

ORDINANCE NO. 222

**AN ORDINANCE OF THE TOWNSHIP OF NEW SEWICKLEY, BEAVER
COUNTY, PENNSYLVANIA, ESTABLISHING A FEE FOR STORMWATER
MANAGEMENT**

WHEREAS, the Township of New Sewickley has constructed and/or maintains, and will continue to construct and maintain, a system including sewers and drains to collect, treat and manage the rate, quantity and quality of stormwater ultimately discharged to the Waters of the Commonwealth;

WHEREAS, the Township is under permit and mandate from the Pennsylvania Department of Environmental Protection to comply with multiple costly requirements related to its NPDES Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4) requirements, including implementation of a Stormwater Management Program and a Pollutant Reduction Plan;

WHEREAS, each and every property throughout the Township is benefitted by the New Sewickley Township Municipal Storm Sewer System (MS4) and the implementation of the New Sewickley Township Stormwater Management Program and Pollutant Reduction Plan; and

WHEREAS, the Township of New Sewickley is desirous of adopting an Ordinance establishing 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

NOW THEREFORE, the Township of New Sewickley, Beaver County, Pennsylvania, hereby enacts and ordains as follows:

SECTION 1: SHORT TITLE

This Ordinance shall be known and referred to as the “New Sewickley Township Stormwater Management Fee Ordinance.”

SECTION 2: DEFINITIONS

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

CUSTOMER – Any person, property owner, firm, corporation, individual, partnership, company, association, society or group responsible for the payment of services provided by the New Sewickley Township Storm Sewer System.

EQUIVALENT RESIDENTIAL UNIT (ERU) – The measure of impervious ground cover for a typical single-family residential Property used in assessing the fees for each parcel of Property, and which has been determined to be 6,800 square feet.

IMPERVIOUS SURFACE – Those hard surface areas that either prevent or impede the entry of water into the soil under natural conditions, pre-existent to development, or which cause water to run off the surface in greater quantities, or at an increased rate of flow than under natural conditions, pre-existent to development, including, without limitation, surfaces such as roof tops, asphalt, concrete, or any other material that has been compacted, engineered and intended for vehicular traffic or parking, including, but not limited to, driveways and parking lots, or other surfaces which similarly affect the natural infiltration or runoff of natural drainage patterns existing prior to development including, but not limited to, walkways, patio areas and storage areas. Compacted gravel or crushed stone surfaces are considered impervious surfaces for this analysis. In addition, any surface designed to be constructed of permeable, pervious or porous concrete, asphalt or pavers are also considered to be an impervious surface for this analysis.

DWELLING UNIT – A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

MUNICIPALITY – The Township of New Sewickley, Beaver County, Pennsylvania, a Home Rule Municipality.

OPERATION, MAINTENANCE AND CAPITAL COSTS – The associated costs for facilities, energy, manpower, materials, property acquisition, transportation and all other services and equipment required to collect, convey, detain, treat, pump and transport stormwater.

PROPERTY OR PROPERTIES – Each lot, or parcel or portion thereof containing 600 or more square feet of Impervious Surface. Property types identified as the basis of fee assessment are as follows:

Single Family Residential Property – An individual property containing one dwelling unit that is designed for occupancy by one or two families located on one or more individual lots or parcels of land, smaller than ten acres in size. This does not include individual units in a condominium association or mobile home community in which the subject lot includes only the extent of the individual condominium unit or mobile home, with adjacent driveways, access roads, and open areas located on common ground.

Large Single Family Residential Property - An individual property containing one dwelling unit that is designed for occupancy by one family located on one or more individual lots or parcels of land that is equal to or greater than ten acres of total land.

Non-Single Family Residential Property – Individual Properties not used as a Single Family Residential Property or Large Single Family Residential Property. These may include manufactured home parks and mobile home parks, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, multi-family dwelling containing three or more dwelling units, places of worship, places of assembly, condominium units, parking lots or garages, schools and other educational facilities, storage buildings and storage areas covered with impervious surfaces, research stations, hospitals, convalescent centers, airports, agricultural, lots with two or more single family detached dwellings, water reservoirs, and water and wastewater treatment plants.

REPLACE OR REPLACEMENT – The associated costs of purchasing and installing equipment, accessories or appurtenances that are necessary to maintain the requisite capacity and performance of the New Sewickley Township Storm Sewer System.

STORM SEWER SYSTEM – The system of collection and conveyance, including pipes, conduits, mains, inlets, culverts, catch basins, gutters, ditches, channels, detention basins, streets, curbs, drains and all devices, appliances and facilities appurtenant thereto used for collecting, conducting, pumping, conveying, detaining and/or treating stormwater.

STORMWATER – Runoff water from all precipitation events, snowmelt and springs.

STORMWATER MANAGEMENT FEE – Sums assessed, imposed and to be collected for each Property that uses, benefits from or is serviced by the New Sewickley Township Storm Sewer System, or that discharges stormwater, directly or indirectly, into the New Sewickley Township Storm Sewer System or Waters of the Commonwealth.

SECTION III: IMPOSITION STORMWATER MANAGEMENT FEE

1. That Stormwater Management Fee is hereby imposed upon each and every Property, as each and every Property is benefitted by the New Sewickley Township Storm Sewer System and the implementation of the New Sewickley Township Stormwater Management Program and Pollutant Reduction Plan, as required by the Township's NPDES MS4 Permit.
2. The Stormwater Management Fee shall be \$6.00 per ERU per month initially, effective January 1, 2021, and shall be set annually thereafter by Resolution of the Township Board of Supervisors, which will be billed on a monthly basis in accordance with Section V.
3. Each Property that is a Single Family Residential Property shall be charged for one (1) ERU.
4. The charge for a Large Single Family Residential Property or 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 ERUs by rounding to the next closest one-half of one ERU. The charge shall be computed by multiplying the number of ERUs for a given Property by the unit rate established by New Sewickley Township as set forth above in Subpart "2" above or as adopted by Resolution of Township Board of Supervisors.
5. The minimum charge for every Large Single Family Residential Property or Non-Single Family Residential Property shall be one ERU.
6. The charges as determined herein are fair and equitable and are based upon the following:
 - i. That a minimum fee per Property is reasonable;
 - ii. That the basis for the Equivalent Residential Unit being 6,800 square feet of impervious surface was an equally assessed statistical sampling of properties in New Sewickley Township;

- iii. That the requirement a property has at minimum 600 square feet of impervious surface is reasonable based on the use of aerial photography and surface feature evaluation to determine total amounts of impervious surface existing in New Sewickley Township;
- iv. That the use of aerial photography and surface feature evaluation provides an accurate measurement for Impervious Surfaces;
- v. That the standard charge for an individual Dwelling Unit located on a Single Family Residential Property is based on the fact that there is not a great deal of variation in size.

SECTION IV: UNIFORM APPLICATION OF STORMWATER MANAGEMENT FEE

The Stormwater Management Fee shall be assessed, imposed, liened and collected equally based upon the same calculations and procedures as to all Customer(s) for each Property.

SECTION V: BILLING AND COLLECTION OF STORMWATER MANAGEMENT FEE

1. The Stormwater Management Fee imposed by this Ordinance shall be assessed and billed to Property Owners by New Sewickley Township on a quarterly basis beginning on January 1, 2021.
2. Customers may submit payment for the annual assessment with the first bill received for the calendar year. A discount of two (2%) percent shall be given for any payments made for the entire of the annual fee, received prior to the due date of the first bill issued in a calendar year. Payment at face will be required for monthly payments in advance of the due date listed on each bill. Thereafter, any payment not received by the due date will be subject to a ten (10%) percent penalty.
3. The Stormwater Management Fee assessed and collected will not be subject to proration or refund by New Sewickley Township in the event a Property is sold; provided, however, that this provision shall not bind a buyer and seller from making their own proration of any portion of the Stormwater Management Fee.
4. All costs for collection procedures, including but not limited to fees for filing, perpetuation and satisfaction of liens, collection fees, attorney fees, court costs, litigation expenses and charges for the service of documents shall, upon being incurred by New Sewickley Township, be imposed as a charge for nonpayment and added to the balance due on the Property Customer's account.

SECTION VI: STORMWATER MANAGEMENT FEE CONSTITUTES LIEN ON PROPERTY

In accordance with the Municipal Claims Act, 53 P.S. § 7101, et seq. (as amended), all fees, penalties, interest, collection fees, lien filing fees, satisfaction fees or any other charge imposed for failure to make prompt payment shall constitute a lien upon and against the subject Property from the date of imposition and assessment.

SECTION VII: REDUCTIONS AND CREDITS APPLICABLE TO STORMWATER MANAGEMENT FEE

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.

SECTION VIII: APPEAL PROCEDURE

Any Customer or Property Owner who believes the provisions of this Ordinance have been applied in error may appeal in the following manner and sequence.

1. The appeal of the Stormwater Management Fee must be delivered or mailed to the Township Manager or designee, within thirty (30) days of the charge being mailed to the Customer. The appeal must be in writing, on form supplied by the Township, and state all reasons for the appeal. Using the information provided by the appellant, and also any other investigation that is needed in the Township Manager's opinion, the Township Manager or designee, shall review the written submission and respond to the appeal in writing. The Township Manager has the authority to adjust the Stormwater Management Fee if deemed appropriate.
2. A decision of the Township Manager that is adverse to appellant may be further appealed to the New Sewickley Township Board of Supervisors within thirty (30) days of the adverse decision being issued. The appellant shall state in writing the grounds for further appeal and shall mail or deliver the appeal to the Township Manager or designee. The appellant shall be permitted to present his/her appeal to the Board of Supervisors at the next scheduled meeting that is at least seven (7) days after receipt of the appeal by the Township Manager.

SECTION IX: POLICIES AND PROCEDURES AUTHORIZED

The New Sewickley Township Board of Supervisors may by Resolution adopt such policies and procedures as it deems appropriate and necessary to ensure collection of the Stormwater Management assessed and imposed pursuant to this Ordinance. Without limitation, collection procedures may include referral of delinquent accounts to a collection agency; filing of liens; scire facias sur municipal lien proceedings to collect filed liens; establishing or revising procedures and/or requirement for appeal or credit applications; and any and all other measures or combination thereof that the Township Board of Supervisors may deem appropriate.

SECTION X: STORM SEWER REVENUE FUND

The funds received from the collection of the Stormwater Management Fee authorized by this Ordinance shall be deposited into a Storm Sewer Revenue Fund, a fund and account hereby created and dedicated to the operation, administration, maintenance, repair and improvement of the Storm Sewer System and compliance with associated regulatory requirements.

SECTION XI. 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. This Ordinance does not imply that properties subject to stormwater management fees 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 Resolution shall deem the 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 or other law applicable to the lot.

SECTION XII: SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance 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 Ordinance 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 Ordinance would have been adopted had such invalid or unconstitutional provision of its application not been included therein.


SECTION XIII: EFFECTIVE DATE

This Ordinance shall take effect immediately.

ENACTED AND ORDAINED this 1st day of December, 2020.

ATTEST:

TOWNSHIP OF NEW SEWICKLEY


Walter C. Beighey, Jr.
Township Manager


Greg Happ
President of Board of Supervisors

New Sewickley Township

Stormwater Fee Credit Application

This application is for property owners' use to request a credit be applied to his or her stormwater fee. Pertinent sections must be completed in entirety. To initiate the review of the appeal, please submit one application per property to the Township Manager at the following address:

**233 Miller Road
Rochester, Pennsylvania 15074**

Applications must be received within 30 days of the charge being mailed to the property owner.

Date: _____ Parcel No.: _____

Property Owner Information:

Applicant Name: _____

Mailing Address: _____

Email: _____

Phone: _____

Property Address: _____

Applicable Credit:

___ Post Construction Stormwater Management Best Management Practice (PCSM BMP)
(Maximum 50% Fee Reduction)

___ Public Education Credit (Maximum 10% Fee Reduction)

Application Checklist: Please include all necessary documents when submitting application.

___ Completed Application

___ Written Description of Credit

If appeal is related to PCSM BMPs, please include the following additional documentation (Please note that applications for PCSM BMP Credits may only be submitted once):

___ Documentation that the PCSM BMP has been installed and maintained. Documentation may include but is not limited to:

- As-Built Plans of the PCSM BMP
- Sealed Design Drawings
- Stormwater Management Report demonstrating compliance with the Township Stormwater Ordinance and/or designed to control the 100-year storm event,

- Annual inspections completed by a licensed professional or Township approved agent indicating the PCSM BMP has been maintained per the Operations and Maintenance Plan or per PADEP BMP Manual.

___ Photographic documentation of the condition of existing PCSM BMP

___ Recorded Operation and Maintenance Agreement (If not completed, an Operation and Maintenance Agreement must be recorded with the Township)

If appeal is related to the Public Education/Involvement Credit, please include the additional documentation. Further, in order to achieve the full credit, a minimum of 20 man-hours must be provided (i.e., 5 people attend event, the event must last 4 hours).

Please note that applications for Public Education/Involvement Credits must be submitted yearly. All applications must be submitted to the Township no later than October 1 of each year and all additional required documentation must be provided to the Township no later than November 30 of each year. The Public Education/Involvement Credits will be applied in the following billing year:

___ Flyer and/or advertisement of the event

___ Description/agenda of event

___ Sign-In Sheet of attendees

___ Group photo after event completion

Credit Description

Please provide detailed description as to the credit being applied for and the percentage that is being requested for fee reduction.

The Credit Applicant hereby certifies that the statements made herein and representations contained in all accompanying matter as part of this application are true and correct and the applicant is the Owner of the property identified herein. The Applicant/Owner shall be responsible for reviewing and fully understanding all provisions of the New Sewickley Township Stormwater Management Fee Ordinance. The Applicant/Owner grants New Sewickley Township Officials the right to enter onto the property for the purpose of inspection and verification of the statements made herein.

Signature: _____

FOR TOWNSHIP USE ONLY

Received By: _____ Date Received: _____

___ Application Complete

Reviewed By: _____ Date Reviewed: _____

___ Credit Granted

___ Credit Denied

Description of Reduction: _____

