

**WEST MANHEIM TOWNSHIP  
YORK COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2017-03**

**AN ORDINANCE OF WEST MANHEIM TOWNSHIP TO ESTABLISH A  
STORMWATER ASSESSMENT ON BENEFITTED PROPERTIES, AND  
AUTHORIZING THE SETTING OF RATES AND THE TOWNSHIP'S  
PREPARATION OF BILLING STATEMENTS FOR THE SAME;  
SETTING COLLECTION PROCEDURES FOR THE SAME; AND  
AUTHORIZING ENFORCEMENT, INCIDENTAL ACTION AND THE  
REPEAL OF PRIOR INCONSISTENT ORDINANCES**

**WHEREAS**, West Manheim Township ("Township") has constructed and maintains, and will continue to construct and maintain into the foreseeable future, a municipal separate storm sewer system ("MS4") that collects and manages stormwater; and

**WHEREAS**, the Township Board of Supervisors desire to assess a fee for all properties in the Township with impervious surface, which are served by and benefit from the MS4; and

**WHEREAS**, the Township's authority to enact this Ordinance is authorized by "The Second Class Township Code," 53 P.S. § 67705; and

**NOW THEREFORE**, it is ordained by the Board of the Supervisors of West Manheim Township, York County, Pennsylvania, as follows:

**Section 1. Title.**

This Chapter shall be known and may be cited as the "West Manheim Township Stormwater Management Fee Ordinance."

**Section 2. Imposition of Fee.**

- A. For the use, benefits, and services rendered by the MS4, including its operation, maintenance, repair, replacement and improvement, and for all other expenses related to the MS4, a fee is hereby imposed upon each and every Property that is connected with, uses, or is served by or is benefitted by the Township MS4, either directly or indirectly, and upon the owner(s) of such Properties.
- B. The fee shall be imposed on an annual basis. Such fee shall be payable to West Manheim Township and collected from the owners of such Properties as hereinafter provided, and shall be determined as set forth below.

**Section 3. Calculation of Fee.**

- A. An Equivalent Residential Unit (ERU) shall be the unit of measurement to calculate the fee to be imposed by this Ordinance and any accompanying resolution setting the fee.
- B. The fee shall be calculated based on One (1) ERU for all parcels recorded as being an Agricultural use as determined by the York County Assessment and Tax Claim Office, Department of Assessment, or its successor in that function.
- C. The fee shall be calculated based on One (1) ERU for all parcels recorded as being a Single Family Residential use as determined by the York County Assessment and Tax Claim Office, Department of Assessment, or its successor in that function.
- D. For all parcels determined by the York County Assessment and Tax Claim Office, Department of Assessment, or its successor, to have a use other than an Agriculture use or a Single Family Residential use, the fee shall be calculated as follows:
  - i. One ERU shall be defined as 4,500 square feet of impervious lot coverage. (This is the average impervious coverage of a single family residential parcel in the Township using 2015 aerial photography.)
  - ii. The number of ERUs for each parcel shall be calculated by dividing impervious lot coverage by 4,500 square feet using conventional rounding, to obtain the number of EDUs for the parcel.
  - iii. All parcels will be set at a minimum of One (1) ERU, even if the calculation of impervious coverage would equal less than one ERU.
- E. The Board of Supervisors shall set the fee per ERU by resolution. The resolution setting the fee may be a separate resolution, or the fee may be included in a resolution adopted by the Board of Supervisors setting fees for other purposes. The amount of the fee shall be set in accordance with the enabling provisions of the Second Class Township Code.

**Section 4. Billing and Collection of Fee.**

- A. The fee fixed and established by this Ordinance and by any Resolution adopted by the Board of Supervisors shall be imposed beginning on January 1, 2018, and annually thereafter, upon all Properties that use, are benefitted or are served by the MS4.

- B. The fee shall be assessed and billed by the Township based on the calendar year, beginning on January 1, 2018, or on such other basis as the Board of Supervisors shall authorize by Resolution.
- C. An invoice shall be prepared and mailed by the Township (or its designee or contractor) with an annual municipal invoice sent to Township property owners.
- D. Such invoices shall be payable at their face amount during the thirty (30) days following the date on which the invoice was mailed. The fee will not be subject to proration or refund by the Township if the Property is sold; provided, however, that this Ordinance shall not preclude a buyer and seller from agreeing to their own proration of the fee assessed hereunder.

**Section 5. Late Payment Penalty.**

Effective on the first day of the calendar month next following a billing, a penalty of five percent (5%) of the fee shall be assessed for that calendar billing cycle.

**Section 6. Interest on Unpaid Fees.**

Interest at the rate of twelve percent (12%) per year from the first date of the calendar month following that month in which MS4 fees were assessed and invoiced shall accrue and be added to all original amounts of the fees remaining unpaid at the end of the calendar month in which the same were first imposed and assessed, and shall continue to accrue until the full amount of such fees are paid in full.

**Section 7. Unpaid Fees Constitute Lien on Property.**

In accordance with the Municipal Claims Act, 53 P.S. § 7107, et seq. (as amended), all fees, penalties, interest, collection fees, lien filing and satisfaction fees, attorney's fees, or other costs to the Township for failure to pay promptly shall constitute a lien against the subject Property and its owner from the date of their imposition and assessment.

**Section 8. Exemptions and Credits Applicable to Properties**

Credits against fees are appropriate to adjust fees, fines and penalties under some circumstances, to account for mitigation measures undertaken by property owners. No credits shall be granted based on age, race, tax status, economic status or religion of the property owner or user. The property owner shall have the burden of proving the benefits achieved through mitigation efforts on the subject property through specific engineering calculations showing reductions in

stormwater runoff and relating those calculations to the equivalent number of ERUs. Mitigation measures shall not reduce the number of ERUs for any property to less than One (1) ERU.

**Section 9. Appeal Procedures.**

Any owner who believes the provisions of this Ordinance have been applied in error to his or her Property may appeal in the following manner and sequence.

- A. An appeal of MS4 fees must be filed in writing with the Manager of the Township within thirty (30) days of the fee being mailed to the Property owner. The appeal must state the reason why the owner believes the fee was applied in error, and must provide sufficient information for the Township Manager to evaluate the reasons, such as including drawings, measurements, photographs, engineering studies, and such other data or information to permit a technical review by the Manager or his or her designee.
- B. Using information provided by the appellant, the Manager and his/her designee(s) shall conduct a technical review of the conditions of the Property and respond to the appeal in writing within thirty (30) days. In response to an appeal, the Manager may adjust the fee applicable to the Property in accordance with the calculation provided in this Ordinance.
- C. A decision by the Manager of the Township that is adverse to an appellant may be further appealed to the Board of Supervisors within thirty (30) days of the adverse decision. The appellant, stating the grounds for the further appeal, shall deliver notice of the appeal to the Manager of the Township or his/her designee. The Manager of the Township shall place the appeal on the agenda for the next Board of Supervisors regular public meeting occurring at least seven (7) days following receipt of the appeal by the Manager. The appellant shall present his appeal at the public meeting. The Board of Supervisors shall issue a written decision stating findings of fact and conclusions of law to the appellant within forty-five (45) days of the hearing.

**Section 10. Policies and Procedures Authorized.**

- A. The Board of Supervisors may enforce collection of MS4 fees assessed and imposed by this Ordinance. 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, a civil action or lawsuit, and any and all other measures or combination thereof that the Board of Supervisors may deem appropriate.
- B. All costs of such collection procedures, including but not limited to: fees for filing, perpetuation and satisfaction of liens, collection fees, attorney's fees, court costs,

litigation expenses, charges for service of documents, shall upon being incurred by the Township be imposed as a charge for nonpayment and added to the balance due.

- C. No lien shall be satisfied, nor shall any collection proceeding be discontinued until all amounts due on an account, including fees, penalties, interest, collection fees, attorney's fees, court costs, and other fees are first paid in full to the Township.
- D. The Manager of the Township is authorized to adopt any policies or procedures that the Manager deems necessary or convenient to interpret or implement this Ordinance.

**Section 11. Storm Sewer Revenue Fund.**

The funds received from the collection of the fees or other charges 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 MS4 and to the paying of operating, maintenance and capital costs, and for administrative and overhead costs and expenses.

**Section 12. No Warranty or Action.**

Nothing in this Ordinance or in the design, operation, or maintenance of the MS4 shall be deemed to constitute a warranty, express or implied, nor shall it afford the basis for any action seeking the imposition of money damages against the Township, its officers, employees or agents. The Township expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the Township, its officers, employees, and agents arising out of any alleged failure or breach of duty or relationship as may not exist or hereafter be created.

**Section 13. Severability.**

If any section, subsection, sentence or clause, phrase, portion or Appendix of this Ordinance or its application to any person, property or circumstance 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 separate, distinct and independent provision from the remaining provisions, which shall 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 or its application not been included therein.

**Section 14. Effective Date; Repeal.**

This Ordinance shall become effective on January 1, 2018. All prior ordinances and/or portions thereof inconsistent herewith are hereby repealed.

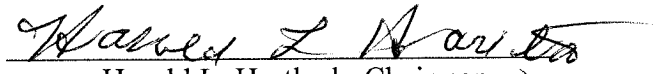
**ORDAINED AND ENACTED** this 19<sup>th</sup> day of December 2017.

ATTEST:

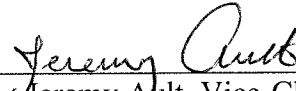
WEST MANHEIM TOWNSHIP  
BOARD OF SUPERVISORS



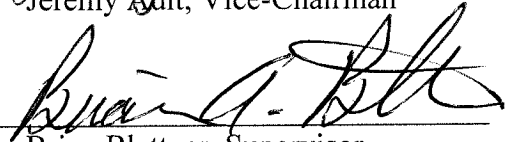
Miriam E. Clapper, Secretary



Harold L. Hartlaub, Chairman



Jeremy Ault, Vice-Chairman



Brian Blettner, Supervisor



Duane Shaulis



James Staaf