

ORDINANCE NO. 217

AN ORDINANCE OF THE TOWNSHIP OF BRIGHTON, BEAVER COUNTY, PENNSYLVANIA, ESTABLISHING A FEE FOR STORMWATER COLLECTION AND MANAGEMENT

WHEREAS, the Township of Brighton 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; and

WHEREAS, pursuant to the authority vested in the municipality by the Second Class Township Code, 53 P.S. § 65101 et al., the Township of Brighton is desirous of adopting an Ordinance establishing a fair and equitable user fee for stormwater collection and 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 and improvement.

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

SECTION 1: SHORT TITLE

This Ordinance shall be known and referred to as the “Brighton 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 Brighton 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 Brighton 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 4,700 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 Brighton, Beaver County, Pennsylvania, a Second Class Township.

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 600 or more square feet of Impervious Surface. Property types identified as the basis of fee assessment are as follows:

Duplex Residential Property – A property containing a single two family attached structure containing only two dwelling units, one of which is constructed on top of the other and divided by a common floor/ceiling structure with each dwelling unit having direct access to the outside or a property containing a single two family attached structure containing only two dwelling units each of which are entirely separated from the other by a continuous, common wall extending from the basement to the roof, each unit having independent access to the outside.

Non-Single Family Residential Property – Individual Properties not used as a Single Family Detached Property, Single Family Attached Property or Duplex Property. These may include manufactured homes and mobile home parks, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings or multi-family dwellings containing three or more dwelling units, places of worship, places of assembly, condominium units where individual units are not townhouses, 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, water reservoirs and water and wastewater treatment plants, oil and gas well pads and communication tower site pads.

Single Family Attached Residential Property – An individual property containing one dwelling unit that is designed for occupancy by one family located on one parcel of land that is attached to another dwelling unit. This does not include individual units in a two-family dwelling or in a multifamily dwelling containing three or more units in which the individual dwelling units are located on a single parcel. This definition includes individual units in a condominium unit in which the subject lot includes only the extent of the individual condominium unit, with adjacent driveways, access roads, and open areas located on common ground only when condominium units are designed

as Townhouses as defined herein. The inclusion of condominium townhomes as single family attached dwellings takes into account impervious area located in common areas.

Single Family Detached 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 not attached to another dwelling unit. 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.

RENTAL, RATES AND CHARGES – Sums assessed, imposed and to be collected for each Property that uses, benefits from or is serviced by the Brighton Township Storm Sewer System, or that discharges stormwater, directly or indirectly, into the Brighton Township Storm Sewer System.

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 Brighton 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.

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 III: IMPOSITION OF RENTAL, RATES AND CHARGES

1. That Rental, Rates and Charges are hereby imposed upon each and every Property that is connected with, serviced by or benefits from Brighton Township Storm Sewer System for the cost to operate, maintain, repair, make replacements or improve the storm sewer system.
2. The ERU Fee shall be \$5.50 per month initially, effective January 1, 2019, and shall be set annually thereafter by Resolution of the Board of Supervisors of the Municipality.
3. Each Property that is a Single Family Detached Residential Property or Duplex Residential Property shall be charged for one (1) ERU.
4. Each property that is a Single Family Attached Residential Property shall be charged for one-half (0.5) ERU.

5. The charge for a Non-Single Family Residential Property, or any Property not identified in Subpart “3” or “4” above, 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 whole ERUs by rounding to the next highest ERU. The charge shall be computed by multiplying the number of ERUs for a given Property by the unit rate established by Brighton Township as set forth above in Subpart “3” above or as adopted by Resolution of the Board of Supervisors.
6. The minimum charge for every Non-Single Family Residential Property shall be one ERU.
 - a. Notwithstanding the foregoing, the following Properties shall be exempt from Rental, Rates and Charges under this Ordinance.
 - i. Public Street, as defined in Brighton Township’s Subdivision and Land Development Ordinance (Township Code Chapter 180).
 - ii. Private Street, as defined in Brighton Township’s Subdivision and Land Development Ordinance (Township Code Chapter 180).
7. 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 4,700 square feet of impervious surface was an equally assessed statistical sampling of properties in Brighton 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 Brighton 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 is based on the fact that there is not a great deal of variation in size, nor any substantial manner to control stormwater runoff.

SECTION IV: UNIFORM APPLICATION OF RENTAL, RATES AND CHARGES

Rental, Rates and Charges 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 RENTAL, RATES AND CHARGES

1. Rental, Rates and Charges imposed by this Ordinance shall be assessed and billed to Property Owners by Brighton Township on the first day of every year beginning on January 1, 2019.
2. A discount of two (2%) percent shall be given for any payments made on or before March 31st. Payment at face will be required for payments made in April and May. Thereafter, any payment will be subject to a ten (10%) percent penalty.
3. The Rental, Rates and Charges assessed and collected will not be subject to proration or refund by Brighton 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 Rental, Rates and Charges.
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 Brighton Township, be imposed as a charge for nonpayment and added to the balance due on the Property Customer's account.

SECTION VI: RENTAL, RATES AND CHARGES CONSTITUTE LIEN ON PROPERTY

In accordance with the Municipal Claims Act, 53 P.S. § 7101, et seq. (as amended), all Rental, Rates and Charges, 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: EXEMPTIONS AND CREDITS APPLICABLE TO RENTAL, RATES AND CHARGES

Credits against Rental, Rates and Charges 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 December 2018. Applications for Credit shall be filed with the Township Manager.

SECTION VIII: APPEAL PROCEDURE

Any Property Customer or 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 a Rental, Rate and Charge must be delivered or mailed to the Township Manager or his designee, within thirty (30) days of the charge being mailed to the Property Customer. The appeal must be in writing 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 his 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 Rental, Rate and Charge if deemed appropriate.

2. A decision of the Township Manager that is adverse to appellant may be further appealed to the Brighton 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 his designee. The appellant shall be permitted to present his 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. The Board of Supervisors shall issue a written decision on the appeal within thirty (30) days of its presentation. The decision of the Board of Supervisors shall be **final**.

SECTION IX: POLICIES AND PROCEDURES AUTHORIZED

The Brighton Township Board of Supervisors may by Resolution adopt such policies and procedures as it deems appropriate and necessary to ensure collection of storm sewer rental, rates and charges 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; and any and all other measures or combination thereof that the Board of Supervisors of the Municipality may deem appropriate.

SECTION X: STORM SEWER REVENUE FUND

The funds received from the collection of the Rental, Rates and 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 Storm Sewer System.

SECTION XI: 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 XII: EFFECTIVE DATE

This Ordinance shall take effect immediately.

ENACTED AND ORDAINED this 10th day of December, 2018.

ATTEST:

TOWNSHIP OF BRIGHTON



Bryan K. Dehart, Secretary



John Curtaccio, Chairman

James E. Equals, Sr., Vice Chairman



Mark Piccirilli, Supervisor