

TOWNSHIP OF HAMPTON

ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWNSHIP OF HAMPTON
ALLEGHENY COUNTY, PENNSYLVANIA, ESTABLISHING
A FEE FOR STORMWATER COLLECTION, MANAGEMENT,
AND POLLUTION CONTROL.**

WHEREAS, the Township of Hampton (“Township”) is incorporated under the Second Class Township Code, 53 P.C. § 65101 et al.; and

WHEREAS, the Township has constructed and/or maintains, and will continue to construct and maintain, a system including sewers and drains to collect and manage stormwater; and

WHEREAS, pursuant to the authority vested in the Township by the Second Class Township Code, 53 P.S. § 65101 at al., the Township is desirous of adopting an Ordinance establishing a fair and equitable user fee for stormwater collection and management that assures all properties that are connected with, use, are serviced by, or are benefited by such system will pay a proportionate share of costs of operation, maintenance, repair, administration, replacement and improvement.

NOW, THEREFORE, be it resolved as follows:

SECTION 1. TITLE

This Ordinance shall be known as the Stormwater Management and Pollution Control Fee Ordinance for the Township of Hampton.

SECTION 2. PURPOSE

The purpose of this Ordinance is to provide dedicated funding needed to ensure the proper development and maintenance of stormwater management practices within the Township of Hampton.

SECTION 3. AUTHORITY

The Township is empowered by the Second Class Township Code, 53 P.S. § 65101 et al., to assess reasonable and uniform fees for stormwater management activities and facilities.

SECTION 4. FINDINGS

The governing body of the Township finds that:

A. Federal and state regulations (including those found at 40 CFR Part 122) include requirements for municipalities to implement a program of stormwater controls. Regulated municipalities are required to obtain a permit for stormwater discharges from their separate storm sewer systems under the National Pollutant Discharge Elimination System (“NPDES”). In order to establish, operate, and maintain the stormwater infrastructure in the Township of Hampton, as well as all systems upon which the stormwater infrastructure depends, sufficient and stable funding is required to fund these public services.

B. Inadequate development and maintenance of stormwater facilities increases stormwater 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 stormwater, undermines flood plan management and flood control efforts in downstream communities, reduces groundwater recharge, threatens public health and safety, and increases pollution of water resources.

C. A comprehensive program of stormwater management, including the generation of funding to pay for effective stormwater best management practices, is fundamental to the public health, safety, and welfare and the protection of people of the Commonwealth, their resources, and the environment.

D. Stormwater 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.

E. Approaches to water management that protect, restore, and mimic natural water cycles have significant environmental, social, and economic benefits and should be encouraged.

F. Development within the Township historically used materials including large amounts of corrugated metal pipe which has reached its useful life and must be replaced, and the decay of such materials interferes with the ability to properly convey stormwater and threatens public safety.

G. The Township intends to establish a stormwater management and pollution control fee to assure that each lot within the Township of Hampton will pay its proportionate share of the costs of operation, maintenance, repair, administration, replacement, and improvement of all stormwater services provided or paid for by the Township.

H. The charges as determined herein are fair and equitable and are based upon the following findings:

1. A minimum annual fee of \$115.00 per residential unit is reasonable.
2. The basis for an equivalent residential unit of 3,300 square feet of impervious surface was determined through a statistical sampling of single-family properties in the Township of Hampton RA, RB, RC, and RD Zoning Districts.
3. The requirement that a property have at least 500 square feet of impervious surface based upon the use of aerial photography is a reasonable threshold to define what constitutes a developed property that is subject to the minimum fee.
4. The monthly charge per Equivalent Residential Unit (ERU) is reasonably based upon the size of the building, all accessory structures and all other impervious surfaces including parking areas, driveways, and walkways.

SECTION 5. DEFINITIONS

Words and terms used in this Ordinance and not given specific definition shall be defined as set forth in the applicable statutes of the Commonwealth of Pennsylvania or ordinances of the Township of Hampton, if any, and shall otherwise be given their ordinary and common meaning.

For purposes of this Ordinance, the following words and terms shall be defined as set forth below:

BASE ERU RATE – The total fee assessed to one equivalent residential unit, as proposed and approved by the Township. The Base ERU Rate shall be less than or equal to the Township’s total anticipated stormwater expenses divided by the number of ERU’s in the municipality.

BASE MANAGEMENT PRACTICES – Methods, procedures, and analyses specified in Pennsylvania’s Department of Environmental Protection’s Stormwater Best Management Practices Manual (“Stormwater BMP Manual”), Commonwealth of Pennsylvania, Department of Environmental Protection, No. 363-0300-002 (December 2006), as amended and updated, to reduce flooding potential and control the volume, flow rate, and water quality of stormwater.

DEVELOPED – Manmade changes made to a property or lot, which may include, but are not limited to, buildings or other structures for which a building permit must be obtained under the requirements of the Uniform Construction Code, mining, dredging, filling, grading, paving, excavation or drilling operations, or the storage of equipment or materials.

DUPLEX/TWO FAMILY RESIDENTIAL PROPERTY – A property that shares the same essential characteristics of a single-family residential property but contains two separate dwelling units on a single common parcel.

DWELLING UNIT – A singled unit providing complete independent living facilities for one or more persons, but no more than one family, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EQUIVALENT RESIDENTIAL UNIT (“ERU”) – The measure of impervious surface on a typical single-family residential property in the Township of Hampton. The ERU shall be determined by generating a random, statistically significant sample of single-family residential properties and calculating the impervious surface on each property in the sample. The median of impervious surface area across the sample property shall be the ERU. The ERU has been determined to be 3,300 square feet of impervious area. The ERU is used in determining the fees assessed for each lot/property in the municipality.

TOWNSHIP – The Township of Hampton, Pennsylvania, a home rule municipality, originally incorporated under the Second Class Township Code, 53 P.S. § 65101.

IMPERVIOUS SURFACE – Any surface on a property that, because of the surface’s composition or compacted nature, impedes or prevents natural infiltration of water into the soil, including, but not limited to, roofs, solid decks, driveways, patios, swimming pools, sidewalks (other than public walks located in the Township’s right-of-way), parking areas, tennis courts, concrete, asphalt, or crushed stone streets or paths, or compacted material of any kind as determined by the Township.

IMPERVIOUS SURFACE AREA – As recorded or calculated by the Township, the number of square feet of horizontal surface on a lot covered by an impervious surface. In determining the impervious surface area of a lot, the Township may use any appropriate methods, including but not limited to aerial photography and surface feature evaluation processes.

LOT/PROPERTY – Each separate and distinct parcel, tract, or area of land having its own tax parcel identification number and containing 500 or more square feet of impervious surface. Lots or properties containing less than 500 square feet of impervious surface shall be considered vacant land.

NON-SINGLE-FAMILY RESIDENTIAL PROPERTY – Any property that does not fit the definition of Duplex/Two-Family Residential Property, including but not limited to, apartment buildings, commercial buildings, industrial buildings, schools, churches, government buildings and other similar structures.

OWNER – The owner of record of a lot or property in the Township as shown on the Allegheny County tax records for the respective tax parcel identification number.

RENTAL, RATES AND CHARGES – Sums necessary for the maintenance and improvement of the Township of Hampton Storm Sewer System which shall be assessed, imposed and collected from each property which directly or indirectly uses, benefits from, or is serviced by the system.

PUBLIC RIGHT-OF-WAY – A right-of-way that consists of land utilized for the benefit of the general public, such as to provide for utilities, roads, and railroads.

SINGLE-FAMILY RESIDENTIAL PROPERTY – A separate and distinct lot or property having its own tax parcel identification number and containing no more than two residential dwelling units, specifically including duplexes and townhouses as defined herein, and specifically excluding condominiums and mobile homes that are limited to the living area of the dwelling unit such that they require the use and access of commonly held property.

STORMWATER – Runoff from the surface of the land resulting from precipitation, including snow or ice melt.

STORMWATER SERVICES – The Township’s program for stormwater quality and for the partial control and conveyance of stormwater, including, but not limited to: public education; monitoring; removing, and regulating stormwater pollutants; other activities described in the Township of Hampton’s NPDES permit; mapping; planning; regulating, reviewing and inspecting private stormwater infrastructure; operating, constructing, improving, cleaning, and maintaining the Township of Hampton’s stormwater system; and any and all expenses deemed reasonably necessary to the management of stormwater within the Township of Hampton in the judgment of the Township, including but not limited to the payment of principal and debt service, and the establishment of a reserve fund, to pay for these services.

STORMWATER SYSTEM – The system of natural and constructed conveyances for collecting, managing, treating, and transporting stormwater, including but not limited to lakes, ponds, rivers, perennial, intermittent, and/or channeled streams, connected wetlands, open ditches, catch basins, and other inlets, pipes, storm sewers, drains, culverts and created storm-water management facilities that provide partial treatment by passive means such as wet detention ponds, detention basins, and stormwater wetlands.

STORMWATER MANAGEMENT AND POLLUTION CONTROL FEE – The rental, rates and charges imposed by the Township in relation to the provision of stormwater management and pollution control services as set forth in this Ordinance.

STORMWATER MANAGEMENT AND POLLUTION CONTROL FEE CREDIT – A conditional reduction in the amount of a stormwater management and pollution control fee in accordance with the Township of Hampton Stormwater Management and Pollution Control Credit Manual.

TOWNHOUSE/TOWNHOME – A building which contains at least three (3) single family dwelling units, each of which are separated from an adjoining unit by a continuous, common wall extending from the basement to the roof, each unit having independent access directly to the

outside, and having no units above or below. For the purpose of this definition each dwelling unit is located on an independent tax parcel containing no other dwelling units.

USER – Any person, firm, corporation, individual, partnership, company, association, society or group using, benefiting from or being serviced by the Township of Hampton Storm Sewer System.

VACANT PROPERTY – A property which has no impervious surface.

ZONING DISTRICT – The classification of development as defined by the Township of Hampton Zoning Ordinance with boundaries as shown on the Township Zoning Map.

SECTION 6. UNIFORM APPLICATION OF RENTAL, RATES, AND CHARGES

Rental, rates, and charges shall be assessed, imposed, liened and collected as to all property, owners, lots, parcels, building units, and users.

SECTION 7. STORMWATER MANAGEMENT AND POLLUTION CONTROL FEE

- A. Stormwater Management and Pollution Control Fee
1. Each property in the Township of Hampton shall be subject to a monthly stormwater management and pollution control fee equal to the product of the Base ERU Rate and the number of ERU's of impervious surface area on the lot as calculated in subsection (B) below, less any credits for the lot approved by the Township pursuant to Section 8 of this Ordinance.
 - a. Each property that is a single or two-family residential property will be deemed to have one ERU.
 - b. Each Non-Single-Family Residential Property, shall be assessed at a rate based upon the number of square feet of impervious surface, as determined by measurement through aerial photography and surface feature evaluation, expressed in increments of one-fourth (0.25) of one ERU by rounding to the next highest one-fourth (0.25) of an ERU, however, no Non-Single Family Residential Property shall be assessed at a rate of less than one (1) ERU. The charge shall be computed by multiplying the number of ERU's for a given property by the unit rate as set forth below in subpart "2" or as later adopted by Resolution of the Township of Hampton.

2. The Base ERU Rate shall be revised at least once every five (5) years after the effective date of this Ordinance. The Base ERU Rate as established by this Ordinance shall be \$115.00 per ERU per year.

B. Measurement of impervious surfaces

1. ~~An owner may file an application with the Township contesting the calculation of impervious surface area on the lot as of the date of the application. The applicant must submit satisfactory evidence as required by the Township, such as square footage measurements and descriptions of the relevant buildings or materials. Any approved changes in calculations will take effect on the first day of the billing period beginning after the application was submitted, even if retroactive as of date of approval; no refunds or credits shall be granted for amounts billed prior to submission of the application. The applicant may appeal the determination of the Township as set forth in Section 11.~~

1. An owner of Non-Single-Family Residential Property may file an application with the Township contesting the calculation of impervious surface area on the lot as of the date of the application. The applicant must submit satisfactory evidence as required by the Township, such as square footage measurements and descriptions of the relevant buildings or materials. Any approved changes in calculations will take effect on the first day of the billing period beginning after the application was submitted, even if retroactive as of date of approval; no refunds or credits shall be granted for amounts billed prior to submission of the application. The applicant may appeal the determination of the Township as set forth in Section 11.

2. The Township shall review and update the impervious surface data as necessary.

3. Upon close-out any building permit under which the associated documentation or other data indicate that impervious surface has been constructed upon a lot, the Township of Hampton Building Code Administrator shall provide the Township notice of the number of square feet of impervious surface added, in net, to the lot, as indicated on documentation associated with said permit, together with the applicable tax lot number. The Township shall thereafter update the data to reflect the adjusted impervious surface area on the lot.

SECTION 8. EXEMPTIONS AND CREDITS APPLICABLE TO RENTAL, RATES AND CHARGES: STORMWATER MANAGEMENT AND POLLUTION CONTROL FEE

Credits against rental, rates, and charges are appropriate means for adjusting fees, rates, rental, charges, fines and penalties, under some circumstances, to account for applicable mitigation measures. Credit mechanisms are attached hereto as Exhibit A. No exception, credit, offset, or other reduction in rental, rates, and charges shall be granted based upon age, race, tax status, political affiliation, economic status, or religion of the customer or other condition unrelated to the demand for a cost of services provided by the Township.

SECTION 9. STORMWATER ACCOUNT AND BILLING

A. The Township shall create and maintain a dedicated stormwater account separate from all other Township accounts or funds. All stormwater management and pollution control fees, and any penalties or interest on such fees, shall be deposited into that account, and shall be used by the Township solely to provide stormwater services.

B. Billing

1. The Township shall issue bills for stormwater management and pollution control fees on a quarterly basis, or another regular periodic basis, not less regularly than annually. The stormwater management and pollution control fees may be billed on a combined utility bill that contains other charges, including water and/or sewer service. Stormwater management and pollution control fees that are shown on a combined bill may be for a different service period than that used for other utility services.
2. Bill recipient
 - a. The Township shall bill the stormwater management and pollution control fee to the owner of each lot or property, unless such other agreement is made by the Township.
 - b. In all cases, the owner is finally responsible for any unpaid stormwater management and pollution control fees, including penalties and/or interest.

3. 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 a period not to exceed two years.
4. The Township is authorized to develop billing forms, guidelines, and practices not inconsistent with this section.

SECTION 10. ENFORCEMENT AND PENALTIES

A. Effects of nonpayment

1. The stormwater management and pollution control fee shall be payable without penalty for forty-five (45) days following the bill date.
2. Effective on the 46th day following the bill date, a penalty of five (5%) percent of the billed amount for that billing period shall be added for nonpayment within the time allowed.
3. On all amounts remaining unpaid after sixty (60) days following the bill date, and after each period of thirty (30) days or portion thereof thereafter, one (1%) percent of the amounts unpaid (including penalties assessed for non-payment) shall be added and collected.
4. In accordance with the Municipal Claim and Tax Lien Law, 53 P.S. § 7101, et seq., any uncontested portion of the stormwater management and pollution control fee, with any added penalty or interest, shall constitute a lien upon and against the subject lot from the date of the bill date.

SECTION 11. REVIEW AND APPEAL PROCESS

A. Any owner who believes the provisions of this Ordinance have been applied in error may appeal in the following manner and sequence.

1. Any person aggrieved by the Township's determination pursuant to Sections 7 and 8 of this Ordinance (appealing impervious surface or credit determination) may appeal such decision to the Township or its designated agent within sixty (60) days of the date of the adverse decision. Such appeal must be in writing and explain why the Township's decision should be reversed. The appeal will be considered at the next scheduled open meeting after its receipt by the Township. The aggrieved person may present evidence at the open meeting at which the appeal is considered, but such evidence must be limited to the matters stated in the written appeal. The Township will issue a written determination

within thirty (30) days of the open meeting at which the appeal was considered.

2. Any person with a direct interest who is aggrieved by the Township's written determination of an appeal, or by the failure of the Township to make a written determination within thirty (30) days of the meeting at which an appeal was considered, shall have the right to appeal to the Court of Common Pleas.

B. Whenever any stormwater management and pollution control fee charged under the provisions of this Ordinance is set aside, then the Township is authorized to issue a new fee with the same force and effect and complying with any legal requirements.

SECTION 12. 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 and pollution control fee. This Ordinance does not imply that properties subject to the stormwater management and pollution control fee shall always be free from flooding or flood damage, or that all flood control projects to control runoff can be constructed cost-effectively. Nothing whatsoever in this Ordinance shall deem the Township of Hampton liable for any damages incurred in a flood or from adverse water quality. Further, payment of a stormwater management and pollution control fee does not relieve an owner or third party from any local, state, or federal requirements to obtain flood insurance or other law applicable to the lot.

SECTION 13. REPEALER

That any and all previous Ordinance(s) which are inconsistent with the terms and provisions of this Ordinance are hereby repealed.

SECTION 14. SEVERABILITY

That if any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses,

sections or parts of this Ordinance. It is hereby declared as the intent of the Township of Hampton Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 15. EFFECTIVE DATE

That this Ordinance shall take effect January 1, 2020 as provided by law.

ATTEST:

TOWNSHIP OF HAMPTON

Municipal Manager

By: _____
President of Council

APPROVED TO AS TO FORM

Vincent A. Tucceri, Esquire
Township Solicitor