

**TOWNSHIP OF O'HARA,  
ALLEGHENY COUNTY PENNSYLVANIA**

**AN ORDINANCE OF THE TOWNSHIP OF O'HARA, ALLEGHENY  
COUNTY, PENNSYLVANIA, ESTABLISHING A FEE FOR  
STORMWATER MANAGEMENT**

**WHEREAS**, the Township of O'Hara 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 O'Hara Township Municipal Storm Sewer System (MS4) and the implementation of the O'Hara Township Stormwater Management Program and Pollutant Reduction Plan; and

**WHEREAS**, the Township of O'Hara 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 O'Hara, Allegheny County, Pennsylvania, hereby enacts and ordains as follows:

**SECTION 1: SHORT TITLE**

This Ordinance shall be known and referred to as the "O'Hara Township Stormwater Management Fee Ordinance."

**SECTION 2: STATEMENT OF FINDINGS**

- A. The Township currently incurs costs to install, operate and maintain the stormwater system.
- B. Inadequate management of accelerated stormwater runoff throughout a watershed increases flood flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of existing streams and storm sewers, greatly increases the cost of public facilities to convey and manage stormwater, undermines floodplain management and flood reduction efforts in upstream and downstream communities, reduces groundwater recharge and threatens public health and safety.

- C. Inadequate planning and management of stormwater runoff throughout a watershed can harm surface water resources by changing the natural hydrologic patterns, accelerating stream flows (which increase scour and erosion of stream beds and stream banks, thereby elevating sedimentation), destroying aquatic habitat, and elevating aquatic pollutant concentrations and loadings such as sediments, nutrients, heavy metals and pathogens. Groundwater resources are also impacted through loss of recharge; 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. A comprehensive program of stormwater management is fundamental to the public health, safety, welfare and the protection of the residents of the Township, their resources and the environment in order to control items such as flooding, erosion and pollution.
- E. The collection and conveyance system for stormwater includes underground pipes, but also includes conduits, inlets, culverts, catch basins, gutters, ditches, channels, detention ponds, streets, curbs, and drains.
- F. The nature of stormwater is that any system to control stormwater must be designed for, and funds must be expended to control, peak flow, total runoff volume and pollution in the stormwater.
- G. These three factors all relate to and are driven by impervious surface; once property is developed, peak flow, runoff volume and pollution all increase greatly.
- H. Peak flow occurs most often during periods of intense rainfall and/or when the ground is saturated (can accept no more water) or is arid (concrete like surface resulting from overly dry conditions).
- I. Because of the effect of weather on stormwater (e.g. extended dry or wet periods), no property can always accept all stormwater, and all properties therefore generate stormwater runoff.
- J. In a developed, urban environment such as the Township, each property generates runoff and therefore uses or is in some fashion connected with, serviced by or benefited by the Storm Sewer System, which normally functions by collecting stormwater from a property and/or by preventing stormwater from entering another property.
- K. Stormwater is heavily polluted when there has not been rain for a period of time, and sediment, yard waste, animal waste, pesticides, herbicides, oil and grease can be found in stormwater.
- L. Impervious surface is a primary indicator of the generation of stormwater and usage of the Storm Sewer System.

- M. The effects of stormwater runoff can be minimized by using project designs that maintain the natural hydrologic regime and sustain high water quality, groundwater recharge, stream baseflow and aquatic ecosystems.
- N. Federal and state regulations (including those found at 40 CFR Part 122) require the Township to implement a program of stormwater controls. The Township is required to obtain a permit for stormwater discharges from their separate sewer system under the National Pollutant Discharge Elimination Systems (NPDES).

**SECTION 3: 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 O'Hara 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 O'Hara 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 3,200 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 O'Hara, Allegheny 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, parcel, building or portion thereof containing 400 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 a single principal structure containing one or two dwelling units that is designed for occupancy as a one- or two- families located on one or more individual lots or parcels of land that is less than one acre of total land. This definition includes 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 that have direct access to the outside (for condominium units, these properties are classified as townhouse as defined herein), with adjacent driveways, access roads, and open areas located on common ground. The inclusion of condominium townhomes as single family attached dwellings takes into account impervious area located in common areas.

**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 one acre 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, i.e. apartment buildings, places of worship, places of assembly, condominium units where individual units are not townhouses as defined herein, 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 O'Hara 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 ponds, 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 O'Hara Township Storm Sewer System, or that discharges stormwater, directly or indirectly, into the O'Hara Township Storm Sewer System or Water of the Commonwealth.

**TOWNHOUSE** – A building which contains at least three (3) but no more than eight (8) single family dwelling units, each of which are separated from the adjoining unit or units 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.

**SECTION 4: IMPOSITION STORMWATER MANAGEMENT FEE**

1. That Stormwater Management Fee is hereby imposed upon each and every developed Property, (Single Family Residential Property, Large Single Family Residential Property, and Non-Single Family Residential Property) as each and every Property is connected to, uses, is serviced by and/or is benefitted by the O'Hara Township Storm Sewer System and the implementation of the O'Hara Township Stormwater Management Program and Pollutant Reduction Plan, as required by the Township's NPDES MS4 Permit.
2. The Stormwater Management Fee shall be \$8.00 per ERU per month initially, effective September 1, 2020, which will be billed on a quarterly basis in accordance with Section 5.
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 O'Hara Township as set forth above in Subpart "2" above.
5. The minimum charge for every Large Single Family Residential Property or Non-Single Family Residential Property shall be one ERU.
  - a. Notwithstanding the foregoing, the following Properties shall be exempt from Stormwater Management Fee under this Ordinance.
    - i. Public or Private Street, as defined in O'Hara Township's Subdivision and Land Development Ordinance (Township Code Chapter 22).
6. The charges as determined herein are fair and equitable and are based upon the following:
  - i. That a minimum fee per developed Property is reasonable;

- ii. That the basis for the Equivalent Residential Unit being 3,200 square feet of impervious surface was an equally assessed statistical sampling of properties in O'Hara Township;
- iii. That the requirement a property has at minimum 400 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 O'Hara 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 5: UNIFORM APPLICATION OF RENTAL, RATES AND CHARGES**

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

**SECTION 6: BILLING AND COLLECTION OF RENTAL, RATES AND CHARGES**

1. The Stormwater Management Fee imposed by this Ordinance shall be assessed and billed to Property Owners by O'Hara Township on a monthly basis beginning on September 1, 2020.
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. Interest will accrue at the rate of 10% per annum on any overdue amount.
3. The Stormwater Management Fee assessed and collected will not be subject to proration or refund by O'Hara 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 O'Hara Township, be imposed as a charge for nonpayment and added to the balance due on the Property Customer's account.

**SECTION 7: RENTAL, RATES AND CHARGES CONSTITUTE 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 8: REDUCTIONS AND CREDITS APPLICABLE TO STORMWATER MANAGEMENT FEE**

Credits against the Stormwater Management Fee prepared by Lennon, Smith, Souleret Engineers, Inc. dated March 2020 and the Township's Fee Reduction Program 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 Township of O'Hara Fee Reduction Program Guide or as otherwise adopted by Township Council. Applications for Credit shall be filed with the Township Manager or designee, on forms supplied by the Township.

**SECTION 9: 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 Property 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 within thirty (30) days. 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 O'Hara Township Uniform Construction Code Board of Appeals 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 Uniform Construction Code Board of Appeals at the next scheduled meeting that is at least seven (7) days after receipt of the appeal by the Township Manager. The Uniform Construction Code Board of Appeals shall issue a written decision on the appeal within thirty (30) days of its presentation.

**SECTION 10: POLICIES AND PROCEDURES AUTHORIZED**

The O'Hara Township Council may, by Ordinance, 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 Council may deem appropriate.

**SECTION 11: 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 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 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 Ordinance 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.

Nothing in this Ordinance or in the design, operation or maintenance of the Storm Sewer System 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, 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 14: EFFECTIVE DATE**

This Ordinance shall take effect immediately.



**ENACTED AND ORDAINED** this 11<sup>th</sup> day of August, 2020.

ATTEST:

TOWNSHIP OF O'HARA

\_\_\_\_\_  
Julie A Jakubec, CPA, CGMA  
Township Manager

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Robert John Smith  
President of Council

First Reading	<u>Denny, Jr. – Stewart</u>	<u>6 – 0</u>	<u>07/14/2020</u>
Second Reading			
and Adoption	<u>Vogel - Eccles</u>	<u>6 - 0</u>	<u>08/11/2020</u>
Advertised	<u>08/20/2020</u>	Codified	_____