road systems. However, maintenance buildings and/or other improved property used for GDOT purposes shall not be exempt from storm water user fee charges. All other State, Federal, and County properties are subject to the user fee charges on the same basis as private properties.

(d) Habersham County (County) streets and rights-of-way shall be exempt from storm water user fee charges. This exemption is in recognition of routine drainage system maintenance and capital construction services undertaken by the County. However, other improved property used for County purposes shall not be exempt from storm water user fee charges.

(e) In consideration for the City allowing the Storm water Utility to use the City's existing street, curbs, gutters, drainage ways and ditches, storm sewers, culverts, inlets, catch basins, pipes, head walls and other structures, natural and man-made within and owned by the City which controls and diverts surface water for the purposes of collecting, diverting, transporting and controlling surface and storm waters; the utility shall not charge the City a storm water user fee charge for the City's impervious surface area resulting from the City's impervious surfaces which are owned and/or maintained by the City within the public right of ways.

Section 40-521. Storm water User Fee Charge Credits

(a) The City Manager shall grant credits or adjustments based on the technical and procedural criteria set forth in the Storm water Utility Credit Technical Manual, which is incorporated into this Ordinance by reference and made a part hereof. Copies of the Credit Technical Manual will be maintained by and made available from the City Manager.

- (1) A storm water user fee charge credit shall be determined based on the technical requirements, standards and criteria contained in the Credit Technical Manual. The amount of credit, or reduction of the storm water user fee charge, shall be in accordance with the criteria contained in the Credit Technical Manual.
- (2) Any credit allowed against the storm water user fee charge is conditioned on continuing compliance with the City's design and performance standards as stated in the Credit Technical Manual and/or upon continuing provision of the controls, systems, facilities, services, and activities provided, operated, and maintained by the property owner or owners upon which the credit is based. The City Manager may revoke a credit at any time for noncompliance with applicable standards and criteria as established in the Credit Technical Manual or this article.
- (3) In order to obtain a credit, the property owner must make application to the City on forms provided by the City Manager for such purpose, and in accordance with the procedures outlined in the Credit Technical Manual.
- (4) Property owners may apply for any credits and/or adjustments in accordance with the Credit Technical Manual.
- (5) The application for any credit or adjustment must be in writing and must include the information necessary to establish eligibility for the credit or adjustment, and be in the format established by the City Manager. Incomplete applications will not be accepted for consideration and processing.

(b) When an application for a credit is deemed complete by the City Manager, he shall have 30 days from the date the complete application is accepted to grant the credit in whole, grant the credit in part, or deny the credit. If the City Manager fails to render a decision within 30 days, the credit application shall automatically be deemed denied, but said denial shall be subject to appeal to the City Commission as set forth in this Article. Credits applied for by the property owner and granted in whole or in part, shall apply to all storm water user fee charges in accordance with the terms defined in the Credit Technical Manual.

Section 40-522. Enforcement Methods and Inspections

(a) All property owners of improved property within the incorporated areas of Cornelia shall provide, manage, maintain, and operate on-site storm water management systems sufficient to collect, convey, detain, and discharge storm water runoff in a safe manner consistent with all applicable City development regulations, ordinances, and State and Federal laws. Any failure to meet this obligation shall constitute a violation of this article and be subject to citation and prosecution in the Cornelia Municipal Court. Each day such violation exists shall constitute a separate offense, subject to the penalties set forth in Section 1-7 of the Code of the City of Cornelia.

(b) Alternately, in the event a public nuisance is deemed to exist by the City Manager, the City may elect to sue in the Superior Court of Habersham County to abate such nuisance. In the event a public nuisance is found by the court to exist, which the property owner fails to abate within such reasonable time as allowed by the Superior Court, the City may enter upon the property and cause work as is reasonably necessary to be performed, with the actual cost thereof assessed against the property owner in the same manner as a tax levied against the property. From date of filing of such abatement action, the City shall have lien rights which may be perfected, after judgment, by filing a notice of lien on the general execution docket of the Superior Court of Habersham County.

(c) The City shall have the right for its designated officers and employees to enter upon public and private property during reasonable hours, and after reasonable notice to the owner thereof, in order to assure compliance with the provisions of this article, and State and Federal law. Such inspections shall generally be limited to the following purposes:

- (1) Inspecting or conducting engineering analyses on existing storm water management systems and facilities located on-site; or
- (2) Determining that storm water management systems and facilities need to be constructed.

Section 40-523. Storm water User Fee Charge Billing, Delinquencies, Collections, Adjustments

Failure to receive a Storm water Utility bill is not justification for non-payment. The property owner, as identified from public land records of Habersham County, shall be obligated to pay the appropriate storm water user fee charge for that property.

(a) Billing.

- (1) A bill for storm water user fee charges may be sent through the United States Postal Service or by alternative means, notifying the owner of the property being billed of the amount of the storm water user fee charge, less credits, the date the payment is due and the date when payment is past due.

- (2) The storm water user fee charge will be billed and collected as deemed most effective and efficient by ordinance of the City Commission.
- (3) Frequency of the billing of storm water user fee charges shall be specified by ordinance of the City Commission.
- (4) Failure to receive a bill shall not be justification for nonpayment. Regardless of the party to whom the bill is initially directed, the owner of each developed property subject to storm water user fee charges shall be obligated to pay storm water user fee charges and any interest on delinquent storm water user fee charge payments.
- (5) If a property is unbilled, or if no bill is sent for a particular tract of improved property, the Cornelia Storm water Utility may back bill for a period of up to one (1) year, but shall not be entitled to any interest or any delinquency charges during the back billed period.

(b) Delinquencies and collection.

- (1) Unpaid storm water service fees shall be collected by filing suit to collect on an unpaid account and by using all methods allowed by Georgia law to collect on any judgment obtained thereby, including enforcement of any lien resulting from any such judgment. Unless reduced to a judgment and a writ of fieri facias issued, the unpaid user fee charge shall not constitute a direct lien against the property.
- (2) A late charge of 10% of the amount due per year shall be assessed against the party responsible for the unpaid balance of any Storm water Utility user fee charge that becomes delinquent in accordance with applicable State law. In addition, the city shall assess all costs of collection, including attorney's fees and court costs, against the party responsible for payment of the storm water user fee charge.

(c) Adjustments.

- (1) The City Manager shall administer the procedures and standards for the adjustment of the storm water user fee charge.
 - i. If a customer believes their storm water user fee is incorrect, the customer may seek an adjustment of the storm water user fee charge allocated to a property at any time by submitting the request in writing to the City Manager and setting forth in detail the grounds upon which relief is sought.
 - ii. Customers requesting the adjustment shall be required, at their own expense, to provide supplemental information to the City Manager, including, but not limited to, a survey certified by a registered land surveyor or a professional engineer. Submittal of this information will be required if the City staff cannot make a determination based on field inspection and/or review of existing City aerial photography. Failure to provide the required information

within the time limits established by the City Manager, as may be reasonably extended, may result in denial of the adjustment request.

- iii. Once a completed adjustment request and all required information are received by the City Manager, he or she shall have 30 calendar days within which to render a written decision. If the City Manager fails to render a decision within 30 days, the adjustment request shall automatically be deemed denied, but said denial shall be subject to appeal to the City Commission as set forth in this Article. Concurrent payment of any charges allocated to the property is not required as a condition precedent to this request for review.
- iv. In considering an adjustment request, the City Manager shall consider whether the calculation of the storm water utility user fee charge for the property is correct.
- v. The City Manager's decision shall be in writing and will be mailed to the address provided on the adjustment request, and service shall be complete upon mailing.
- vi. If the result of an adjustment is that a refund is due the applicant, the refund will be applied as a credit on the applicant's next storm water bill.

Section 40-524. Appeals, Hearings

(a) Appeals. An appeal to the City Commission may be taken by any property owner or customer aggrieved by any decision of the City Manager. The appeal shall be taken within 30 days of the decision of the City Manager by filing with the Secretary to the Commission a notice of appeal in writing specifying the grounds thereof. Upon the filing of the notice of appeal, the City Manager shall forthwith transmit to the City Commission all documentation constituting the record upon which the decision appealed from was taken.

(b) Hearing. The City Commission shall fix a reasonable time for hearing the appeal and give written notice to the appellant at least ten days prior to the hearing date. The notice shall indicate the place, date and time of the hearing. The City Commission shall affirm, reverse, affirm in part, or reverse in part the decision of the City Manager after hearing the evidence. If the decision of the City Manager is reversed in whole or in part, resulting in a refund or credit due to the property owner, then such refund or credit shall be calculated retroactive to the date of the initial appeal.

(c) The decision of the City Commission shall be final, and there shall be no further administrative action. Any person aggrieved or dissatisfied with the decision of the City Commission may appeal that decision to the Superior Court of Habersham County by Writ of Certiorari.

Section 40-525. Repealer

(a) All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Section 40-526. SEVERABILITY

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Sections 40-527. Effectivity

IT IS HEREBY ORDAINED that this ordinance shall be and become effective upon its adoption by the Commission of the City of Cornelia, Georgia.

Posted:

Adopted:

James C. Irby, Jr., Mayor

(SEAL)

Janie Henderson, City Clerk