

**TOWNSHIP OF SILVER SPRING  
CUMBERLAND COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2019-13**

**AN ORDINANCE OF THE TOWNSHIP OF SILVER SPRING, CUMBERLAND COUNTY,  
PENNSYLVANIA, ESTABLISHING A USER FEE FOR STORM WATER  
COLLECTION AND MANAGEMENT**

**WHEREAS**, The Board of Supervisors of the Township of Silver Spring is authorized under the Second-Class Township Code, and otherwise authorized and obligated under the Pennsylvania law to regulate storm water through its Municipal Separate Storm Sewer System;

**WHEREAS**, the existing Storm Water Management System requires maintenance, repairs, enhancements, and replacement to meet existing and future needs, including flooding concerns and water quality protection and improvement; and

**WHEREAS**, the Township holds a National Pollutant Discharge Elimination System (NPDES) permit from the Pennsylvania Department of Environmental Protection (“DEP”); and

**WHEREAS**, the NPDES permit requires the Township to meet numerous requirements and regulations to comply with State and Federal law; and

**WHEREAS**, a professional engineering and financial analysis of Storm Water Management needs for the Township has been performed; and

**WHEREAS**, the Township finds it necessary to adopt a Storm Water Management Program Fee to defray the costs of complying with the NPDES program for Municipal Separate Storm Sewer System compliance and maintaining its storm water system.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED** by the Silver Spring Township Board of Supervisors:

**Section 1. Title.**

This Ordinance shall be known as the “Silver Spring Township Storm Water Management Program Fee Ordinance.”

**Section 2. Authority.**

- A. Silver Spring Township is a Second-Class Township empowered by 53 Pa.C.S. § 67705 to assess reasonable and uniform fees for construction, maintenance and operation of storm water management facilities, systems and management plans.
- B. Silver Spring Township is empowered to regulate storm water management activities and facilities by the authority of the Storm Water Management Act, 32 P.S. § 680.1 et seq., and the Second-Class Township Code, 53 P.S. § 35101 et seq.

- C. Silver Spring Township is also empowered to regulate land use activities that affect storm water runoff and storm water management systems by the authority of Pennsylvania's Municipalities Planning Code, 53 P.S. § 10101 *et seq.*

**Section 3. Findings.**

Silver Spring Township finds that:

- A. Inadequate development and maintenance of storm water facilities increases storm water runoff rates and volumes, contributes to erosion and sedimentation, overtaxes the carrying capacity of storm sewers and streams, increases the cost of public facilities to carry and control storm water, undermines flood plain management and flood control efforts in downstream communities, reduces groundwater recharge, threatens public health and safety, and increases pollution of water resources.
- B. A comprehensive program of storm water management, including the generation of funding to pay for effective storm water best management practices, is fundamental to the public health, safety, and welfare and the protection of people of Silver Spring Township, their resources, and the environment.
- C. Storm water 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. Approaches to water management that protect, restore, and mimic natural water cycles have significant environmental, social, and economic benefits and should be encouraged.
- E. Federal and state regulations include requirements for municipalities to implement a program of storm water controls.
- F. To (i) establish, operate, and maintain the storm water infrastructure of Silver Spring Township, as well as all systems upon which the storm water infrastructure depends, (ii) insure the effective operation of the storm water system through installation and management of best practices; and (iii) to provide services such as inspections, asset management, and regulatory oversight associated with storm water management, sufficient and stable funding is required to fund these public services.
- G. Silver Spring Township intends to establish fair and equitable storm water management program fees to assure that each lot within the Township will pay its proportionate share of the costs of operation, maintenance, repair, administration, replacement, and improvement of all storm water services provided or paid for by Silver Spring Township.
- H. A number of models were reviewed by the Township for determining a fee to be charged to property owners. The review found the Equivalent Residential Unit (ERU) model as an appropriate method of calculating a fee for the Township's Storm water Management Program. The following determinations were made:
  - a. A base fee per single family residential ("SFR") unit is reasonable.

- b. The base fee can be derived from a statistical sampling of impervious surfaces on SFR properties in the Township.
- c. All non-SFR properties can be charged a fee based upon the square footage of impervious area on the parcel. The impervious area is measured, and the fee is determined by dividing the impervious area on the parcel by the square footage for an ERU.

**Section 4. 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 Silver Spring Township, if any, and shall otherwise be given their ordinary and common meaning.

**BEST MANAGEMENT PRACTICES (BMPs):** Activities, facilities, measures, or procedures used to manage the volume, rate and water quality of storm water runoff from a developed parcel. For the purposes of the credit policy, BMPs eligible for credits are those structural BMPs listed in the Department of Environmental Protection’s “BMP Effectiveness Values” document (publication number 3800-PM-BCW0100m, dated 6/2018). Definitions for individual BMPs shall be as stated in the “BMP Description” column of the “BMP Effectiveness Values” document.

**BOARD OF SUPERVISORS:** The duly-elected governing body of Silver Spring Township, Cumberland County, Pennsylvania.

**CREDIT:** A Storm Water Management Program Fee reduction that a property owner receives for implementing and complying with the practices and policies adopted by Silver Spring Township.

**DESIGN STANDARDS:** Specifications, requirements, construction sequences, and other standards that must be met for an implemented BMP to receive credit. Design Standards for implemented BMPs shall be in accordance with the latest edition of the Pennsylvania Storm Water BMP Manual.

**DEVELOPED PARCEL:** A parcel altered from a natural state that contains impervious surface equal to or greater than 500 square feet.

**EQUIVALENT RESIDENTIAL UNIT (ERU):** The measure of impervious ground cover for a typical single-family detached residential property used in assessing fees for each parcel of property, and which is determined to be 4,000 square feet.

**IMPERVIOUS SURFACE:** A surface that prevents or significantly reduces the infiltration of water into the ground. Impervious surface includes all structures, buildings, parking areas, driveways, roads, sidewalks, and any areas of concrete, asphalt stone, gravel, or other surfaces as “Impervious Surface” defined in section 203 of the Township’s Storm Water Management Ordinance, as may be hereafter amended, but not including:

- A. Trails serving the public and those constructed consistent with the Silver Spring Township Subdivision and Land Development Ordinance that serve multiple parcels; and
- B. Private roads serving Single-Family Residential parcels.

**NON-SINGLE FAMILY RESIDENTIAL (NON-SFR) parcel:** Any developed parcel not fitting the definition of Single-Family Residential parcel. Non-SFR parcels include, but are not limited to, apartments, boarding houses, hotels and motels, churches, industrial properties, commercial properties, manufactured home or mobile home parks, commercial and office buildings, storage areas, parking lots and other impervious areas, parks, recreation properties, public and private schools and universities, hospitals and convalescent centers, office buildings, government properties, and mixed-use properties.

**OWNER:** Any person, firm, corporation, individual, partnership, company, association, government agency, society or group owning real property in Silver Spring Township. "Owner" may be referred to as "property owner" or "landowner."

**RESIDENTIAL ESTABLISHMENT:** Any room, group of rooms, building or other enclosure occupied or intended for occupancy as separate living quarters by a family or other group of persons living together or by a person living alone, excluding institutional dormitories, hotels, and motels, but including personal care boarding homes licensed by the Commonwealth.

**SINGLE-FAMILY RESIDENTIAL (SFR) parcel:** a Residential Establishment which may be constructed as: a free-standing building; one -half of a double home or duplex (one party wall in common); one house in a row house or townhouse arrangement (sharing two vertical party walls in common, except for end units); and any other variation of construction with the same result, including buildings subject to the condominium form of ownership.

**STORM WATER:** Water from all precipitation events, snowmelts and springs that flows across the land and eventually into rivers, creeks, lakes, ditches and canals resulting in debris, sediment, pollutants, bacteria and nutrients from sidewalks, streets, parking lots, and other impervious surfaces washing into gutters, through storm drains, and eventually flowing into creeks and rivers.

**STORM WATER MANAGEMENT COSTS:** The associated public costs of equipment and facilities, energy, workforce, materials, property acquisition, transportation and services required to:

- A. Avoid, reduce, manage, treat, collect, convey, detain, infiltrate, pump and transport storm water;
- B. Provide flood protection;
- C. Keep equipment and facilities including best management practices functioning satisfactorily and economically;
- D. Administer the Storm Water Management Program, including regulatory compliance; and
- E. Improve Silver Spring Township's Storm Water Management System.

**STORM WATER MANAGEMENT SYSTEM:** The system of runoff avoidance, infiltration, collection and conveyance, including storm sewers, pipes, conduits, mains, inlets, culverts, catch basins, gutters, ditches, channels, detention ponds, streets, curbs, drains and all devices/appliances and Storm water Best Management Practices (BMPs) and facilities appurtenant thereto used for collecting, conducting, pumping, conveying, detaining, infiltrating, reducing, managing, avoiding the generation of, and treating storm water.

**STORM WATER MANAGEMENT PROGRAM FEE:** A fee assessed, imposed and to be collected from each Developed Parcel in Silver Spring Township beginning January 1, 2020, and used to defray the Township's Storm Water Management Costs.

**TOWNSHIP:** Silver Spring Township, Cumberland County, Pennsylvania.

**Section 5. Imposition of Storm Water Management Program Fees.**

- A. Each single-family residential (SFR) parcel shall be charged for one (1) ERU.
- B. The fee per ERU shall be an annual fee of \$108.00, with one (1) ERU being equal to 4,000 square feet.
- C. All other developed, non-SFR parcels shall be charged an annual fee calculated by dividing the total impervious area of the non-SFR parcel by the impervious area per ERU to determine the number of ERUs to assign to the parcel. ERUs shall be assigned to non-SFR parcels by rounding to the nearest tenth.

Example: A non-SFR property containing 66,260 square feet of impervious area would have the following ERUs assigned to it:  $66,260 / 4,000 = 16.56 = 16.6$  ERUs.

- D. The Board of Supervisors may review the Storm water Management Program Fees established by this Ordinance and may modify the fees by Resolution as deemed necessary.

**Section 6. Uniform Application of Storm water Management Program Fees.**

All fees shall be assessed, imposed, liened and collected as to all Property, owners, lots, parcels, buildings, units, and users, unless exempted.

**Section 7. Billing and Collection of Storm Water Management Program Fees.**

- A. The Storm Water Management Program Fees fixed and established by this Ordinance shall be effective to all properties that use, are served, or are benefited by the Silver Spring Township Storm Water Management System existing as of the effective date of this Ordinance, and shall be effective to all other properties thereof that use, are served, or are benefited by the Storm Water Management System subsequent to the effective date of this Ordinance.
- B. Silver Spring Township shall create and maintain a dedicated storm water account separate from all other accounts or funds. All storm water management program fees, and any penalties or interest on such fees, shall be deposited into that account, and shall be used solely for storm water services and purposes, including operation, administration, maintenance, repair, and improvement of the storm water management system.
- C. Silver Spring Township may bill property owners directly, or the Board of Supervisors may designate a third-party billing agent to issue bills for storm water management program fees.

- D. Bills for storm water management program fees shall be issued on a regular periodic basis, not less regularly than annually.
- E. Bills for storm water management program fees shall be payable at their face amount during the thirty (30) day period following the date on which the bill was mailed.
- F. The storm water management program fees imposed and collected will not be subject to proration or refund by Silver Spring 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 storm water management program fees imposed hereunder.

**Section 8. Late Payment Penalty; Interest Paid on Unpaid Storm Water Management Program Fees.**

The face amount of all storm water management program fee charges shall be paid within thirty (30) days of the invoice date, with a penalty of ten percent (10%) assessed on the thirty-first (31<sup>st</sup>) day. On the first day of each subsequent month in which the account remains unpaid, an interest charge of one-half percent (0.5%) per month shall be added to the account. All unpaid user charges shall be a lien against the property, and the Township Solicitor shall file such lien on or before December 31 of the year in which the account remains unpaid. Any legal fees, including attorney's fees, filing fees, and court costs, and any other fees related to the collection of the account shall be borne by the property owner. Attorney's fees and collection procedures shall be established by Resolution, as attached to this Ordinance as Exhibit "A," which may be amended from time to time by further Resolution.

**Section 9. Storm Water Management Program Fees Constitute a Lien on Property.**

In accordance with the Municipal Claims and Tax Liens Act, 53 P.S. § 7101, *et seq.*, as amended, all storm water management program fees, penalties, interest, collection fees, attorney's fees, lien filing and satisfaction fees, and all other charges imposed for failure to pay promptly shall constitute a lien upon and against the subject property from the date the fees are imposed. In addition, the Township reserves the right to pursue any and all other remedies available to it for nonpayment of the Storm Water Management Program Fee.

**Section 10. Credits.**

Except as provided in this section, no public or private developed land shall be exempt from storm water management service charges or receive a credit or offset against such storm water management service charges. No exemption or reduction in storm water management service charges shall be granted based on the age, tax or economic status, race, or religion of the owner, or other condition unrelated to the cost of providing storm water services and facilities.

- A. **Exemptions.** No public or private developed land shall be exempt from storm water management service charges, with the exception of public road rights-of-way.

## **B. Credits.**

- (1) Credits shall be available as described in the Silver Spring Township Storm Water Management Program Credit Policy Manual ("Credit Manual"), which shall be established by Resolution.
- (2) Property owners seeking to obtain credits must complete the Credit Application Form ("Application"), which shall be created by the Township Manager or the designee of the Township Manager consistent with the Credit Manual.
- (3) Credit Cap. The maximum credit shall be cumulative up to a maximum credit of 30% of the total Storm Water Management Program Fee for the subject property.
- (4) If an Application is approved, the property owner will receive credit beginning with the next regular billing cycle.
- (5) The Board of Supervisors may revise the credit cap and Credit Manual established by this Ordinance by Resolution as deemed necessary.

## **Section 11. Appeals.**

Any Owner who believes the provisions of this Ordinance have been applied in error may appeal by according to the following procedure.

- A. All appeals must be in writing on an Appeal Form to be created by the Township Manager or the designee of the Township Manager.
- B. The appeal of a Storm Water Management Program Fee must be delivered or mailed to the Township Manager, or the designee of the Township Manager, within thirty (30) days of the charge being mailed to the Owner. The appeal must be in writing and state all reasons for the appeal. Using the information provided by the appellant Owner and any other investigation that is needed in the opinion of the Township Manager or designee, the Township Manager or designee shall review the written submission and respond to the appeal in writing within thirty (30) days. The Township Manager or designee has the authority to adjust the Storm Water Management Program Fee if he or she deems appropriate.
- C. A decision of the Township Manager or designee that is adverse to the appellant Owner may be further appealed to the Silver Spring Township Board of Supervisors within thirty (30) days of the adverse decision being issued and mailed to the Owner. Upon appeal to the Board of Supervisors, the appellant Owner shall state in writing the grounds for further appeal and shall mail or deliver the appeal to the Township Manager, or the designee of the Township Manager. 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 to the Board of Supervisors. 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.

- D. If the appeal to the Board of Supervisors is rejected, and only upon exhaustion of all appeal remedies before the Township, the Owner may appeal the decision to the Court of Common Pleas of Cumberland County within thirty (30) days of the date of the rejection of the appeal.
- E. If an appeal is not filed with the Court of Common Pleas of Cumberland County within thirty (30) days as set forth in this Section, or if an appeal is not taken and payment is not made within thirty (30) days of receipt of a rejected appeal by the Board of Supervisors, the property shall be liened for all past-due amounts in accordance with the Municipal Claims and Tax Liens Act, 53 P.S. § 7101 *et seq.*, as amended.

**Section 12. Policies and Procedures Authorized.**

- A. The Board of Supervisors may, by Resolution, adopt such policies and procedures as deemed appropriate to ensure collection of storm water management program fees assessed and imposed pursuant to this ordinance. Without limitation, collection procedures may include referral of delinquent accounts to a collection agency, filing of municipal liens, and all other measures which the Board of Supervisors deem appropriate.
- B. All costs of collection procedures, including but not limited to legal fees, including attorney's fees, filing and satisfaction fees, court costs, administrative costs and engineering fees and costs, litigation expenses, charges for service of documents, and any other fees related to the collection of the account shall, upon being incurred by Silver Spring Township, be imposed as a charge for nonpayment and added to the balance due on the 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 storm water management program fees, interest, penalties, collection fees, attorney's fees, filing and satisfaction fees, court costs, administrative costs and engineering fees and costs, litigation expenses, and charges for service of documents are paid in full to Silver Spring Township.
- D. The Board of Supervisors may implement such administrative procedures necessary to implement the policies and requirements set forth in this ordinance.

**Section 13. Floods and Liability.**

Floods from storm water may occur occasionally that exceed the capacity of the storm water system maintained and financed with storm water fees. Nothing in this Ordinance shall be deemed to imply that properties subject to charges shall always be free from flooding or flood damage, or that all flood control projects to control storm water can provide complete protection from all flood and storm events. Nothing whatsoever in this ordinance shall deem Silver Spring Township liable for any damages incurred from storm water or from adverse water quality. Nothing in this ordinance purports to reduce or eliminate the need for flood insurance, and Silver Spring Township expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon Silver Spring Township, its officers, employees, and agents arising out of any alleged failure or breach of duty with respect to Silver Spring Township's storm water management system.



**Section 14. Repealer.**

Any and all previous Ordinance(s) or parts thereof which are inconsistent with the terms and provisions of this Ordinance are hereby repealed.

**Section 15. Severability.**

If any section, subsection, sentence, clause, phrase, provision, or portion of this Ordinance is found to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision. Such decision shall not affect the validity of the remaining portions of this Ordinance.

**Section 16. Effective Date.**

This Ordinance shall become effective five (5) days after its enactment by the Board of Supervisors of the Township of Silver Spring, County of Cumberland, Commonwealth of Pennsylvania.

Upon passage of the pending codification of the ordinances of Silver Spring Township, or if this Ordinance is passed subsequent to the codification, this Ordinance shall be codified under Chapter 347 [Storm Water Management Program Fee] under the Code of the Township of Silver Spring.

This Ordinance 2019-13 ordained and enacted this 20<sup>th</sup> day of November 2019.

**ATTEST:**

**SILVER SPRING TOWNSHIP  
BOARD OF SUPERVISORS**

  
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Theresa Eberly, Secretary

  
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David R. Lenker, II, Chairman

[TOWNSHIP SEAL]

