

**RESOLUTION NO. 2019-001**

**CLARION BOROUGH STORMWATER AUTHORITY  
Clarion County, Pennsylvania**

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**A RESOLUTION OF THE CLARION BOROUGH  
STORMWATER AUTHORITY, CLARION COUNTY,  
PENNSYLVANIA, ESTABLISHING A STORMWATER  
MANAGEMENT FEE TO SUPPORT THE CLARION  
BOROUGH STORMWATER MANAGEMENT SYSTEM**

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**WHEREAS**, the Borough of Clarion, Clarion County, Pennsylvania (the “Borough”) owns an extensive public Stormwater Management System to collect and manage stormwater to protect the health, safety, and welfare of its citizens; and

**WHEREAS**, the Clarion Borough Stormwater Authority (the “Authority”) and the Borough are parties to a Management Agreement dated August 27, 2018, (“Management Agreement”) that memorializes and otherwise sets forth terms, conditions, and provisions which govern the administration, management, and operation of the Stormwater Management System and the performance of other functions with respect to the Stormwater Management System; and

**WHEREAS**, pursuant to the Management Agreement, the Authority possesses the administrative responsibility for establishing a Stormwater Management Fee (SMF), creating and issuing invoices and bills, collecting payment, and maintaining related records; and

**WHEREAS**, the Authority desires, in accordance with the terms of the Management Agreement and as otherwise permitted by applicable law, to assess a reasonable, equitable, and uniform fee for all developed properties that are connected with, use, are serviced by, or are benefited by the Stormwater Management System to provide a dedicated funding source for the ongoing expenses associated with the Stormwater Management System.

NOW, THEREFORE, BE IT RESOLVED by the Clarion Borough Stormwater Authority:

**Section 1. Title**

This chapter shall be known and may be cited as the “Clarion Borough Stormwater Authority Stormwater Program Fee Resolution.”

**Section 2. Statement of Findings**

A. The Authority and Borough incur costs to maintain the extensive public stormwater management system within the Borough, including underground pipes, conduits, inlets, outfalls, culverts, catch basins, dams, flood controls structures, gutters, ditches, channels,

detention ponds, public best management practices, public streets, curbs, conveyances, appurtenances, and drains.

B. A comprehensive program of stormwater management is fundamental to the public health, safety, welfare, and the protection of the residents of Clarion Borough, their property, resources, and the environment in order to control items such as flooding, erosion, and pollution.

C. In a developed environment such as Clarion Borough, each Developed Parcel uses or is in some fashion connected with, serviced by, or benefited by the public Stormwater Management System.

D. Impervious surface is a primary characteristic of a Developed Parcel's generation of stormwater and usage of the Stormwater Management System.

E. The Authority desires to establish reasonable, equitable, and uniform user charges to ensure that each Developed Parcel within the Borough will pay its proportionate share of the Operation and Maintenance Costs, repair, regulatory compliance, administration, Replacement Cost, and improvement related to the Stormwater Management System and stormwater services provided or paid for by the Authority.

F. The charges as determined herein are fair and equitable and are based upon the following facts: a tier-based fee applied to each Developed Parcel based upon the property's IA is reasonable; the tiers used in determining the applicable fee are based upon a statistical sampling of properties in the Borough; the requirement that a property have a minimum 500 square feet of impervious surface to be assessed a fee is reasonable based on the use of aerial photography to determine impervious surface; the use of aerial photography and GIS analysis provides a reasonably accurate measurement for impervious surface.

### **Section 3. Definitions**

A. Words and terms used in this Resolution and not given a specific definition shall be defined as set forth in applicable statutes of the Commonwealth of Pennsylvania or resolutions of the Clarion Borough Stormwater Authority, if any, and shall otherwise be given their ordinary and common meaning.

For purposes of this Resolution, the following words and terms shall be defined as set forth below:

(a) **Authority** – The Clarion Borough Stormwater Authority.

(b) **Best Management Practices (BMPs)** – Activities, facilities, designs, measures or procedures used to manage stormwater impacts from regulated activities, to meet state water quality requirements, to promote groundwater recharge, and to otherwise meet the purposes of the Stormwater Management Program. Stormwater BMPs are commonly grouped into one of two broad categories or measures: “nonstructural” or “structural.” “Nonstructural” BMPs are measures referred to as operational and/or behavior-related practices that attempt to

minimize the contact of pollutants with stormwater runoff whereas “structural” BMPs are measures that consist of physical devices or practices that are installed to capture and treat stormwater runoff. Structural BMPs include, but are not limited to, a wide variety of practices and devices, from large-scale wet ponds and constructed wetlands, to small-scale underground treatment systems, infiltration facilities, filter strips, low-impact design, bioretention, wet ponds, permeable paving, grassed swales, riparian or forested buffers, sand filters, detention basins, and manufactured devices.

(c) **Credit** – A discount in the form of a percentage that can be applied to an owner’s stormwater fee when proper stormwater control techniques are displayed.

(d) **Developed Parcel** – A parcel that contains impervious area equal to or greater than 500 square feet.

(e) **Impervious Area (Impervious Surface) (IA)** – A surface that prevents the infiltration of water into the ground. Impervious surface (or area) includes, but is not limited to, roofs, additional indoor living spaces, patios, garages, storage sheds and similar structures, swimming pools, paved parking or driveway areas, and private streets and sidewalk. Any surface areas initially proposed to be gravel or crushed stone shall be assumed to be impervious areas.

(f) **Operation and Maintenance Cost** – The associated costs of equipment and facilities, energy, manpower, materials, transportation, and services required to collect, convey, detain, pump and transport stormwater; keep equipment, infrastructure, and facilities functioning satisfactorily and economically; administer the Stormwater Management System; and shall include sums paid to defray costs of improvements to the Stormwater Management System

(g) **Pervious Area** – Any area not defined as impervious.

(h) **Property Owner (Owner)** – Any person, firm, corporation, individual, partnership, trust, company, association, government agency, society or group owning real property in the Borough of Clarion.

(i) **Replacement Cost** – The associated costs of obtaining and installing equipment, infrastructure, accessories, or appurtenances which are necessary during the service life of the Stormwater Management System so as to maintain the capacity and performance for which said system was designed and constructed; and shall include costs associated with improvements to the Stormwater Management System.

(j) **Stormwater** – Drainage runoff from the surface of the land resulting from precipitation, snow, or ice melt.

(k) **Stormwater Management Fee** – Sums assessed, imposed, and to be collected from each developed lot, parcel, building or portion thereof which uses, benefits from or is serviced by the Stormwater Management System or which discharges stormwater, directly or indirectly, into the public Stormwater Management System, for the use of and the service

rendered and improvement of such system and additionally for the administration and operation of the Stormwater Management Program.

(l) **Stormwater Management System** – The system of runoff avoidance, infiltration, collection and conveyance, including but not limited to storm sewers, pipes, conduits, mains, inlets, culverts, catch basins, gutters, manholes, ditches, channels, basins and detention ponds, streets, curbs, drains, and all devices, appliances, and Stormwater BMPs, such as infiltration and filtration facilities, used for collecting, conducting, pumping, conveying, detaining, infiltrating, reducing, managing, avoiding the generation of, and treating Stormwater, which is owned, operated, or maintained by the Borough and/or Authority. Stormwater Management Fee revenue will be used to maintain this system.

(m) **User** – Any person, firm, corporation, individual, partnership, company, association, government agency, society, or group using, benefiting from, or being served by the public Stormwater Management System.

#### **Section 4. Statutory Authority.**

Clarion Borough Stormwater Authority is empowered to regulate these activities pursuant to the Act of May 2, 1945, P.L. 382, as amended and supplemented, known as the Municipality Authorities Act, 53 Pa.C.S. § 5601, et seq.

#### **Section 5. Imposition of the Stormwater Management Fee**

For the use of, benefit by, and the services rendered by the Stormwater Management System, including its operation, maintenance, repair, replacement, and improvement of said system and all other expenses, Stormwater Management Fees are hereby imposed upon each and every Developed Parcel, parcel of land, building or portion thereof that is connected with, uses, is serviced by, or is benefited by the Stormwater Management System, either directly or indirectly, and upon the owner(s) of such developed lots, parcels of land, or buildings. Undeveloped parcels undergoing development will be assessed a fee after the issuance of a certificate of occupancy; if construction is not completed within three (3) years, a fee may be assessed on the property. Such Stormwater Management Fees shall be payable to the Authority by and collected from the Property Owners of Developed Parcels as hereinafter provided, and shall be determined as set forth below.

A. All Properties shall be charged a fee consisting of an IA rate. Properties under 500 square feet (“sf”) of IA shall have no fee charged. All other Properties shall be charged a fee based upon the Tier into which each Property falls based upon its IA. The Tiers shall be as follows:

- (a) Tier 1 for Properties with IA of 500 to 1,499 sf
- (b) Tier 2 for Properties with IA of 1,500 to 2,499 sf
- (c) Tier 3 for Properties with IA of 2,500 to 3,499 sf

- (d) Tier 4 for Properties with IA of 3,500 to 4,499 sf
- (e) Tier 5 for Properties with IA of 4,500 to 5,499 sf
- (f) Tier 6 for Properties with IA of 5,500 to 6,499 sf
- (g) Tier 7 for Properties with IA of 6,500 sf or greater

The monthly fee for Tiers 1 through 6 shall be the Tier number multiplied by \$3.00. The monthly fee for Tier 7 shall be the Property's IA rounded to the closest 100 sf, divided by 1,000, and multiplied by \$3.00.

B. Notwithstanding the foregoing, public streets shall be exempt from the SMF under this Resolution.

### **Section 6. Uniform Application of Stormwater Management Fees**

The SMF shall be assessed, imposed, and collected as to all Developed Parcels, Property Owners, and users.

### **Section 7. "User" and "Owner" Distinguished**

References in this Resolution to "use," "user," "unit," or portion of a lot, parcel, or building with respect to the calculation and assessment of Stormwater Management Fees shall not be construed to modify or alter the fact that the fees imposed by this Resolution are assessed to the Owner of each Developed Parcel and that such Owner shall be and remain liable for payment of the same, whether or not such Owner occupies the property or directly uses the Stormwater Management System. Nothing in this Resolution shall be construed to prohibit or limit an Owner's ability to collect by lease or contract sums due by a tenant or other occupier of the Owner's property, but such lease or contract shall not bind the Authority or limit in any way its authority to impose, assess, lien, and collect the SMF.

### **Section 8. Billing and Collection of Stormwater Management Fees**

The SMF fixed and established by this Resolution shall be effective as to all Developed Parcels that use, are served, or are benefited by the Stormwater Management System existing as of the effective date of this Resolution, and shall be effective as to all other Developed Parcels that use or are so served or benefit subsequent to the effective date of this Resolution. Stormwater Management Fees imposed by this Resolution shall be calculated on a per month basis and billed by or on behalf of the Authority on a quarterly basis.

The SMF imposed by this article shall be due and payable immediately upon receipt of the bill by the owner and shall be paid not later than the due date appearing on the bill.

Any Owner has the option to pay the bill for his, her, or its property, calculated annually, as a lump sum. An Owner who chooses to pay his, her, or its bill annually is entitled to a two percent (2%) discount on the amount owed.

## **Section 9. Late Payment Penalty**

The Stormwater Management Fee shall be subject to a ten percent (10%) penalty if not paid within 30 days from its due date.

## **Section 10. Delinquency in Payment of Stormwater Management Fees**

In the event of delinquency, the Authority may pursue collection procedures including legal action through the local district magistrate's court and referring delinquent accounts to a collection agency. The institution of any of the above procedures may result in the imposition of attorney fees, collection fees, and court costs.

## **Section 11. Exemptions and Credits Applicable to Stormwater Charges**

The Authority has established the Clarion Borough Stormwater Management Program Credit Policy Manual ("Credit Policy") documenting the credit process. Credits against Stormwater Management Fees are an appropriate means of adjusting Stormwater Management Fees to account for applicable mitigation measures. Credits are available only to all property Owners as described in the Credit Policy.

## **Section 12. Appeal Procedures**

Any person aggrieved by any decision of the Authority, relative to the provisions of this Resolution, may file an action in the Court of Common Pleas of Clarion County as permitted by law.

## **Section 13. Policies and Procedures Authorized**

A. The Authority may by resolution adopt such rules, regulation, policies, and procedures as it deems appropriate to ensure collection of rates and charges assessed and imposed pursuant to this Resolution. 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 as permitted by applicable law.

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 Authority be imposed as a charge for nonpayment and added to the balance due on said Property Owner's account.

C. No lien shall be satisfied, nor shall any collection proceeding be discontinued until all amounts due on an account, including Stormwater Management Fees, penalties, interest, collection fees, attorney's fees, court costs, and other charges are first paid in full to the Authority.

**Section 14. Stormwater Management Fee Fund**

Unless expressly provided for or required by law or applicable agreement related to stormwater management, the funds received from the collection of the Stormwater Management Fees authorized by this Resolution shall be deposited into an Authority account in accordance with generally accepted accounting principles and dedicated to the operation, administration, maintenance, repair, and improvement of the Stormwater Management System.

**Section 15. No Warranty or Action**

Nothing in this Resolution or in the design, operation, or maintenance of the Stormwater Management 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 Authority, its officers, employees, or agents. The Authority expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the Authority, 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 16. 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 separate, distinct, and independent provision from the remaining provisions which 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 17. Effective Date**

This Resolution shall be in full force and effect immediately upon the date of enactment hereof, as entered below, and shall remain in effect thereafter unless the same be repealed.

**Section 18. Repeal**

All resolutions and parts of resolutions inconsistent herewith shall be and the same hereby expressly are repealed.

[SIGNATURE PAGE FOLLOWS]

**RESOLVED AND ENACTED** by the Clarion Borough Stormwater Authority this 24th day of January, 2019.

**ATTEST:**

**CLARION BOROUGH STORMWATER  
AUTHORITY**

\_\_\_\_\_  
Tom DiStefano, Secretary

By: \_\_\_\_\_  
Jason Noto, Chairman

(SEAL)