

ORDINANCE 2021-____

**AN ORDINANCE OF LANGHORNE BOROUGH, BUCKS COUNTY, PENNSYLVANIA,
ESTABLISHING A STORMWATER FEE COLLECTION AND MANAGEMENT PLAN**

WHEREAS, Borough Council is engaged in stormwater capital projects, proactive maintenance of public stormwater infrastructure, watershed reviews to identify the most impactful projects, increased inspections of stormwater management facilities, public education on stormwater management issues and action that local residents and business can take to address Borough stormwater challenges, and submission of municipal separate storm sewer system reports (MS4);

WHEREAS, Borough Council has constructed and maintains, and will continue to construct and maintain, systems including sewers and drains to collect and manage stormwater;

WHEREAS, to fund measures required by federal, state and county laws and regulations concerning the management of stormwater, Borough Council has determined it is necessary to assess a Stormwater Management Service Fee for all properties that are connected with, use, are serviced, or are benefited by such systems;

WHEREAS, Borough Council has determined that the fees and requirements are necessary to preserve the safety and health of the residents of the Borough; and,

WHEREAS, Borough Council has determined that the health, safety and general welfare of the residents of the Borough will be served by providing and maintaining working stormwater systems.

NOW THEREFORE, BE IT ORDAINED AND ENACTED:

Section 1. Title

This ordinance shall be known and may be cited as “The Langhorne Borough Stormwater Fee Collection and Management Plan Ordinance.”

Section 2. Findings and Intent

A. Findings.

The Borough finds that:

1. The Borough currently incurs costs to run and maintain a system of stormwater management facilities, including but not limited to inlets, conduits, culverts, gutters, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration systems, and other components, as well as all natural waterways;
2. The Borough currently incurs costs to comply with county, state and federal governmental regulations and requirements, including but not limited to the costs incurred to monitor, inspect, audit and submit reports and plans to said county, state and federal governments;
3. Proper maintenance of stormwater management infrastructure is required to prevent the stormwater management systems from degrading into a state of disrepair;

4. 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 potential runoff volume, and pollution in the stormwater;
5. These factors relate to, and are driven by, impervious surface; once property is developed, peak flow, runoff volume, and pollution often increase;
6. Impervious surface is a primary indicator of the generation of stormwater and usage of the Borough stormwater drainage system;
7. 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);
8. Because of the effect of weather on stormwater absorption (e.g. extended dry or wet periods of time), developed and undeveloped property cannot always accept all stormwater flow and will therefore, generate stormwater runoff;
9. In a developed, urban environment, such as the Borough, each developed property generates runoff and therefore uses or is in some fashion connected with, serviced by, or benefited by the Borough stormwater drainage system, which normally functions by collecting stormwater from properties and/or by deterring stormwater from entering other properties or waterways;
10. Inadequate management of accelerated stormwater runoff throughout a watershed may increase flood flows and velocities, may contribute to erosion and sedimentation, overtax the carrying capacity of existing streams and storm sewers, increase the cost of public facilities to convey and manage stormwater, undermine floodplain management and flood reduction efforts, reduce groundwater recharge, and adversely impact public health, welfare, and safety;
11. Inadequate planning and management of stormwater runoff in a watershed may 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;
12. Water resources can be impacted through loss of groundwater recharge where stormwater, an important water resource which provides groundwater recharge for water supplies and base flow of streams, is not available thereby potentially affecting surface water quality;
13. Water quality can be degraded due to channel erosion and the discharge of nutrients, oils, metals, grease, toxins, and other substances into and through the stormwater system;
14. Stormwater flow can become heavily polluted after extended dry periods when waterflow carries sediment, yard waste, animal waste, pollutants, oil, and grease into the stormwater system;
15. The public health, safety, and welfare can be adversely affected by poor water quality and flooding as a result of inadequate management of both the quality and quantity of stormwater;

16. The Borough is exposed to the possibility of litigation if stormwater systems fall into a state of disrepair or when potential floods risk injury to individuals, damage to property or impede the movement of emergency vehicles; and,

17. The effects of stormwater runoff can be minimized by using project designs that maintain the natural hydrologic regime and sustain high water quality, effective groundwater recharge, consistent stream base flow, and ecologically sound aquatic eco-systems.

The Borough further finds that:

1. The requirements of the United States Environmental Protection Agency demand a comprehensive approach to municipal stormwater management and the Borough wishes to take a proactive approach to these requirements;

2. The *Pennsylvania Stormwater Best Management Practices Manual* serves to provide guidance, options and tools to municipalities and strongly encourages stormwater management practices that both prevent and mitigate runoff;

3. Federal and state regulations (including those found at 40 CFR Part 122) require the Borough to implement a program of stormwater controls and to obtain a permit for stormwater discharges under the National Pollutant Discharge Elimination Systems (NPDES);

4. Assessing responsibility for stormwater management and planning for stormwater management should be improved so the necessary and true costs of stormwater management can be reflected in Borough budgets and expenditures;

5. Every parcel of real property, both public and private, either uses or benefits from the maintenance of the stormwater management system;

6. Current and anticipated growth in the Borough will contribute to and increase the need for improvement and maintenance of the stormwater management system;

7. The extent of use of the stormwater management system by each property is generally dependent on factors that influence runoff, including land use, intensity of development, topography, prior land use and the amount of impervious surface on the property;

8. The Borough desires to establish fair and equitable user charges to assure that each property, each property user and each recipient of services in the Borough pays its proportionate share of the costs of operation, maintenance, repair, administration, replacement, and improvement of all stormwater services and systems provided or paid for by the Borough;

9. Increased management of stormwater drainage system will protect the public health, safety and welfare and will provide revenue to meet county, state and federal stormwater management regulations; and,

10. A comprehensive program of stormwater management is fundamental to the public health, safety, welfare, and necessary to protect the residents of the Borough, their resources, and the environment from the impact of flooding, erosion, and pollution.

B. Intent.

Therefore, with the passage of this Ordinance, it is the intent of the Borough to promote public health, safety, and welfare by:

1. Creating stormwater management fees to manage the stormwater management system;
2. Consolidating responsibility for stormwater management activities in the Borough;
3. Undertaking regular maintenance and increased inspections of all stormwater management facilities, both public and private;
4. Financing stormwater management adequately through the imposition of Stormwater Management Service Fees on all properties and users benefited by the stormwater management system;
5. Proactively reviewing public stormwater infrastructure to identify effective, economical and impactful improvement projects;
6. Providing public education on stormwater management issues and action that local residents and business can take to address Borough stormwater challenges;
7. Setting charges such that the fees paid by each property and user reflect the classification of use and bears a substantial relationship to the cost of maintaining and improving the stormwater management system; and,
8. To encourage property owners to improve their own stormwater management.

Section 3. Definitions

A. Words and terms used in this Ordinance, and not given specific definition, shall be defined as set forth in applicable statutes of the Commonwealth of Pennsylvania, County regulations or Borough ordinances, if any, and shall otherwise be given their ordinary and common meaning.

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

Accelerated Stormwater Runoff – occurs when less precipitation is infiltrated into the soil and groundwater or evaporated, either directly into the air or through vegetation, there is an increase in the volume and rate, or acceleration, of stormwater runoff.

Commercial Unit (Non-Residential) – means any room or group of rooms located in a building and forming a single, definable unit for non-residential purposes. For example and not to limit interpretation, a building having separately named business, office or store units would be charged for each unit. A commercial unit may occur in a structure which also has residential units. Paying rent for a residential unit to a commercial entity does not change the unit from its residential classification.

Developed Property – means real property which has been developed in some way, altering it from its natural conditions.

Developed Vacant Property – means real property which has been developed in some way, altering it from its natural conditions, but not requiring there to be structures on the property.

Dwelling Unit (Residential) – means any room or group of rooms located in a building which forms a single, habitable unit with facilities for living, sleeping, cooking, personal hygiene, and eating, by one or more persons, with provisions for water, sanitation, temperature and electrical services.

Impervious Surface – means hard surface areas which prevent or retard the entry of water into the soil, which cause water to run off the surface in greater quantities or at an increased rate of flow than preexisted prior development, including, without limitation, rooves, asphalt, concrete, pavers, vehicular or parking areas, driveways, private streets, walkways, patio areas, storage areas, or other surfaces which similarly affect the natural infiltration or runoff patterns existing prior to development.

Owner – means any person, firm, corporation, individual, partnership, company, association, society or group owning real property within the Borough.

Property – means each lot, parcel, building or portion thereof.

Real Property – means all real estate, as designated by a Tax Map Parcel Number.

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

Stormwater Management Service Rates – means a fee authorized by this Ordinance, as set forth in a resolution adopted or amended by Borough Council, established to pay for administration, operation and maintenance, costs of capital improvements, enforcement and collection actions, media and educational projects and any debt service associated with the stormwater management system.

Residential Rate – means the fee, approved by resolution of Borough Council, assessed on one tax map parcel based on its residential principal structure, whether owner occupied, non-owner occupied or operated by a non-profit organization, located in the R-1 and R-2 Zoning Districts.

Non-Residential Rate – means the fee, approved by resolution, assessed on one tax map parcel based on its non-residential principal structure located in the R-1 and R-2 Zoning Districts or on any tax map parcel in the PS, C and C-1 Zoning Districts.

Industrial Rate – means the fee, approved by resolution, assessed on one tax map parcel based on its industrial use principal structure (a unit engaged in manufacturing or mass production of items) or on any tax map parcel in the I Zoning District.

Open Space Rate – means the fee, approved by resolution, assessed on one acre of land dedicated to open space or recreational use.

Additional Residential Rate – means the fee, approved by resolution, as the additional fee assessed on each residential unit in any principal or accessory structure in any zoning district.

Additional Non-Residential Rate – means the fee, approved by resolution, as the additional fee assessed on each commercial, professional, retail, service or any other commercial (non-residential) use unit in any principal or accessory structure in any zoning district.

Maximum Rate - means the total fee that may be accessed against one tax map parcel.

Stormwater Management Fund (SMF) – means a fund, established by this Ordinance, to be used for purposes of the stormwater management system. All revenues received by the Borough from stormwater management service fees shall be deposited into the SMF.

Stormwater Management System – means the system or network of stormwater management facilities, including but not limited to inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, and other components.

Stormwater Mitigation System – includes but is not limited to reducing impervious cover; minimizing soil disturbances; providing multiple runoff storage measures; using detention, retention and infiltration practices; rainwater harvesting or green roof systems; and, practicing storm drain cleaning.

Undeveloped Property – means real property that has not been altered from its natural condition or has not disturbed or altered topography or soils to retard the entry of water into the soil.

User - any person, firm, corporation, partnership, company, association, society or group using, benefiting from or being served by the Borough Stormwater Management System.

Section 4. Administration of the Stormwater Management System

Borough Council shall have responsibility for implementing the Stormwater Management System, including but not limited to, long-range planning, plan implementation, capital improvements, stormwater facility maintenance, and Stormwater Management Service Fee determination, billing and enforcement. Such responsibility may be delegated to those professionals, agencies and staff within the Borough administration or employed by the Borough best equipped to undertake a particular task.

Section 5. Master Stormwater Management Plan

Borough Council shall prepare, maintain and update a Master Stormwater Management Plan to establish goals for the Stormwater Management System, to identify and inventory existing stormwater facilities, to create maps as necessary to show the location of facilities and systems, to identify alternate actions the Borough can undertake to achieve water quality goals, to determine the costs of future actions and alternate actions, and to be the basis for determining future actions, including but not limited to, Borough capital improvements and maintenance activities. Private and Public Projects or facilities that are proposed should clearly be linked to improvements in water quality or flooding situations and shall reflect State requirements and preferences for on-site controls of stormwater runoff.

Section 6. Stormwater Management Service Fees

A. Creation and Purpose of Stormwater Management Service Fees.

Borough Council shall establish, and shall hereby impose, upon each and every property and each and every user that is connected to, ties into, uses, or is benefited by the Borough's Stormwater Management System, either directly or indirectly, an annual Stormwater Management Service Fee to finance the stormwater management activities identified in the Master Stormwater Management Plan and at a minimum shall be identified as administration, operations, maintenance, and capital improvements. The rate structure shall be fair and equitable, easy to administer, and generate sufficient revenue to fund stormwater management activities.

Stormwater Management Service Fees shall apply to all properties and users that use, are served, or benefit by the Borough's Stormwater Management System, as of the effective date of this Ordinance, and shall be effective to all other properties and users that use, are served or benefitted by the Stormwater Management System subsequent to the effective date of this Ordinance.

If it is determined that rate adjustments are needed to achieve the goals of the Master Stormwater Management Plan, Stormwater Management Service Fees may be adjusted periodically to cover all such costs. Updates of the Master Stormwater Management Plan shall include estimates of the amount of rate adjustments that would result from implementing the Master Stormwater Management Plan.

The primary uses of Stormwater Management Service Fees include, but are not limited to: planning; acquisition of interests in land (easements); design and construction of facilities; debt service and financing expenses; system monitoring and maintenance; administration, billing and enforcement; water quality management; and, engineering and professional fees and charges necessary to comply with county, state and federal regulations and requirements.

B. Calculation of Stormwater Management Service Fees.

Residential Rate - Borough Council finds that the intensity of development for most parcels of real property zoned residential (R-1 and R-2) with a residential principal structure is similar and that it would be excessively expensive to determine precisely the percentage of impervious area on each parcel; therefore, a tax map parcel within the R-1 and R-2 Zoning Districts with a residential principal structure shall be charged the Residential Rate.

Non-Residential Rate - Borough Council finds that the intensity of development of tax map parcels located in the Commercial, Commercial-1 and Professional Services Zoning Districts and tax map parcels with non-residential principal structures (commercial, professional, retail, service or other non-residential uses) in the R-1 and R-2 Zoning Districts parcels are similar, and that it would be excessively expensive to determine precisely the percentage of impervious area on each tax map parcel; therefore, parcels outside the R-1 and R-2 Zoning Districts and non-residential properties in the R-1 and R-2 Zones shall be charged a Non-Residential Rate.

Additional Residential Rate - Borough Council finds that the intensity of development for each additional residential unit, in a principal or accessory structure, in any zoning district is similar and that it would be excessively expensive to determine precisely the percentage of impervious area associated with each unit; therefore, each additional residential unit shall be charged an additional fee designated the Additional Residential Rate.

Additional Non-Residential Rate - Borough Council finds that the intensity of development for each additional non-residential unit, in a principal or accessory structure, in any zoning district is similar and that it would be excessively expensive to determine precisely the percentage of impervious area associated with each unit; therefore, each additional non-residential unit shall be charged an additional fee designated the Additional Non-Residential Rate.

Developed Vacant Property Rate – Borough Council finds that the intensity of development of tax parcels that do not include buildings, but have been altered from their natural state, are akin to, but generally not as extensive as, the intensity of development of the principal tax parcel. The Developed Property Rate shall be one-half (1/2) the rate charged to the principal tax parcel.

Industrial Rate - Borough Council finds that the intensity of development of properties in the Industrial Zoning District and industrial uses in all other zoning districts are similar, and that it would be excessively expensive to determine precisely the percentage of impervious area associated with the industrial use; therefore, properties located in the I Zoning District and units engaged in industrial uses such as manufacturing and mass production shall be charged the Industrial Rate.

Open Space Rate – Borough Council finds that the intensity of development of open, preserved or recreational space is similar, and that it would be excessively expensive to determine precisely the percentage of impervious area on each parcel; therefore, each acre of land in a tax map parcel classified as open, preserved or recreational by the Borough Zoning Ordinance may be exempted or may be charged a reduced rate.

C. “User” and “Owner” Distinguished. Reference in this Ordinance to “use”, “user”, or portion of a property, lot, parcel or building with respect to the assessment of Stormwater Management Service Fees shall not be construed to modify or alter the fact that the fees shall be assessed and imposed upon the property pursuant to 53 P.S. § 7106 et. seq., as amended, and the owner of each property against which Stormwater Management Service Fees are imposed and assessed shall remain liable for payment 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 Borough or limit in any way Borough's authority to impose, assess, lien and collect Stormwater Management Service Fees.

D. Charges in the Event of Multiple Uses or Units. Where multiple owners or occupants are metered individually for utilities, trash, water or sewer, on a single property (for example but not to limit interpretation, rentals, condominiums, shopping center, etc.) or where a use operates as a separate entity or is identified with a different name, each owner, user or occupant shall be charged the applicable rate.

E. Exemptions from Charges. Properties exempted from payment of Stormwater Management Service Fees are limited to: (1) public streets, as defined in the Borough Subdivision and Land Development Ordinance; and, (2) any real property owned or managed by the Borough. The Borough, may by resolution, exempt from payment open space properties and development vacant properties.

F. Charges for Tax-Exempt Properties. Borough Council finds that properties owned by public and tax-exempt entities contribute to runoff and the stormwater management problem and therefore, properties owned by government, public, educational or tax-exempt entities are to be charged as if they were private residential or non-residential properties.

G. Assessment of Fees. The Stormwater Management Service Fee shall be billed on a regular periodic basis, not less regularly than annually nor more regularly than quarterly. Effective January 1st of each year, Borough Council shall by resolution set the yearly rates, determine the periodic billing basis and set forth any Section 6 exemptions or reductions.

H. Late Payment Penalty; interest paid on unpaid user fees. The face amount of the Stormwater Management Service Fee shall be payable within 30 days of bill distribution, with a penalty of 10% assessed on the 31st day. On the first day of each subsequent month in which the bill remains unpaid, an interest charge of .5% per month shall be assessed. All unpaid user fees shall be a lien against the property and the Borough Solicitor shall file such lien as directed by Borough Council. Any collection, legal and filing fees, as authorized by Borough Ordinance shall be borne by the property owner or user.

I. Stormwater Management Service Fees constitute a lien on property. As authorized by the Municipal Claims Act, 53 P.S. § 7101, et. seq., as amended, all Stormwater Management Service Fees, penalties, interest, collection fees, attorney 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 7. Stormwater Fund

All Stormwater Management Service Fees, and other stormwater related funds, such as interest or grant monies, shall be deposited in the Stormwater Management Fund of the Borough (SMF). This fund will be a fund, separate from all other Borough funds or accounts, dedicated to the operation, administration, maintenance, repair and improvement of the Stormwater Management System, and all related capital costs. Prioritization and selection of capital projects shall be established by separate resolution of Borough Council.

Section 8. Credits for On-site Management

At its discretion, Borough Council may develop and implement procedures where property owners can receive credit for on-site stormwater mitigation projects and/or practices. Such credit may consist of partial exemption from Stormwater Management Service Fees. Determination of the credit will depend in part on calculations made by the Borough, be based on the extent of runoff control, shall consider the degree of control of both the quantity and quality of stormwater when determining credits, shall require the owner to be responsible for all costs of operation and maintenance of the system and shall require the owner to provide access to the Borough for inspection of the system to determine if it is in compliance with design and maintenance standards.

Section 9. Enforcement and Penalties

A. Enforcement. In the event that any user or owner fails to pay the specified Fees, the Borough shall take the necessary legal steps to collect such Fees, including by placing a lien on the property.

B. Penalties.

Any person found to be in violations of the provisions of this Ordinance shall be subject to a fine of not more than Fifty Dollars (\$50.00) and such costs and fees imposed in the discretion of the court. Each day that a violation continues shall be a separate offense.

In addition, the Borough may institute injunctive, mandamus or other appropriate action or proceedings of law to correct violations of this Ordinance. Any court of competent jurisdiction shall have the right to issue temporary or permanent restraining orders, injunctions, or mandamus or other appropriate forms of relief.

Section 10. Floods and Liability

Floods from stormwater runoff may occur that exceed the capacity of the stormwater system. This Ordinance does not imply that properties subject to the specified 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 Borough, Borough Council, Borough staff, or Borough agents liable for any damages incurred in a flood or from adverse water quality. Nothing in this Ordinance purports to reduce the need or necessity for flood insurance.

Section 11. Sunset Provision

This ordinance shall become null and void five (5) years after its enactment, unless specifically reauthorized by Borough Council by ordinance.

Severability If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision. Such holding shall not affect the validity of the remaining portions of this Ordinance, it being the intent of Borough Council that this ordinance shall stand on its own merit.

This Ordinance shall become effective in accordance with the provisions of the Borough Code of Pennsylvania.

ORDAINED AND ENACTED this 10th day of March, 2021.

LANGHORNE BOROUGH COUNCIL

Kari C. Thomas, President

Christine Schoell, Secretary

Examined and Approved this 10th day of March, 2021.

Joseph P. Taylor, Mayor

RESOLUTION NO. 2021- _____

**A RESOLUTION OF THE BOROUGH OF LANGHORNE ESTABLISHING
STORMWATER MANAGEMENT FEE RATES**

WHEREAS, Borough Council has determined that the health, safety and general welfare of the residents of the Borough will be served by setting stormwater fees at a sufficient level to cover the administrative costs, professional fees and project review fees associated with the preparation, review and consideration of stormwater management projects and required submissions; and,

WHEREAS, Borough Council has enacted an Ordinance permitting the setting of fees by resolution.

NOW THEREFORE, BE IT RESOLVED by Borough Council as follows:

LANGHORNE BOROUGH STORMWATER MANAGEMENT FEE SCHEDULE

	Fee per Year per Tax Map Parcel or Principal Structure	
1. Residential Rate	\$28 per tax map parcel	
2. Non-Residential Rate	\$60 per tax map parcel or principal structure	
3. Industrial Rate	\$80 per tax map parcel or principal structure	
	Fee per Unit	Maximum Rate per Tax Map Parcel
4. Additional Residential Rate	\$12 per unit	\$360 per tax map parcel
5. Additional Non-Residential Rate	\$24 per unit	\$360 per tax map parcel

II. PERIODIC BILLING BASIS. Yearly.

III. BILLING DATE(S). On or about June 1st of each year.

IV. SECTION 6 E EXEMPT PROPERTIES. The Mayor’s Playground and all R-1 and R-2 Developed Vacant Properties.

RESOLVED this 10th day of March, 2021.

LANGHORNE BOROUGH COUNCIL

ATTEST:

Kari C. Thomas, President

Christine Schoell, Secretary

Examined and approved this 10th day of March, 2021.

Joseph P. Taylor, Mayor