

TOWNSHIP OF MONROE
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 2020- 01

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF MONROE, CUMBERLAND COUNTY, PENNSYLVANIA, ESTABLISHING A USER FEE FOR STORMWATER COLLECTION AND MANAGEMENT, STORMWATER ACCOUNT BILLING, SETTING STORMWATER FEES BY RESOLUTION, ESTABLISHING AN APPEAL PROCESS AND ENFORCEMENT AND PENALTIES.

Section 1. Title

This Ordinance shall be known as the “Monroe Township Stormwater Management Program Fee Ordinance.”

Section 2. Authority

- A. Monroe Township, a Township of the Second Class (sometimes “Township”), is empowered by 53 Pa.C.S. § 67705 to assess reasonable and uniform fees for construction, maintenance, and operation of stormwater management facilities, systems, and management plans.
- B. Monroe Township is empowered to regulate stormwater management activities and facilities by the authority of the Stormwater Management Act, 32 P.S. § 680.1 *et seq.*, and the Second Class Township Code, 53 P.S. § 65101 *et seq.*
- C. Monroe Township is also empowered to regulate land use activities that affect stormwater runoff and stormwater management systems by the authority of Pennsylvania’s Municipalities Planning Code, 53 P.S. § 10101 *et seq.*

Section 3. Findings

The Board of Supervisors of Monroe Township finds that:

- A. Monroe Township owns, operates, and maintains stormwater management facilities.
- B. Federal and state regulations mandate municipalities implement a program of stormwater controls. In order to establish, operate, and maintain the stormwater infrastructure of Monroe Township, as well as all systems upon which the stormwater infrastructure depends, sufficient and stable funding is required to fund these public services and comply with the associated federal and state mandates.
- C. Inadequate management of accelerated stormwater runoff throughout a watershed increases flood flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of existing streams and storm sewers, greatly increases the cost of public facilities to convey and manage stormwater, undermines floodplain management

and flood reduction efforts in upstream and downstream communities, reduces groundwater recharge and threatens public health and safety.

- D. Stormwater is a valuable natural resource which provides groundwater recharge for water supplies, base flows of streams, and therefore is integral in the protection and maintenance of water quality.
- E. The effects of stormwater runoff can be minimized by using project designs that maintain the natural hydrologic regime and sustain high water quality, groundwater recharge, stream base flow and aquatic ecosystems. Approaches to water management that protect, restore, and mimic natural water cycles have significant environmental, social, and economic benefits and should be encouraged.
- F. A comprehensive program of stormwater management, including the generation of funding to pay for effective storm water best management practices, is fundamental to the public health, safety, welfare and the protection of people of the Commonwealth, their resources, and the environment.
- G. Monroe Township intends to establish stormwater management fee to satisfy Federal and state stormwater management mandates to assure that each parcel within Monroe Township will contribute to the costs of operation, maintenance, repair, administration, replacement, and improvement of all stormwater services provided or paid for by Monroe Township.
- H. Monroe Township reviewed different models in order to determine the most equitable and reasonable method by which to assess to property owners. The decision by the Monroe Township Board of Supervisors to charge a fee is based on a lengthy review and analysis of the real costs associated with the management and maintenance of the stormwater management systems.

Section 4. Definitions

BASE RATE: The dollar rate per Parcel calculated and adopted by the Monroe Township Board of Supervisors from time to time by Resolution.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

STORMWATER DISCHARGE PERMIT: A permit issued under the Clean Water Act to regulate point and non-point source pollution entering waters of the United States.

PARCEL: Each and every separate and distinct lot, tract, area of land or structure in Monroe Township, regardless of whether the property is residential or non-residential, vacant or occupied, or with or without sewer service, having its own tax parcel identification number issued by the Cumberland County Tax Assessment Office.

PROPERTY OWNER or OWNER: Any person, corporation, partnership, association, agency, society, whether for profit or non-profit, and the like, owning real property in Monroe Township.

POLLUTION REDUCTION PLAN: The current version of the adopted Pollution Reduction Plan as required by the Township NPDES permit.

RUNOFF: Stormwater travelling along the surface of the land.

STORMWATER: Runoff that originates from precipitation events such as rain, snow, sleet, or hail, including snow or ice melt.

STORMWATER MANAGEMENT FEE (sometimes FEE): The rates and charges imposed by the Township to cover the costs of constructing, operating, and maintaining the stormwater management system and fund expenses in relation to the provision of stormwater management and pollution control services as set forth in this Ordinance.

STORMWATER MANAGEMENT FUND: The Stormwater Management Fund described in Section 6-A hereof.

STORMWATER SERVICES: Monroe Township's program for stormwater mitigation, remediation and for the partial control and conveyance of stormwater, including, but not limited to: public education; monitoring; removing, and regulating storm water pollutants; other activities described in Monroe Township's NPDES permit; mapping; planning; regulating, reviewing, and inspecting private storm water infrastructure; operating, constructing, improving, cleaning, and maintaining Monroe Township's stormwater system; and any and all expenses deemed reasonably necessary to the management of stormwater within Monroe Township, including but not limited to the payment of principal and debt service, and the establishment of a separate fund, to pay for these services, and the like, as determined at the discretion of the Township.

STORMWATER SYSTEM: The system of natural and constructed conveyances for collecting, managing, and transporting stormwater, including any structure through which stormwater flows, infiltrates, or discharges from a site.

Section 5. Stormwater Management Fee

- A. Each Parcel in Monroe Township shall be subject to a Stormwater Management Fee. Common ownership of multiple Parcels will not affect or limit the imposition of the Stormwater Management Fee on each Parcel.
- B. The Stormwater Management Fee shall be set by Resolution of the Board of Supervisors of Monroe Township.
- C. The Stormwater Management Fee shall be assessed, imposed, and collected uniformly as to each Parcel in the Township without exemption or exception. Notwithstanding the foregoing, Parcels owned by the Township of Monroe are exempt from the provisions of this Ordinance. Should the Township ever sell any such exempt properties, the Parcel would no longer be exempt, and the new Owner would be responsible for compliance with all terms of this Ordinance.
- D. Stormwater Management Fee Credit. The Board of Supervisors may identify certain Parcels for stormwater management improvements with the potential to effectuate the goals of the Township Pollution Reduction Plan. The Board of Supervisors is authorized, at their discretion, to adopt and implement written policies for the negotiation of a Stormwater Management Fee Credit for any Parcel on which an Owner permits the placement of Stormwater Management Facilities; to include, but not be limited to easements, access easements, and similar stormwater management improvements on a Parcel.
- E. The Board of Supervisors may implement such administrative policies and procedures as necessary to implement the requirements set forth in this Ordinance.

Section 6. Stormwater Account and Billing

- A. Stormwater Management Fund. The Township shall create and maintain a dedicated stormwater account separate from all other Township accounts or funds. All Stormwater Management Fees, and any penalties or interest on such fees, shall be deposited into that account, and shall be used by Township solely to provide Stormwater Services.
- B. Billing.
1. The Township Board of Supervisors will review the necessary data for collecting the Stormwater Management Fee from Owners subject to the fee, including the identification of every Parcel of property to be charged, and set by resolution the amount of the fee, which may be amended by resolution from time to time.
 2. Prior to the issuance of the first bill containing the Stormwater Management Fee, the Township shall issue a notice of assessment to each Owner identifying each Parcel to be assessed a Fee and the amount thereof. Thereafter, only newly subdivided Parcels will be issued a notice.
 3. The Township shall issue bills for Stormwater Management Fees on a regular basis as set by resolution adopted by the Board of Supervisors of Monroe Township, as amended from time to time. The Stormwater Management Fees may be billed on a combined utility bill that contains other charges, including Township sewer service at the discretion of the Board of Supervisors. Stormwater Management Fees that are shown on a combined bill may be for a different service period than that used for other utility services. For those properties without a sewer account with the Township, the Fee will be charged and invoiced on a separate stormwater management fee bill/invoice.
- C. Bill recipient.
1. The Township shall bill the Stormwater Management Fee to the Owner of each Parcel as identified in Cumberland County and Township tax records.
 2. In all cases, the Owner is finally responsible for any unpaid Stormwater Management Fees, including penalties and/or interest.
- D. If a lot is incorrectly billed, or not billed, or a bill is sent to the wrong party, the Township may back-bill the Owner for all unpaid amounts for a period not to exceed two (2) years.
- E. In the event of the sale of a Parcel, the Township shall not be responsible for or provide a prorations of the Stormwater Management Fee.
- F. The Township is authorized to develop billing forms, guidelines, and practices not inconsistent with this section.

Section 7. Enforcement and Penalties

- A. Penalties for Nonpayment
1. The Stormwater Management Fee shall be payable without penalty for forty-five (45) days following the billing date.

2. Effective on the forty-sixth (46th) day following the bill date, a penalty of ten percent (10%) of the billed amount for that billing period shall be added for nonpayment.
3. Monroe Township reserves the right to pursue any and all remedies available to it to collect Stormwater Management Fees, including, but not limited to, civil enforcement, action in equity, termination of water service, and including establishing a lien on the Parcel as set forth in Section 8 herein.

Section 8. Stormwater Management Fees Constitute a Lien

- A. In accordance with the Municipal Claim and Tax Lien Law, 53 P.S. § 7101, *et seq.*, as amended, any uncontested portion of the Storm Water Management Fees, with any added penalties, interest, collection fees, attorneys' fees, court costs, and any other charges imposed for failure to pay Stormwater Management Fees shall constitute a lien upon and against the subject lot from the date of the billing date.
- B. No lien shall be satisfied nor shall any collection proceeding be discontinued until all amounts due on an account, including Stormwater Management Fees, interest, penalties, collection fees, attorneys' fees, court costs, administrative costs, engineering costs, and/or charges for any service of documents are paid in full to Monroe Township.

Section 9. Review and Appeal Process

Any Owner who believes the provisions of this Ordinance have been applied in error may appeal utilizing the procedure contained herein.

- A. All appeals must be in writing, set forth the basis for the appeal, and submitted on a form to be created by the Township.
- B. A Stormwater Management Fee appeal must be delivered or postmarked to the Township within thirty (30) days of the of the notice of assessment. The appeal shall be in writing and set forth all reasons for the appeal. Information may be provided from the aggrieved Owner, and the Township may perform its own investigation and request the Owner provide information deemed necessary to adjudicate the appeal. Those appeals that are unable to be addressed administratively shall be scheduled by the Township for a public hearing before the Board of Supervisors within one hundred-twenty (120) days following the receipt of the appeal, at which the aggrieved Owner may present evidence in support of the appeal.
- C. Monroe Township Board of Supervisors will issue a written determination within thirty (30) days of the open meeting at which the appeal was considered.
- D. The Owner may thereafter file an appeal of the decision of the Board of Supervisors of Monroe Township to the Court of Common Pleas in and for Cumberland County within thirty (30) days from the date of the Township's determination.
- E. If an appeal to the Court of Common Pleas in and for Cumberland County is not filed within thirty (30) days as set forth herein, or if an appeal is not taken and payment of any due billing is not made within thirty (30) days after the adverse determination is made by the Board of Supervisors, the lot or property shall be liened for all past-due amounts as set forth in Section 8.

Section 10. Floods and Liability

Floods from stormwater runoff may occur occasionally that exceed the capacity of the Stormwater System maintained and financed with the Stormwater Management Fee. Nothing in this Ordinance shall be deemed to imply that properties subject to the Stormwater Management Fee shall always be free from flooding or flood damage, or that all flood control projects to control runoff can be constructed so as to provide protection from all flood and storm events within the Township. Nothing whatsoever in this ordinance shall deem Monroe Township liable for any damages incurred in a flood or from adverse water quality. Further, payment of a Stormwater Management Fee does not relieve an Owner or third party from any local, State, or Federal requirements to obtain flood insurance. The implementation of this fee in no way limits, reduces or obviates an Owner's duty to comply with local, State, or Federal laws and regulations regarding stormwater management including the duty to maintain stormwater facilities located on private property whether arising by contract or otherwise.

Section 11. Severability

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision. Such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 12. Repealer

All other Ordinances, parts of Ordinances or parts of Resolutions inconsistent herewith are hereby repealed to the extent of such conflict.

Section 13. Effective Date

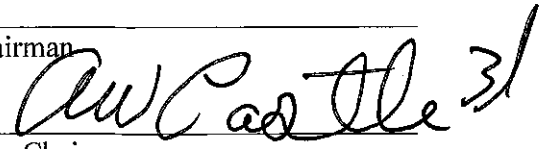
This Ordinance shall take effect and be in force thirty (30) days after its enactment by the Board of Supervisors of the Township of Monroe as provided by law.

ORDAINED AND ENACTED, this 9th day of July, 2020 by
the Board of Supervisors of Monroe Township, Cumberland County, Pennsylvania

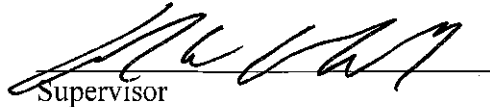
MONROE TOWNSHIP
BOARD OF SUPERVISORS



Chairman



Vice-Chairman



Supervisor

ATTEST:

Karen M Govey
Assistant Secretary

(SEAL)