

WEST HEMPFIELD TOWNSHIP  
MUNICIPAL AUTHORITY  
LANCASTER COUNTY, PENNSYLVANIA

RESOLUTION 1-2021

A RESOLUTION OF WEST HEMPFIELD TOWNSHIP MUNICIPAL AUTHORITY,  
LANCASTER COUNTY, PENNSYLVANIA, ESTABLISHING A FEE FOR STORM  
WATER COLLECTION AND MANAGEMENT

WHEREAS, West Hempfield Township is authorized under the Pennsylvania Second Class Township Code, and otherwise authorized and obligated under the Pennsylvania law to regulate storm water through its Municipal Separate Storm Sewer System (MS4);

WHEREAS, the existing storm water management system requires maintenance, repairs, enhancements, and replacement to meet existing and future needs, including flooding concerns and water quality protection and improvement; and

WHEREAS, the Township holds a National Pollutant Discharge Elimination System (NPDES) permit from the Pennsylvania Department of Environmental Protection; and

WHEREAS, the NPDES permit requires the Township to meet numerous requirements and regulations to comply with State and Federal law; and

WHEREAS, a professional engineering and financial analysis of storm water management needs for the Township has been performed; and

WHEREAS, the Township created the West Hempfield Township Municipal Authority by Ordinance 02-2020, adopted February 4, 2020; and

WHEREAS, West Hempfield Township Municipality Authority was duly incorporated; and

WHEREAS, the West Hempfield Township Municipal Authority is permitted by the Pennsylvania Municipality Authorities Act, 53 Pa. C.S. §5601 et seq., as amended and supplemented (the "Authorities Act"), to collect fees to defray the costs of complying with the NPDES program for Municipal Separate Storm Sewer System compliance and maintaining its storm water system.

NOW, THEREFORE, BE IT RESOLVED by the Board of West Hempfield Township Municipal Authority as follows:

**Section 1. Title.**

This Resolution shall be known as the "West Hempfield Township Municipal Authority Storm Water Management Program Fee Resolution."

**Section 2. Authority.**

- A. West Hempfield Township Municipal Authority is an Authority which operates under the Authorities Act.
- B. West Hempfield Township Municipal Authority is working in conjunction with West Hempfield Township, which is empowered to regulate storm water management activities and facilities by the authority of the Storm Water Management Act, 32 P.S. §680.1 et seq., and the Second-Class Township Code, 53 P.S. §65101 et seq.
- C. West Hempfield Township is also empowered to regulate land use activities that affect storm water runoff and storm water management systems by the authority of Pennsylvania's Municipalities Planning Code, Act of 1968, P.L. 805, No.247, as reenacted and amended.

**Section 3. Findings.**

West Hempfield Township Municipal Authority finds that:

- A. Inadequate development and maintenance of storm water facilities increases storm water runoff rates and volumes, contributes to erosion and sedimentation, overtaxes the carrying capacity of storm sewers and streams, increases the cost of public facilities to carry and control storm water, undermines flood plain management and flood control efforts in downstream communities, reduces groundwater recharge, threatens public health and safety, and increases pollution of water resources.
- B. A comprehensive program of storm water management, including the generation of funding to pay for effective storm water best management practices, is fundamental to the public health, safety, and welfare and the protection of people of West Hempfield Township, their resources, and the environment.
- C. Storm water is an important water resource which provides groundwater recharge for water supplies and base flow of streams, which also protects and maintains surface water quality.
- D. Approaches to storm water management that protect, restore, and mimic natural water cycles have significant environmental, social, and economic benefits and should be encouraged.
- E. Federal and state regulations include requirements for municipalities to implement a program of storm water controls.
- F. To (i) establish, operate, and maintain the storm water infrastructure of West Hempfield Township, as well as all systems upon which the storm water infrastructure depends, (ii)

ensure the effective operation of the storm water system through installation and management of best practices; and (iii) to provide services such as inspections, asset management, and regulatory oversight associated with storm water management, sufficient and stable funding is required to fund these public services.

- G. This Authority intends to establish fair and equitable storm water management program fees to assure that each lot within the Township will pay its proportionate share of the costs of operation, maintenance, repair, administration, replacement, and improvement of all storm water services provided or paid for by West Hempfield Township.
- H. A number of models were reviewed by the Authority for determining a fee to be charged to property owners. The review found the Equivalent Residential Unit (ERU) model as an appropriate method of calculating a fee for the Authority's Storm Water Management Program. The following determinations were made:
- (1) A base fee per single family residential ("SFR") parcel is reasonable.
  - (2) The base fee has been derived from a review of GIS (Geographic Information System) data of impervious surfaces on SFR parcels in the Township.
  - (3) All non-SFR parcels can be charged a fee based upon the square footage of impervious area on the parcel. The impervious area is measured, and the fee is determined by dividing the impervious area on the parcel by the square footage for an ERU and rounding down the result to nearest whole-number ERU.

#### **Section 4. Definitions.**

Terms used in this Resolution which are defined in the Township Storm Water Management Ordinance shall have the meaning set forth in the Township Storm Water Management Ordinance. Terms used in this Resolution which are not given a specific definition shall be defined as set forth in applicable statutes of the Commonwealth of Pennsylvania or other Township ordinances, if any, and shall otherwise be given their ordinary and common meaning. References to codes, ordinances, resolutions, plans, maps, governmental bodies, commissions or agencies or officials are to codes, ordinances, resolutions, plans, maps, governmental bodies, commissions or agencies or officials of the Township or the Commonwealth of Pennsylvania as in effect or office from time to time, including amendments thereto or revisions or successors thereof, unless the text indicates another reference is intended.

**AGRICULTURAL PARCEL:** A developed parcel which is in active agricultural production and which fits within the definition of normal agricultural operation in the Pennsylvania Right to Farm Act, 3 P.S. §951 et seq.

**AUTHORITY:** The West Hempfield Township Municipal Authority.

**BEST MANAGEMENT PRACTICES (BMPs):** Activities, facilities, measures, or procedures used to manage the volume, rate and water quality of storm water runoff from a developed parcel.

For the purposes of the credit policy, BMPs eligible for credits are those structural BMPs listed in the DEP "BMP Effectiveness Values" document (publication number 3800-PM-BCW0100m, dated 6/2018). Definitions for individual BMPs shall be as stated in the "BMP Description" column of the DEP "BMP Effectiveness Values" document.

**BOARD:** The governing body of the Authority.

**CREDIT:** A storm water management program fee reduction that an owner receives for implementing and complying with the practices and policies adopted by the Township and this Authority.

**DEP:** The Pennsylvania Department of Environmental Protection or any agency successor thereto.

**DESIGN STANDARDS:** Specifications, requirements, construction sequences, and other standards that must be met for an implemented BMP to receive credit. Design standards for implemented BMPs shall be in accordance with the Pennsylvania Storm Water BMP Manual published by the DEP.

**DEVELOPED PARCEL:** A parcel altered from a natural state that contains impervious surface equal to or greater than 500 square feet. For the purposes of this Resolution, a parcel may be one or more adjoining lots of record, adjoining Lancaster County tax parcels, or other means of land ownership held by the same owner.

**EQUIVALENT RESIDENTIAL UNIT (ERU):** The measure of impervious surface for a typical single-family detached residential property used in assessing fees for each parcel of property, and which is determined to be 2,350 square feet.

**EXECUTIVE DIRECTOR:** The person appointed by the Board of the Authority as the Executive Director or the designee appointed by the Executive Director to fulfill duties imposed in this Resolution.

**IMPERVIOUS SURFACE:** A surface that prevents or significantly reduces the infiltration of water into the ground. Impervious surface includes all structures, buildings, parking areas, driveways, roads, sidewalks, and any areas of concrete, asphalt, stone, gravel, or other surfaces as "Impervious Surface" defined in the Township Storm Water Management Ordinance.

**NON-SINGLE FAMILY RESIDENTIAL (NON-SFR) PARCEL:** Any developed parcel not fitting the definition of Single-Family Residential parcel. Non-SFR parcels include, but are not limited to, apartments or multifamily dwellings, boarding houses, hotels and motels, churches, industrial properties, commercial properties, manufactured home or mobile home parks, commercial and office buildings, storage areas, parking lots and other impervious areas, parks, recreation properties, public and private schools and universities, hospitals and convalescent centers, office buildings, government properties, and mixed-use properties.

OWNER: Any person, firm, corporation, individual, partnership, company, association, government agency, society or group owning real property in West Hempfield Township. "Owner" may be referred to as "property owner" or "landowner."

RESIDENTIAL ESTABLISHMENT: Any room, group of rooms, building or other enclosure occupied or intended for occupancy as separate living quarters by a family or other group of persons living together or by a person living alone, excluding institutional dormitories, hotels, and motels, but including personal care boarding homes licensed by the Commonwealth.

SINGLE-FAMILY RESIDENTIAL (SFR) PARCEL: A residential establishment which may be constructed as: a free-standing building; one -half of a single family semi-detached dwelling or duplex (one party wall in common); one house in a row house or townhouse arrangement (sharing two vertical party walls in common, except for end units); and any other variation of construction with the same result, including buildings subject to the condominium or planned community form of ownership.

STORM WATER: Water from all precipitation events, snowmelts and springs that flows across the land and eventually into rivers, creeks, lakes, ditches and canals resulting in debris, sediment, pollutants, bacteria and nutrients from sidewalks, streets, parking lots, and other impervious surfaces washing into gutters, through storm drains, and eventually flowing into creeks and rivers.

STORM WATER MANAGEMENT COSTS: The associated public costs of equipment and facilities, energy, workforce, materials, property acquisition, transportation and services required to:

- a. Avoid, reduce, manage, treat, collect, convey, detain, infiltrate, pump and transport storm water;
- b. Provide flood protection;
- c. Keep equipment and facilities including best management practices functioning satisfactorily and economically;
- d. Administer the Storm Water Management Program, including regulatory compliance; and
- e. Improve West Hempfield Township's Storm Water Management System.

STORM WATER MANAGEMENT SYSTEM: The system of runoff avoidance, infiltration, collection and conveyance, including storm sewers, pipes, conduits, mains, inlets, culverts, catch basins, gutters, ditches, channels, detention ponds, streets, curbs, drains and all devices/appliances and Storm Water Best Management Practices (BMPs) and facilities appurtenant thereto used for collecting, conducting, pumping, conveying, detaining, infiltrating, reducing, managing, avoiding the generation of, and treating storm water.

STORM WATER MANAGEMENT PROGRAM FEE: A fee assessed, imposed and to be collected from the owner of each developed parcel in the Township beginning July 1, 2021, and used to defray the Township's Storm Water Management Costs.

TOWNSHIP: West Hempfield Township, Lancaster County, Pennsylvania.

**Section 5. Calculation and Imposition of Storm Water Management Program Fees.**

- A. The fee per ERU shall be an annual fee of \$72.00, with one (1) ERU being equal to 2,350 square feet of impervious surface coverage.
- B. Each single-family residential (SFR) parcel shall be charged for one (1) ERU.
- C. All developed non-SFR parcels shall be charged an annual fee calculated by dividing the total impervious area of the non-SFR parcel by the impervious area per ERU to determine the number of ERUs to assign to the parcel. ERU's shall be assigned to non-SFR parcels by rounding down to the closest whole number ERU.

Example: A non-SFR parcel containing 56,000 square feet of impervious area would have the following ERUs assigned to it:  $56,000 / 2,350 = 23.83 = 23$  ERUs.

**Section 6. Uniform Application of Stormwater Management Program Fees.**

Storm water management program fees shall be assessed, imposed, liened and collected as to all developed parcels unless exempted by this Resolution.

**Section 7. Billing and Collection of Storm Water Management Program Fees.**

- A. The storm water management program fees fixed and established by this Resolution shall be imposed on all developed parcels existing as of the effective date of this Resolution, and shall be effective to all other developed parcels which are created or developed in the future.
- B. West Hempfield Township shall maintain all storm water management program fee funds on behalf of the Authority and shall create and maintain a dedicated storm water account separate from all other accounts or funds. All storm water management program fees, and any penalties or interest on such fees, shall be deposited into that account, and shall be used solely for storm water services and purposes, including operation, administration, maintenance, repair, and improvement of the storm water management system.
- C. The Authority may bill owners of developed parcels directly, or the Authority may designate a third-party billing agent including, but not limited to, the Township, to issue bills for storm water management program fees.
- D. Bills for storm water management program fees shall be issued on an annual basis.

- E. Bills for storm water management program fees shall be payable at their face amount during the thirty (30) day period following the date on which the bill was mailed.
- F. The storm water management program fees imposed and collected will not be subject to proration or refund by the Authority in the event a developed parcel is sold; provided, however, that this provision shall not bind a buyer and seller from making their own proration of any storm water management program fees imposed hereunder.

**Section 8. Late Payment Penalty; Interest Paid on Unpaid Storm Water Management Program Fees, and Collections.**

- A. The face amount of all storm water management program fee charges shall be paid within thirty (30) days of the invoice date. If not paid within the thirty (30) day period, a penalty of ten percent (10%) of the storm water management permit fee shall be assessed on the thirty-first (31st) day. On the first day of each subsequent month in which the account remains unpaid, an interest charge of one-half percent (0.5%) per month shall be added to the account. All unpaid storm water management program fees, penalties and interest shall be a lien against the developed parcel. Any legal fees, including attorney's fees, filing fees, and court costs, and any other fees related to the collection of the account shall be borne by the owner of the developed parcel.
- B. Nothing in this section shall prohibit the Authority from establishing a payment plan for owners making such a request for good cause.
- C. All costs of collection procedures, including but not limited to legal fees, including attorney's fees, filing and satisfaction fees, court costs, administrative costs and engineering fees and costs, litigation expenses, charges for service of documents, and any other fees related to the collection of the account shall, upon being incurred by the Authority be imposed as a charge for nonpayment and added to the balance due on the owner's account.

**Section 9. Storm Water Management Program Fees Constitute a Lien on Property.**

- A. In accordance with applicable law, all storm water management program fees, penalties, interest, collection fees, attorney's fees, lien filing and satisfaction fees, and all other charges imposed for failure to pay promptly shall constitute a lien upon and against the subject property from the date the fees are imposed. In addition, the Authority reserves the right to pursue any and all other remedies available to it for nonpayment of the storm water management program fee.
- B. No lien shall be satisfied nor shall any collection proceeding be discontinued until all amounts due on an account, including storm water management program fees, interest, penalties, collection fees, attorney's fees, filing and satisfaction fees, court costs, administrative costs and engineering fees and costs, litigation expenses, and charges for service of documents are paid in full to the Authority.

## Section 10. Credits.

Except as provided in this section, no public or private developed parcel shall be exempt from the storm water management program fee or receive a credit or offset against such storm water management program fee. No exemption or reduction in storm water management program fee shall be granted based on the age, tax, or economic status, race, or religion of the owner, or other condition unrelated to the cost of providing storm water services and facilities.

- A. Exemptions. No public or private developed parcel shall be exempt from storm water management program fees, with the exception of:
  - 1. Public road rights-of-way.
  - 2. Parcels with less than 500 square feet of impervious area.
  
- B. Credits. The maximum credit shall be cumulative up to a maximum credit of 50% of the total storm water management program fee for the developed parcel. Credits shall be available as follows:
  - 1. For Agricultural Parcels, provide a 25% credit for a written and implemented conservation plan as verified by the Lancaster County Conservation District.
  - 2. For Agricultural Parcels, reduce the number of ERUs to one ERU for an implemented conservation plan as verified by the Lancaster County Conservation District along with an approved NPDES permit.
  - 3. All other SFR developed parcels and non-SFR developed parcels are eligible for credits as follows:
    - a. Structural water quality BMPs: 25% credit for a structural water quality BMP installed, maintained and properly functioning on the developed parcel.
    - b. NPDES Industrial Stormwater or MS4 Permit: 25% credit for storm water management facilities installed pursuant to such permit which are maintained and properly functioning on the developed parcel.
    - c. Riparian forest buffer: 25% credit for a riparian forest buffer meeting the requirements of the Township Storm Water Management Ordinance which is protected by an easement recorded in the Office of the Recorder of Deeds.
    - d. Streambank restoration: 50% credit for completion of a project to restore and stabilize a streambank on the developed parcel. The streambank restoration project must be conducted in accordance with all applicable DEP



regulations and must be in accordance with the Guidance for Stream Restoration published by the United States Forest Service, Technical Note TN 102.4, May 2018, or similar publication. After completion, the streambank must be maintained in restored form.

- C. Procedure. Owners seeking to obtain credits must complete the Credit Application Form ("Application") provided by the Authority. The Authority staff shall review the application and any other relevant information. If an application for a credit for a developed parcel is approved, the owner will receive credit beginning with the next regular billing cycle.
- D. Inspections. Owners who have requested to obtain credits or who have obtained credits shall allow Authority representatives to inspect the developed parcel to confirm that the structural water quality BMP, riparian forest buffer, streambank restoration or other justification for a credit has been installed and is being properly maintained. Such inspection shall occur at a time mutually convenient for the Authority and the owner of the developed parcel, who may be present during the inspection. If the owner of the developed parcel does not schedule an inspection within 30 days after the date of a request to schedule an inspection, the application for the credit will be denied or, if the credit was previously granted, the credit will be revoked.

#### **Section 11. Appeals.**

Any owner who believes the provisions of this Resolution have been applied in error may appeal by according to the following procedure.

- A. All appeals must be in writing on an appeal form provided by the Authority and be filed with the Executive Director not more than 30 days after the date of the determination or imposition of storm water management program fee from which the appeal is taken. No appeal shall be considered complete without payment of any appeal fee. The appeal must state all reasons for the appeal.
- B. Using the information provided by the appellant and any other investigation that is needed in the opinion of the Executive Director, the Executive Director shall issue a response to the appeal within thirty (30) days. The Executive Director has the authority to adjust the storm water management program fee if he or she deems appropriate.
- C. The appellant may appeal a decision of the Executive Director that is adverse to the appellant to the Authority Board within thirty (30) days of the adverse decision being issued and mailed to the Owner. The appellant shall state in writing the grounds for further appeal to the Authority Board and shall mail or deliver the appeal to the Executive Director. The appellant shall be permitted to present his/her appeal to the Authority Board at the next scheduled meeting that is at least seven (7) days after receipt of the appeal to the Authority Board, and the Executive Director may provide the Authority Board with information in support of the Executive Director's determination which is the subject of the appeal. The

Authority Board shall issue a written decision on the appeal within thirty (30) days of its presentation.

- D. If the appeal to the Authority Board is denied, the appellant may proceed as authorized by the Local Agency Law, 2 Pa. C.S. §751 et seq.
- E. If an appellant does not proceed under the Local Agency Law to file a statutory appeal to the Lancaster County Court of Common Pleas or is such appeal is rejected by the Courts, the Authority may take all action to collect any storm water management program fees which are the subject of the appeal.

**Section 12. Policies and Procedures Authorized.**

The Authority may, by Resolution, adopt such policies and procedures as deemed appropriate to ensure collection of storm water management program fees assessed and imposed pursuant to this Resolution. Without limitation, collection procedures may include referral of delinquent accounts to a collection agency, filing of municipal liens, and all other measures which the Authority deems appropriate. The Authority may implement such administrative procedures necessary to implement the policies and requirements set forth in this Resolution.

**Section 13. Reservation of Rights.**

This Authority reserves the right to amend or revise any portion of this Resolution in the future including, but not limited to, the amount of the storm water management program fee, exemptions, and availability of credits.

**Section 14. Severability.**

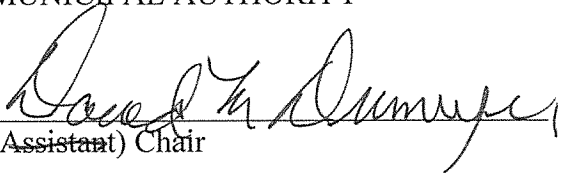
If any section, subsection, sentence, clause, phrase, provision, or portion of this Resolution is found to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision. Such decision shall not affect the validity of the remaining portions of this Resolution.

**Section 15. Effective Date.**


This Resolution shall become effective immediately upon its adoption by the West Hempfield Township Municipal Authority, Lancaster County, Commonwealth of Pennsylvania.

This Resolution is approved this 2nd day of February, 2021.

WEST HEMPFIELD TOWNSHIP  
MUNICIPAL AUTHORITY

  
(Assistant) Chair

ATTEST:

  
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(Assistant) Secretary

[AUTHORITY SEAL]

