

**LOWER PAXTON TOWNSHIP AUTHORITY
DAUHPHIN COUNTY, PENNSYLVANIA**

RESOLUTION 19-01

**A RESOLUTION OF THE LOWER PAXTON TOWNSHIP AUTHORITY
ESTABLISHING A USER FEE FOR STORMWATER COLLECTION AND
MANAGEMENT**

WHEREAS, the Lower Paxton Township Authority (hereinafter the Authority) currently owns a system of pipes, drains, basins, infiltration facilities, inlets, manholes, ditches, swales, outfalls and other infrastructure to collect, convey and manage stormwater, (hereinafter the stormwater system); and

WHEREAS, the Authority has entered into a Management Agreement with Lower Paxton Township (hereinafter the Township) to provide certain services in connection with the operation and maintenance of the stormwater system; and

WHEREAS, the existing stormwater system requires maintenance, repair, enhancements and replacement to meet existing and future needs, including flooding concerns; public health, safety and welfare; and water quality protection; and

WHEREAS, the requirements of the United States Environmental Protection Agency and the Pennsylvania Department of Environmental Protection demand a comprehensive approach to municipal stormwater management by the Authority and the Township; and

WHEREAS, Professional engineering and financial analysis of stormwater management needs of the Authority and the Township has been performed concluding that substantial stormwater management needs and regulatory requirements exist; and

WHEREAS, the analysis recommended implementation of a stormwater management user fee to generate revenue to fund the required stormwater program and to establish a stormwater management user fee under the existing Authority; and

WHEREAS, Pennsylvania Act 68 of 2013 authorizes the Authority to assess and collect fees for the financing of stormwater planning, management and implementation; and

WHEREAS, the Authority has determined that the user fees herein are fair and equitable, and are based upon studies performed by Professional Engineers and Financial Consultants.

NOW, THEREFORE, BE IT RESOLVED, by the Lower Paxton Township Authority as follows:

Section 1: Findings

The Authority finds that:

- (a) Accelerated runoff of stormwater resulting from development throughout a watershed increases flows and velocities, threatens public health and safety, contributes to erosion and sedimentation, overtaxes the carrying capacity of streams and storm sewers, increases the cost of public facilities to carry and control stormwater, undermines floodplain management and flood control efforts in downstream communities, reduces groundwater recharge, and increases non-point source pollution of water resources.
- (b) A comprehensive program of stormwater management, including reasonable regulation of development and activities causing accelerated runoff is fundamental to the public health, safety and welfare, and the protection of the people of the commonwealth, their resources and the environment.
- (c) Federal and state regulations require the Township to implement a program of stormwater management. The Township is required to obtain a permit for stormwater discharges from their Municipal Separate Storm Sewer Systems (MS4) under the National Pollutant Discharge Elimination System (NPDES).

Section 2: Purpose

The Authority finds that an adequate, sustainable source of revenue for stormwater management is needed to protect the general health, safety, and welfare of the residents of the Township. Further, the Authority finds that higher amounts of impervious surface area contribute to greater discharges of stormwater and associated pollutants to the stormwater management system. Therefore, the Authority determines that it is in the best interest of the public to enact a stormwater management user fee that allocates stormwater management program costs to property owners based on impervious surface area that exists on developed parcels.

Section 3: Definitions

For the purpose of this Resolution, the following words, terms, and phrases shall have the meanings given to them in this section, except where the context clearly indicates a different meaning:

Developed Parcel shall mean a land parcel altered from its Natural State that has 340 square feet or more of Impervious Surface.

Equivalent Residential Unit (ERU) is a unit of measure of impervious surface (in square feet) which represents the impervious surface area on the typical Single Family Residential Parcel in the underlying jurisdiction as a unit of comparison. ERU shall mean for the purposes of this Resolution 3,400 square feet of impervious surface. With regard to Non-Single Family Residential Parcels an ERU shall equal 3,400 square feet.

Impervious Surface shall mean a surface that prevents or substantially impedes the percolation of water into the ground. Impervious surfaces include, but are not limited to: any roof, parking or driveway areas, and any new streets and sidewalks. For purposes of stormwater runoff analysis, any surface areas existing or proposed to be gravel or crushed stone shall also be assumed to be impervious surfaces.

Non-Single Family Residential Parcel (NSFR) Any developed parcel that is not a Single Family Residential Parcel. NSFR shall include, but not be limited to, multi-family properties, apartments, boarding houses, hotel, motels, churches, mobile home parks, commercial, institutional, governmental and industrial parcels.

Natural State shall describe existing Undeveloped Land where the ground and vegetation characteristics have not been substantially modified or disturbed by human activities and the hydrologic function is in an unaltered or natural condition.

Owner shall mean any person firm, corporation, individual, partnership, trust, company, association, organization, society or group and governmental organizations owning real property within the Service Area.

Public Road Rights-of-Way shall mean all property that has been accepted for maintenance by the Pennsylvania Department of Transportation, Lower Paxton Township, or Dauphin County, and that is available for use by the general public for transportation purposes.

Service Area shall mean all land within Lower Paxton Township.

Single Family Residential Parcel (SFR) shall mean any developed parcel containing only one (1) structure which contains one (1) or more rooms with a bathroom and kitchen facility designed for occupancy by one (1) family unit; including single family homes, attached and detached townhouses, condominiums, duplexes, and mobile homes located on individual lots.

Stormwater shall mean the surface runoff generated by precipitation reaching the ground surface.

Stormwater Management Program shall mean an identified set of measures and activities designed to protect, restore and/or manage stormwater quality by controlling and/or reducing pollutants and; to reduce and/or manage stormwater quantity by controlling velocity, volume, and rate of Stormwater.

Stormwater Management User Fee shall mean a User Fee, assessed, imposed, and to be collected from SFR Property Owners and NSFR Property Owners which uses, benefits from, or is serviced by the Stormwater System, or discharges Stormwater, directly or indirectly, into the Stormwater System for the use of such system, and the service rendered by and improvement of such system.

Stormwater Management Fund shall mean the Stormwater Management Fund established by the Authority for the purpose of funding responsibilities of the Stormwater Management Program.

Undeveloped Land shall mean any lot, tract, or parcel of land which has not been graded or in any other manner prepared for the construction of a building or other improvement and has less than 340 sq. ft. of impervious surface.

Section 4: Establishment of a Stormwater Management Fund

The Authority shall establish a Stormwater Management Fund for the purpose of dedicating and protecting funding applicable to the responsibilities of the Stormwater Management Program including but not limited to, rents, rates, fees, charges, and penalties as may be established, after due notice having been given and a public meeting held by the Authority. All Stormwater Management User Fee Revenues and Receipts shall be placed in the Stormwater Management Fund and all expenses of the Stormwater Management Program shall be paid from the Stormwater Management Fund.

Section 5: Schedule of Fees and Charges

The Authority hereby establishes and imposes Stormwater Management User Fees upon each and every Owner of Developed Parcels within the Service Area, which uses, benefits from, or is serviced by the Stormwater System, or discharges Stormwater, directly or indirectly, into the Stormwater System, for the use of such system and the service rendered by and improvement of such system, except as may be altered by exemptions provided in this Resolution.

Section 6: Rate Structure

- (a) Every Developed Parcel within the Service Area shall be subject to a Stormwater Management User Fee: The fee is established at thirty-two dollars (\$32.00) per quarter, per ERU.
 - 1. Owners of a Single Family Residential parcel shall pay a user fee equal to thirty-two dollars (\$32.00) per quarter annum.

2. Owners of a Non-Single Family Residential Parcel NSFR shall pay user fees based upon the number of square feet of impervious surface, as determined through aerial photography or other computer aided design drawings, provided by an authorized agent of the Authority or the Township. The user fee for said properties shall be in accordance with the following schedule: (a) NSFR's with impervious surface equal to or less than 3,400 square feet shall pay a user fee for one (1) ERU at the rate of thirty-two dollars (\$32.00) per quarter annum; (b) NSFR's above the minimum of 1 ERU shall be computed by multiplying the total number of ERUs, including additional partial ERU's expressed in fractions of 1/10 to 9/10 as applicable, by the ERU unit rate of thirty-two dollars (\$32.00) per quarter annum.

Section 7: Billing and Collection

- (a) *Method of billing.* Billing and collection of the Stormwater Management User Fees shall be billed on the Authority bill sent by the Authority.
- (b) *Application of payment.* Payment will be applied to a customer's bill in the following order:
 1. Stormwater Management User Fee(s)
 2. Sewer Rental Charges
- (c) *Appeal of disputed bills and adjustments.* Any Owner who wishes to dispute its User Fee may appeal in the manner and sequence addressed in the written policy as adopted by Resolution of the Authority.
- (d) *All Stormwater Management User Fees shall be rendered in arrears of the service provided for quarter service period of January 1, April 1, July 1, and October 1 of each year.* All Stormwater Management User Fees shall be due and payable upon presentation and if not paid on or before the due date, a penalty of ten percent (10%) of the current billed amount shall be added.
- (e) In accordance with the Municipal Claims and Tax Lien Act, 53 P.S. § 710 I, et. seq., as amended, all User Fees, penalties, interest, collection fees, lien filing and satisfaction fees, and other charges imposed for failure to pay promptly shall constitute a lien upon and against the subject Property and its Owner from the date of their imposition and assessment.

Section 8: Disposition of Stormwater Management User Fees

Stormwater Management User Fee revenues shall be assigned and dedicated solely to the Stormwater Management Enterprise Fund in the Authority budget and accounting system, which shall be and remain separate from other funds, and shall be used only to fund identified Stormwater Management Program activities. The User Fees paid to and collected by virtue of the provision of

this Article shall not be used for general or other governmental or proprietary purposes of the Authority, except to pay for costs incurred by the Authority in rendering services associated with the Stormwater Management Program.

Section 9: Exemptions Applicable to Stormwater Management User Fees

- (a) *Statement of Policy.* Except as provided in this section, no public or private property shall be exempt from Stormwater Management User Fees or receive a credit or offset against such Stormwater Management User Fees. No exemption or reduction in Stormwater Management User Fees shall be granted based on the age, tax or economic status, race, or religion of the customer, or other condition unrelated to the cost of providing stormwater services and facilities.

- (b) *Exemptions.* Public Road Rights-of-Way and Single Family Residential Private Streets.

Section 10. Floods and Liability

Floods from Stormwater may occur occasionally that exceed the capacity of the Stormwater System maintained and financed with User Fees. Nothing in this Resolution shall be deemed to imply that Properties subject to charges shall always be free from flooding or flood damage, or that all flood control projects to control Stormwater can provide complete protection from all flood and storm events. Nothing whatsoever in this Resolution shall deem the Authority liable for any damages incurred from Stormwater or from adverse water quality. Nothing in this Resolution purports to reduce the need or necessity for flood insurance and the Authority expressly reserve the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the Authority, their officers, employees and agents arising out of any alleged failure or breach of duty with respect to the Stormwater System.

Section 10: Compatibility with other Resolutions

This Resolution supersedes all other Authority resolutions, or parts of Resolutions in conflict herewith.

Section 11: Severability

Any part or provision of this Resolution found by a court of competent jurisdiction to be in violation of the Constitution or laws of the United States or of the Commonwealth of Pennsylvania is hereby deemed severable and shall not affect the validity of the remaining provisions of the Resolution.

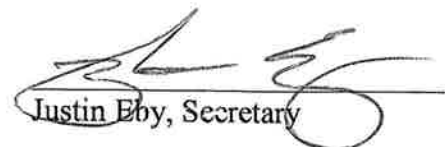
Section 12: Effective Date

This Resolution shall become effective with the initiation of the first Stormwater Management User Fee billing beginning July 1, 2019 for the April 1, 2019 to June 30, 2019 quarter.

DULY ADOPTED as Resolution 19-01 this 26th day of February 2019 by the Board of the Lower Paxton Township Authority.

ATTEST:

LOWER PAXTON TOWNSHIP AUTHORITY


Justin Eby, Secretary

By: 
David B. Blain, Chairman