

BOROUGH OF LITITZ
LANCASTER COUNTY, PENNSYLVANIA

ORDINANCE NO. C-578

**AN ORDINANCE CREATING AND ENACTING THE
LITITZ BOROUGH STORMWATER MANAGEMENT FEE, DESIGNATING
LITITZ BOROUGH AUTHORITY AS THE BOROUGH'S STORMWATER AUTHORITY,
DELEGATING TO THE LITITZ BOROUGH AUTHORITY THE RESPONSIBILITY
FOR STORMWATER MANAGEMENT PLANNING AND PROJECTS IN THE BOROUGH
AND AMENDING CHAPTER 103 OF THE CODE OF THE BOROUGH OF LITITZ**

BE AND IT IS HEREBY ORDAINED AND ENACTED, by the Borough of Lititz, Lancaster County, as follows:

Section 1. Chapter 103 of the Code of the Borough of Lititz is amended by adding Article II as follows:

Article II

Section 101. TITLE

This Article shall be known and cited as the "Lititz Borough Stormwater Management Fee Ordinance".

Section 102. PURPOSE

The purpose of this Article is to provide a practical and dedicated revenue source to pay for all or part of:

- A. The construction, reconstruction, repair, enlargement, improvement, management, maintenance, operation, and use of the storm sewer and stormwater management systems in the Borough,
- B. Adhering to federal and state stormwater management permits and requirements,
- C. Building resiliency components to protect economic infrastructure and the health and safety of the Borough's citizens, and
- D. Safeguarding local natural resources and the drinking water supply.

All revenues derived from the stormwater management fees shall be assigned, credited and dedicated to the appropriate stormwater management fund, which shall be and remain separate from other funds, and shall be used only to fund Stormwater Management Program activities.

Section 103. STATUTORY AUTHORITY

- A. The Borough is empowered by 53 Pa. Cons. Stat. § 67705 to assess reasonable and uniform fees for stormwater management activities and facilities.
- B. The Borough 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 Borough Code, 8 Pa. C.S.A. § 101-3501 including, but not limited to, 8 Pa. C.S.A, Chapter 22.
- C. The Borough 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 104. FINDINGS

The Borough Council of the Borough finds that:

- A. 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.
- B. 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.
- C. 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.
- D. Approaches to 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 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 of the Borough, as well as all systems upon which the stormwater infrastructure depends, sufficient and stable funding is required to fund these public services.
- F. The Borough, through the Authority, intends to establish fair and equitable stormwater management fees to assure that each lot within the Borough 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 Borough.

Section 105. STORMWATER MANAGEMENT FEE

The stormwater management fee shall be determined with the assistance of Borough Council by Authority resolution, as adjusted from time to time by resolution, and shall be just and equitable. Charges made against individual parcels will be based on a reasonable calculation of stormwater runoff, and adjusted to a reasonable classification of the types of premises or uses on a parcel, or by reference to the quantity, pollution qualities, and difficulty of disposal of stormwater runoff produced, or fixed by any other equitable basis including, but without limitation, any combination of those aforementioned factors.

Section 106. DEFINITIONS

Authority – The Lititz Borough Authority

Borough – The Borough of Lititz, Lancaster County, Pennsylvania

Equivalent Factor – the common accounting unit derived from the stormwater management fee base rate expressed as Residential Equivalent Factor (REF)

Parcel – a tract or plot of land sometimes expressed as or referred to as property

Property Owner - the legal or beneficial owner or owners of land or a parcel including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if the lessee is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land.

Soil-Cover Complex Method - a method of runoff computation developed by the SCS (now NRCS) that is based on relating soil type and land use/cover to a runoff parameter called Curve Number (CN). For more information, see "Urban Hydrology for Small WATERSHEDS", Second edition, Technical Release No. 55, SCS, June 1986 (or most current edition).

Stormwater - drainage runoff from the surface of the land resulting from precipitation or snow or ice melt.

Stormwater Management Program (SWMP) - a written description of the specific runoff management measures and programs, including BMPs, that the Borough and the Authority will implement to comply with the Municipal Separate Storm Sewer System (MS4) Permit and ensure that polluted stormwater discharges are reduced to the maximum extent practicable and do not cause or contribute to a violation of water quality regulations and standards.

Section 107. DESIGNATION OF THE LITITZ BOROUGH AUTHORITY AS THE BOROUGH'S STORMWATER AUTHORITY

The Borough designates the Lititz Borough Authority as the Borough's Stormwater Authority. The purpose of the Stormwater Authority is to work in conjunction with the Borough to provide for the financing, operation and maintenance of a comprehensive stormwater management system, including underground pipes, conduits, inlets, outfalls, culverts, catch basins, dams, flood control structures, gutters, ditches, channels, detention ponds, best management practices, and drains and to establish reasonable and uniform rates based in whole or in part on property characteristics for the inhabitants of the Borough. For such purposes, the Authority shall have and exercise all powers granted by law pursuant to the Municipal Authorities Act.

The Lititz Borough Authority shall have all of the purposes, powers and rights provided by Act 68 of 2013, and Act 123 of 2014 including, but not limited to, purposes for financing working capital, acquiring, holding, constructing, financing, improving, maintaining and operating, owning or leasing, either in the capacity of lessor or lessee, projects of the following kind and character and providing financing for insurances reserves: Stormwater planning, management and implementation.

SECTION 108. ESTABLISHMENT OF STORMWATER MANAGEMENT FEE

- A. For the purposes set forth above, a stormwater management fee as described, defined, and calculated herein is hereby imposed upon each parcel within the Borough.
- B. The calculated base rate is the averaged stormwater runoff from a residential parcel in the Borough equal to or less than one-quarter acre, and based on the Soil-Cover Complex Method and design storm as described in the Stormwater Management Ordinance.
- C. The stormwater management fee charged to a parcel shall be based on an equivalent factor of the base rate in quarter-acre increments up to one acre and based on the reasonable classification of the types of premises or uses on the parcel. A direct equation measuring parcel size in acres by the base equivalent factor shall be applied to all parcels greater than one acre in area.
- D. If the property is a condominium property or residential complex, the stormwater management fee will be billed the minimum parcel charge to the individual owners. Property management entities, associations, or owners will be charged for the open space areas on such parcels.
- E. A minimum of one equivalent factor (REF) will be assigned to any parcel or property.

Section 109. ADJUSTMENTS

- A. The Authority shall, by resolution, adopt policies and standards for the facilitation and adjustment of the fees for properties. Such adjustments shall not be made retroactively.
- B. The Authority shall, by resolution, adopt a base rate and equivalent factors periodically, and within five years from the date of the previous resolution adopting a base rate or as prescribed by the Borough SWMP. Such adjustments shall not be made retroactively.

Section 110. EXEMPTIONS

Public rights-of-way are exempt from the stormwater management fees established.

Section 111. BILLING

Bills for the stormwater management fee shall be payable at the Lititz Borough Office as follows:

- A. Stormwater management fee bills for established accounts will be rendered quarterly on the 10th day of March, June, September, and December each year. The Borough on behalf of the Authority will include the stormwater management fee as a separate line item on the water, sewer, and/or trash utility bill for each property subject to the fee. For those properties, without a water, sewer, and/or trash account with the Borough, the fee will be charged and invoiced on a separate stormwater management fee bill/invoice. In both cases, the stormwater management fee must be paid in the same manner and within the time frame required for payment of water, sewer, and/or trash bills.
- B. A property owner whose property is subject to the stormwater management fee may delegate responsibility for the payment of the stormwater management fee to customers and/or property management companies in the same manner as payment responsibility for water, sewer, and/or trash bills is so delegated.
- C. Every customer who does not pay the stormwater management fee bill rendered in full within 30 days after the billing date shall be subject to a penalty of 5% of the amount of such bill.

Section 112. RECALCULATION OF FEES FOR INDIVIDUAL PROPERTIES

- A. If a person responsible for paying the fees established in Section 105 questions the correctness of such fees, that person may file a written request and have the determination of the fees recalculated within 30 days of the mailing of the stormwater management fees by submitting the written request to the Authority, and based on the policies and standards adopted by the Authority Board by resolution.
- B. When submitting a written request for review and/or recalculation of the stormwater management fee as set forth above, the property owner must include a detailed statement of the basis for the request and documents supporting the owner's assertion that the property should be assigned a different equivalent factor, total stormwater runoff should be calculated for the individual parcel in lieu of the averaged stormwater runoff, or the measurements used to calculate the number of base units for the property are incorrect.

Section 113. APPEALS

- A. A property owner may appeal any decision of the Authority in writing, not later than 30 days after receipt of the response to the property owner's written request for recalculation of fees.

- B. Any person aggrieved by any administrative action of the Authority may appeal to the Authority Board within 30 days of that action. Any such appeal shall be governed by the procedures of **Article V of the Local Agency Law, 2 Pa. C.S.A. 401 et seq.**
- C. Nothing in this section shall prejudice the right of any party to appeal a final decision of the Authority to Lancaster County Court of Common Pleas in accordance with the Local Agency Law of the Commonwealth of Pennsylvania, within 30 days of that final decision.

Section 114. FEES FOR RECALCULATION OF FEES AND APPEALS

The Authority may, from time to time, by resolution, establish fees for the processing and handling of written requests for recalculation of fees or appeals and any other matters related to the enforcement of this Article.

Section 115. STORMWATER MANAGEMENT FEE CREDITS

- A. The Authority may provide a system of credits against stormwater management fees for properties on which a stormwater management/water quality facility substantially mitigates stormwater runoff, provides regional stormwater management, reduces pollution flowing from such properties or substantially decreases the cost of stormwater management of the Borough and/or the Authority. The Authority Board will adopt, by resolution, written policies and standards to implement the credit system.
- B. A property owner may appeal the decision regarding the issuance or nonissuance of a credit within 30 days after the decision is provided by the Authority. All such appeals shall be in accordance with Section 113 of this Article.

Section 116. DELINQUENT BILLS

If any stormwater management fee bill is not paid within 45 days after the billing date, it shall be the duty of the Borough, on behalf of the Authority, to give the customer 10 days' notice, in writing, of the fact that such stormwater management fee bill is delinquent and that at the end of such ten-day period a penalty will be applied. Any time a customer's property is posted by the Borough, on behalf of the Authority, with a ten-day notice, the customer shall be responsible to pay the Borough an administrative fee to cover the cost of such posting as set forth in Chapter 55, Fees.

Section 117. ABATEMENT OF CHARGES

No abatement of charges shall be allowed.

Section 118. RULES AND REGULATIONS

The Authority will promulgate procedures, written requests, and other forms relating to the interpretation, enforcement, and management of the provisions of this Article; and as set forth in the policies and standards adopted by resolution by the Authority Board.

Section 119. FLOODS AND LIABILITY

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

directors, employees and agents arising out of any alleged failure or breach of duty with respect to the Stormwater system.

Section 2. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.


Section 3. If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

Section 4. This Ordinance shall become effective January 1, 2020.

DULY ENACTED AND ORDAINED this 17th day of December, 2019.

ATTEST:

Borough of Lititz


Secretary


Borough Council President

(Borough Seal)

Examined and approved as an Ordinance of the Borough of Lititz this 17th day of December, 2019.


Mayor, Lititz Borough