

RESOLUTION NO 12-21

**A RESOLUTION OF THE TOWNSHIP OF NEW SEWICKLEY, BEAVER COUNTY, PENNSYLVANIA, ESTABLISHING AGRICULTURAL BEST MANAGEMENT PRACTICES APPEAL AND CREDIT CRITERIA FOR THE TOWNSHIP STORMWATER MANAGEMENT FEE**

WHEREAS, the Board of Supervisors of the Township of New Sewickley enacted the Ordinance No. 222, the “New Sewickley Township Stormwater Management Fee Ordinance” on the 1<sup>st</sup> day of December, 2020; and

WHEREAS, Ordinance No. 222 established a fair and equitable user fee for stormwater management that assures all properties that are connected with, use, are serviced by or are benefitted by such system will pay a proportionate share of costs of operation, maintenance, repair, administration, replacement, improvement and permit compliance and implementation; and

WHEREAS, Ordinance No. 222 identified that credits against the Stormwater Management Fee are an appropriate means of adjusting the assessment of fees owed to account for the implementation of mitigating measures. Credits shall be applied as described in the Stormwater Management Fee Study, prepared by Lennon, Smith Souleret Engineering, Inc., dated August, 2020, or as otherwise adopted by Resolution of Township Board of Supervisors. Applications for Credit shall be filed with the Township Manager or designee, on forms supplied by the Township; and

WHEREAS, A Stormwater Fee Credit Application was adopted by the Board of Supervisors as part of Ordinance No. 222 providing for the following types of credit:

1. Post Construction Stormwater Management Best Management Practice (PCSM BMP) Credit
2. Public Education Credit; and

WHEREAS, the Board of Supervisors is desirous of adopting a revised Stormwater Fee Credit Application to provide opportunity for owners of agricultural properties providing qualifying mitigating measures to receive an Agricultural Best Management Practices Credit to reduce their Stormwater Management Fee,

WHEREAS, A Stormwater Fee Appeal Application was adopted by the Board of Supervisors as part of Ordinance No. 222 providing for the following types of appeal:

1. Calculation of Impervious Area or Equivalent Residential Units
2. Incorrect Property Designation

WHEREAS, the Board of Supervisors is desirous of adopting a revised Stormwater Fee Appeal Application to provide opportunity for certain impervious areas installed to achieve compliant with certain agricultural Best Management Practices to be excluded from calculation of a Property Owner's Stormwater Management Fee,

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the Township of New Sewickley, Beaver County, Pennsylvania, hereby enacts and ordains as follows:

**SECTION 1: ESTABLISHMENT OF AN AGRICULTURAL BEST MANAGEMENT PRACTICES CREDIT**

With adoption of this Resolution, an Agricultural Best Management Practices Credit shall be established as follows:

- Properties eligible for credit will implement one or more of the following Agricultural Best Management Plans in accordance with the requirements of the noted regulatory agencies:
  - Agricultural Erosion and Sedimentation (E&S) Control Plans as approved by the Beaver County Conservation District
  - Manure/Nutrient Management Plans as approved by the Beaver County Conservation District
  - Conservation Plan as approved by NRCS/USDA
- The maximum credit shall be in the amount of 50% of the base Stormwater Management Fee. Credit shall apply only to that impervious area associated with the agricultural operations considered by the Agricultural Erosion and Sedimentation Control Plan, Manure/Nutrient Management Plan or Conservation Plan.
- This credit shall not apply to impervious surfaces located on the applicant's property that are not associated with identified agricultural operation, including impervious surfaces associated with oil and gas operations or other similar uses.

**SECTION 2: STORMWATER FEE CREDIT APPLICATION**

Property Owners seeking approval of a Fee Credit to reduce their Stormwater Management Fee amount shall make application to the Township Manager on the Stormwater Fee Credit Application Form as appended herein and hereby revised by adoption of this Resolution.

Credit Applications shall include all information as determined to be necessary for evaluation of the validity application by the Township Manager, or his designee, including, but not limited to:

- Documentation of approval of the qualifying Agricultural Best Management Practice Plan by Beaver County Conservation District, the Natural Resource Conservation Service and/or the United States Department of Agriculture.
- A sketch plan, aerial photograph, or similar exhibit depicting the impervious area for which credit is requested.

**SECTION 3: IMPERVIOUS SURFACES ASSOCIATED WITH AGRICULTURAL BEST MANAGEMENT PRACTICES OR CONSERVATION PLANS**

With adoption of this Resolution, opportunity for Property Owners to appeal their Stormwater Management Fee regarding certain impervious surfaces shall be established as follows:

- Impervious surfaces specifically installed as compliance measures or Best Management Practices associated as part of an Agricultural Erosion and Sedimentation Control Plan, Manure/Nutrient Management Plan and/or Conservation Plan as approved by Beaver County Conservation District, the Natural Resource Conservation Service and/or the United States Department of Agriculture shall not be subject to the Stormwater Management Fee and not be considered when calculating a property's Equivalent Residential Unit (ERU) value.

**SECTION 4: STORMWATER FEE CREDIT APPLICATION**

Property Owners seeking to remove areas as described in Section 3 from the Stormwater Management Fee amount shall make application to the Township Manager on the Stormwater Fee Appeal Application Form as appended herein and hereby revised by adoption of this Resolution.

Credit Applications shall include all information as determined to be necessary for evaluation of the validity application by the Township Manager, or his designee, including, but not limited to:

- Documentation of approval of the qualifying Agricultural Best Management Practice Plan by Beaver County Conservation District, the Natural Resource Conservation Service and/or the United States Department of Agriculture requiring the impervious surface requested to be removed from calculation of the ERU value.
- A sketch plan, aerial photograph, or similar exhibit depicting the impervious area for requested to be removed from calculation of the ERU value.

**SECTION 5: SEVERABILITY**

If any section, subsection, sentence, clause, phrase or portion of this Resolution or its application to any person, property or circumstances is for any reason held invalid or unconstitutional by any Court,

such holding shall not be construed to affect the validity of any of the remaining provisions of this Resolution or its application, for such portion shall be deemed as a separated, distinct and independent provision from the remaining provisions that shall be and remain in full force and effect. It is hereby declared the legislative intent that this Resolution would have been adopted had such invalid or unconstitutional provision of its application not been included therein.

**SECTION 6: EFFECTIVE DATE**

This Resolution shall take effect immediately.

AND NOW, this 7<sup>th</sup> day of December, 2021, upon motion duly made and seconded, the forgoing Resolution is hereby adopted.

ATTEST:

TOWNSHIP OF NEW SEWICKLEY

  
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Brian O'Malley  
Township Manager

  
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Greg Happ  
President of Board of Supervisors