

MUNICIPALITY OF MONROEVILLE
ALLEGHENY COUNTY, PENNSYLVANIA

ORDINANCE NO. 2689

AN ORDINANCE OF THE MUNICIPALITY OF MONROEVILLE
ESTABLISHING A POLLUTION CONTROL AND FLOOD
REDUCTION FEE AND PRESCRIBING RULES AND REGULATIONS
FOR THE PAYMENT AND COLLECTION OF SAID FEE

WHEREAS, the Municipality of Monroeville (the "Municipality") has found that significant funds are/ will be expended on an annual basis on projects to control water pollution and reduce flooding within the Municipality; and

WHEREAS, the Municipality has found that all properties have the potential to contribute to water pollution and flooding within the Municipality to some degree; and

WHEREAS, the Municipality has found that current funding allotted to water pollution and flood reduction projects in the Municipality is insufficient to address the need to complete these necessary projects; and

WHEREAS, the Council for the Municipality desires to enact a Pollution Control and Flood Reduction Fee to provide a dedicated funding source to water pollution control and flood reduction projects which will be used in both a proactive and reactive fashion.

NOW, THEREFORE, be it hereby ordained and enacted by the Council of the Municipality as follows:

SECTION 1 – FINDINGS:

1. The Municipality incurs a significant cost to operate a stormwater management system.
2. Inadequate management of accelerated stormwater runoff throughout the various watersheds of the Municipality increases flood flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of existing streams and Storm Sewer Systems, greatly increases the cost of public facilities to convey and manage storm water, undermines floodplain management and flood reduction efforts in upstream and downstream communities, reduces groundwater recharge and threatens public health and safety.
3. 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 which also protects and maintains surface water quality.

4. A comprehensive program of stormwater management is fundamental to the public health, safety, welfare and the protection of the residents of Municipality, their resources and the environment in order to control items such as flooding, erosion and water pollution.
5. The collection and conveyance system for stormwater includes underground pipes, conduits, inlets, culverts, catch basins, gutters, ditches, channels, detention ponds, streets, curbs and drains.
6. 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 storm water.
7. These three (3) factors all relate to and are driven by impervious surface since peak flow, total runoff volume and pollution all increase greatly after a property is developed.
8. Peak flow occurs most often during periods of intense rainfall and/or when the ground is saturated or is arid.
9. Because of the effect of weather on stormwater, no developed property can always accept storm water and all developed properties therefore generate stormwater runoff.
10. In a developed urban environment such as the Municipality, each developed property generates runoff and therefore uses or is in some fashion connected with, serviced by or benefitted by the Storm Sewer System, which normally functions by collecting stormwater from a property and/or by preventing stormwater from entering another property.
11. 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 the water.
12. Impervious surface is a primary indicator of the generation of storm water and usage of the Storm Sewer System.
13. 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.
14. The Municipality desires to establish fair and equitable user charges to assure that each property and recipient of services within the Municipality of Monroeville will pay its proportionate share of the costs of operation, maintenance, repair, administration, replacement and improvement of all stormwater services provided or paid for by the Municipality.

15. Federal and state regulations (including those found at 40 CFR Part 122) require the Municipality to implement a program of stormwater controls. The Municipality is required to obtain a permit for stormwater discharges from their Municipal Separate Storm Sewer System (MS4) under the National Pollutant Discharge Elimination System (NPDES).
16. The charges as determined herein are fair and equitable and are based upon the following assumptions:
 - a. A minimum fee per residential unit is reasonable.
 - b. The basis for the equivalent residential unit of 2,385 square feet of impervious surface was based on the average size of existing homes and their associated impervious areas.
 - c. The standardized charge for single family dwellings is based on the fact that there is not a great deal of variation in size nor any substantial manner to control stormwater runoff on residential properties.
 - d. The monthly charge per Equivalent Residential Unit (ERU) is based upon both the size of the building, all accessory structures and all other impervious surfaces including parking areas, driveways and walkways.

SECTION 2 – DEFINITIONS:

Duplex Property – A single residential building housing two single-family attached residences each with their own entrance from the outside on the same property, generally two units sharing a common wall. A duplex can be distinguished from a townhome in that each residence of a townhome is on a separate property.

Equivalent Residential Unit (ERU) - The measure of impervious surface for a typical single family detached residential structure and associated hardscapes (sidewalks, driveway, etc.) which shall be used in assessing the fees for each non-single family residential property and which has been decided based on GIS analysis to be 2,385 square feet.

Impervious Surface - Those hard surface areas which prevent or slow the entry of water into the soil in the manner that such water entered the soil under natural conditions existing prior to the development, or which cause water to runoff the surface in greater quantities or at an increased rate of flow than that present under natural conditions prior to development including, without limitation, such surfaces as roof tops, asphalt, concrete, pavers, driveways, parking lots, streets, walkways, patio areas, storage areas or other surfaces which similarly affect the natural infiltration or runoff patterns existing prior to development.

Municipality – Municipality of Monroeville, Pennsylvania, a Home Rule Charter Municipality.

Multiple Single Family Residences Property – Multiple separate single family residences which are located on the same piece of property.

Not Single Family Residential Property – Any property that does not fit the definition of Duplex Property, Multiple Single Family Residences Property, Right-of-Way, Single Family Residential Property, Single Family Residential Accessory Property, or Vacant Property. Generally speaking apartment buildings, commercial buildings, industrial buildings, schools, churches, government buildings and other similar structures.

Operation, Maintenance and Capital Costs – The associated costs of equipment and facilities, energy, manpower, materials, property acquisition, transportation and services required to collect, convey, detain, pump and transport stormwater, flood protection, keep equipment and facilities functioning satisfactorily and economically, administer the Monroeville Storm Sewage System and shall include sums paid to defray costs of the Municipality's improvements to storm sewer systems.

Owner – Any person, firm, corporation, individual, partnership, company, association, society or group owning real property in Monroeville. For purposes of this Ordinance the Municipality shall rely on the Allegheny County Department of Real Estate for ownership information.

Property – A piece of land or real estate which is “real property” and which has/ will have assigned to it an Allegheny County Parcel ID number. For purposes of this Ordinance the Municipality shall rely on the Allegheny County Department of Real Estate for property information.

Rental, Rates and Charges – Sums assessed, imposed and to be collected from each property which uses, benefits from or is serviced by the Monroeville Storm Sewer System or which discharges stormwater, directly or indirectly, into the Monroeville Storm Sewer System for the use of and the service rendered and improvement of such system.

Replacement – The associated costs of obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the Monroeville Storm Sewer 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 Storm Sewer System.

Right-of-way – A right-of-way consists of land utilized for public infrastructure such as roads and railroads. Generally rights-of-way for roads are not treated as real property and thus are not assigned Parcel ID numbers by the Allegheny County Department of Real Estate, however this may not always be the case.

Single Family Residential Property – A developed property which serves the primary purpose of providing a permanent dwelling unit to a single family, including associated accessory structures. This includes single-family detached homes (traditional homes) as well as single-family attached homes (townhomes). The existence of a home-based business does not violate this definition so long as the primary purpose of the property complies with the first sentence of this definition.

Single Family Residential Accessory Property – A property which has impervious area where such impervious area serves as an accessory to an adjacent single family residential property.

Such instances may include but are not limited to sheds or driveways which exist wholly or partially on a property adjacent to the property on which the home is located.

Storm Sewer System - The system of collection and conveyance including pipes, conduits, main lines, 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.

Monroeville Storm Sewer System – The portion of the Storm Sewer System owned by the Municipality. This distinction is necessary as Allegheny County, the Pennsylvania Department of Transportations, the Pennsylvania Turnpike Commission, Gateway School District, and many other entities also own and/or operate Storm Sewer Systems within the Municipality's boundaries.

Stormwater – Includes runoff water from all precipitation events, snowmelt and springs.

User - Any person, firm, corporation, individual, partnership, company, association, society or group using, benefitting from or being served by the Monroeville Storm Sewer System.

Vacant Property – A property which has no impervious area.

SECTION 3 – IMPOSITION OF RENTAL, RATES AND CHARGES:

1. For the use of, benefit by and the services rendered by the Monroeville Storm Sewer System, including its operation, maintenance, repair, replacement and improvement of said system and all other expenses, rental, rates and charges are hereby imposed upon each and every property that is connected with, uses, is serviced by or is benefited by the Monroeville Storm Sewer System, either directly or indirectly, and upon the owner(s) of such properties. Such rental, rates and charges are imposed January of each year. Such rental, rates and charges shall be payable to the Municipality by and collected from the owners of such properties as hereinafter provided, and shall be determined as set forth below.
2. The current per-ERU charge shall be as established in the prevailing municipal fee schedule.
3. The per-ERU charge was based upon dividing the forecasted budget of expenditures by the total number of ERU's in the Municipality and rounding that figure up to the nearest integer dollar value. This is important to demonstrate that the per-ERU charge is based on the Municipality's actual budgetary needs.
4. The Municipality reserves the right to amend the per-ERU fee from time to time by Ordinance as necessary to match the fee revenue to the budget expenditures.

SECTION 4 – FEE CLASSIFICATIONS:

1. For purposes of determining the stormwater user's fees, all properties within the Municipality have been classified into the one of the following classes with the fee determined in accordance with the category:
 - a. Duplex Property – The property owner will receive one (1) bill for two (2) ERU's. The property owner will be responsible for paying the entire fee via a single payment. The Municipality will have no involvement in the proration of the fee between tenants/families.
 - b. Multiple Single Family Residences Property – The property owner will receive one (1) bill charging (1) ERU per home on the property. The property owner will be responsible for paying the entire fee via a single payment. The Municipality will have no involvement in the proration of the fee between tenants/ families.
 - c. Not Single Family Residential Property – The property owner will receive one (1) bill for a number of ERU's based upon the number of square feet of measured impervious surface, as determined through aerial photography, surface feature evaluation processes, or other methods of quantification (including but not limited to field survey, remote sensing, etc.) expressed in whole ERU's by rounding down to the next lowest integer ERU. The property owner will be responsible for paying the entire fee via a single payment. The Municipality will have no involvement in the proration of the fee between tenants/ families.
 - d. Right-of-way – This property will be exempt from rental, rates and charges under this ordinance, including the following; Municipality Roads, County Roads, State Roads, Federal Roads or Pennsylvania Turnpike Commission Roads. Note that Private Roads are not exempted from the fee.
 - e. Single Family Residential Property - The property owner will receive one (1) bill charging (1) ERU.
 - f. Single Family Residential Accessory Property - The property owner will receive one (1) bill charging one-half (0.5) ERU.
 - g. Vacant Property - The property owner will receive one (1) bill charging one-quarter (0.25) ERU.
2. The Municipality reserves the right to change the classification of a property over time if the change in usage of the property dictates or based on the results of appeals.

SECTION 5 – UNIFORM APPLICATION OF RENTAL, RATES AND CHARGES:

Rental, rates and charges shall be assessed, imposed, liened and collected as to all property, owners, lots, parcels, building units and users.

SECTION 6 – “USER” AND “OWNER” DISTINGUISHED:

References in this Ordinance to "use," "user," "unit" or portion of a property, lot, parcel or building with respect to the calculation and assessment of storm sewer rental, rates and charges shall not be construed to modify or alter the fact that storm sewer rental, rates and charges shall be assessed and imposed upon the property pursuant to 53 P.S. § 7106, et seq. as may in the future be amended, and the owner of each property against which storm sewer rental, rates and charges are imposed and assessed under this Ordinance shall be and remain liable for payment of the same, whether or not such owner occupies the property. Nothing in this Ordinance 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 Municipality or limit in any way the Municipality's authority to impose, assess, lien and collect storm sewer rental, rates and charges.

SECTION 7 – BILLING AND COLLECTION OF RENTAL, RATES AND CHARGES:

The rental, rates and charges fixed and established by this Ordinance shall be effective as to all properties that use, are served or are benefited by the Monroeville Storm Sewer System existing as of the effective date of this Ordinance, and shall be effective to all other properties thereof that use or are so served or benefit subsequent to the effective date of this Ordinance. Rental, rates and charges imposed by this Ordinance shall be assessed and billed by the Municipality or its designated agent. An invoice shall be prepared and mailed on or before the first business day of January of each year as to calendar billing to the owner of each Premises served by the Monroeville Storm Sewer System. For the year 2019, such fees shall be payable at a discount of two percent (2%) if paid or before March 31st, 2019, and at the face amount until December 31, 2019. Beginning in year 2020 and every year thereafter, the fee shall be payable at a discount of two percent (2%) if paid or before March 31st, and at the face amount if paid on or before June 30th. The rental, rates and charges assessed and collected will not be subject to proration or refund by Monroeville in the event a property is sold; provided, however, that this sentence shall not bind a buyer and seller from making their own proration of any rental, rates and charges assessed hereunder.

SECTION 8 – LATE PAYMENT PENALTY:

Effective on July 1, 2020, and every year thereafter, a late fee penalty of ten percent (10%) shall be assessed for that calendar year and shall be added to the amount due for nonpayment within the time allowed.

SECTION 9 – 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 and satisfaction fees and other charges imposed for failure to pay promptly shall constitute a lien upon and against the subject property and its owner from the date of their imposition and assessment.

SECTION 10 – EXEMPTIONS AND CREDITS APPLICABLE TO RENTAL, RATES AND CHARGES:

Credits against rental, rates and charges are an appropriate means of adjusting fees, rates,

rental, charges, fines and penalties, under some circumstances, to account for applicable mitigation measures. Credit mechanisms are attached hereto as Exhibit A. No exception, credit, offset, or other reduction in rental, rates and charges shall be granted based on age, race, tax status, political affiliation, economic status or religion of the customer, or other condition unrelated to the demand for and cost of services provided by the Municipality.

SECTION 11 – DISCOUNT FOR CERTAIN RELIGIOUS INSTITUTIONS

Any property owned by a religious organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code and the applicable requirements of the Commonwealth of Pennsylvania Department of Revenue shall be entitled to a discount equal to twenty-five percent (25%) of the face amount of the fee due (in lieu of any other discount set forth in this Ordinance), provided that: (a) the applicable property is used only for the conduct of religious services and/or religious education; and (b) no non-exempt activities are conducted on the property. All other payment due dates, applicable penalties and late fees set forth in this Ordinance shall apply to such properties. Upon request, such property owners shall provide the Municipality with documentation sufficient in the Municipality's sole discretion to confirm such exempt status.

SECTION 12 - APPEAL PROCEDURES:

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

1. An appeal of a rental, rate and charge must be filed in writing with the Municipal Manager (or his/her designee) within thirty (30) days of the charge being mailed or delivered to the property owner. Any appeal must state the reason for the appeal on the standard form provided by the Municipality. An appeal of any matter not directly related to a rental, rate and/or charge shall be made directly to common pleas court pursuant to Pennsylvania Local Agency Law.
2. Using information provided by the appellant, the Municipal Manager (or his/her designee) shall conduct a technical review of the conditions on the property and respond to the appeal in writing within thirty (30) days. In response to an appeal, the Municipal Manager may adjust the rental, rate and charge applicable to the property in accordance with the provisions of this Ordinance.
3. Following the adoption of this Ordinance, there shall be established by appropriate legislative action a Monroeville Pollution Control & Flood Reduction Board of Appeals (the "Board of Appeals"). The Board of Appeals shall consist of three (3) residents of the Municipality, each of whom shall have at least ten (10) years' experience in the fields of building construction, plumbing and or civil engineering, as determined by Municipal Council. The initial members of the Board of Appeals shall be appointed to serve a one-year term; a two-year term; and a three-year term, respectively. Following the appointment of the initial members to the Board of Appeals, all members appointed to the Board of Appeals shall serve terms of three (3) years, and shall be subject to the rules and regulations

pertaining to appointments to boards and commissions set forth in the Municipality's Home Rule Charter.

4. The Board of Appeals shall hear and decide appeals made by property owners from decisions of the Municipal Manager. Such appeals from the decision of the Municipal Manager shall be made to the Board of Appeals in writing to the office of the Municipal Manager on the prescribed form within thirty (30) days of the date of the adverse decision from the Municipal Manager. The Board of Appeals shall hold a hearing within ninety (90) days of the date the appeal is received by the Municipal Manager. The Board of Appeals shall issue a written decision on the appeal to the property owner within thirty (30) days of the date of the final hearing on said appeal. Decisions of the Board of Appeals shall be mailed to the property owner at the address listed on the appeal application, or if no address is listed, the registered address listed on the Allegheny County website.
5. A decision of the Board of Appeals that is adverse to the property owner may be further appealed to the Allegheny County Court of Common Pleas within thirty (30) days of date of the adverse Board of Appeals written decision pursuant to Pennsylvania Local Agency Law.

SECTION 13 – POLICIES AND PROCEDURES AUTHORIZED:

1. Municipal Council may by Resolution adopt such policies and procedures as it deems appropriate to ensure collection of Storm Sewer System rental, rates and charges assessed and imposed pursuant to this Ordinance. Without limitation, collection procedures may all lawful mechanisms for the collection of delinquent municipal fees available pursuant to applicable Pennsylvania law, and any and all other appropriate measures or combination thereof which Municipal Council may deem appropriate.
2. 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 expense, charges for service of documents, shall upon being incurred by the Municipality be imposed as a charge for nonpayment and added to the balance due on said owner's account. Such charges are enumerated on the prevailing schedule of municipal fees and costs. The Municipality shall be entitled to all legal and equitable remedies available to the Municipality with respect to the collection of unpaid amounts assessed pursuant to this Ordinance.
3. No lien shall be satisfied, nor shall any collection proceeding be discontinued until all amounts due on an account, including rental, rates, penalties, interest, collection fees, attorney's fees, court costs and other charges are first paid in full to the Municipality.
4. The Municipal Manager is authorized to adopt any policies or procedures that the Municipal Manager deems necessary or convenient to interpret or implement this Ordinance.

SECTION 14 – POLLUTION CONTROL AND FLOOD REDUCTION REVENUE FUND:

The funds received from the collection of the rental, rates and other charges authorized by this Ordinance shall be deposited into a Pollution Control & Flood Reduction Fund, a restricted fund

account hereby created and dedicated to the operation, administration, maintenance, repair and improvement of the Monroeville Storm Sewer System and paying operation, maintenance and capital costs.

SECTION 15 – NO WARRANTY OR ACTION:

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 the money damages against Monroeville, its officers, employees, or agents. The Municipality expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the Municipality, 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 OF PARTS OF ORDINANCE:

It is hereby declared as the legislative intent of the Municipal Council that the chapters, parts, sections, paragraphs, sentences, clauses or phrases of this Ordinance are severable. If any chapter, part, section, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional, illegal or otherwise invalid by the judgment or decree of a court of competent jurisdiction, that invalidity shall not affect any of the remaining chapters, parts, sections, paragraphs, sentences, clauses or phrases of this ordinance.

SECTION 17 - REPEALER:

All ordinances or parts of ordinances in conflict with this ordinance or any provisions thereof are repealed to the extent of such conflict.

SECTION 18 - EFFECTIVE DATE:

This ordinance shall become effective on January 1, 2019, and shall remain in force until amended or repealed by Municipal Council.

ORDAINED AND ENACTED into law this 9th day of October, 2018.

ATTEST:

MUNICIPALITY OF MONROEVILLE



Timothy J. Little
Municipal Manager



Dr. Nicholas J. Gresock
Mayor

ENTERED INTO LEGAL BOOK ON: October 19, 2018