

ORDINANCE NO. 2013-15

AN ORDINANCE OF THE TOWNSHIP RADNOR, DELAWARE COUNTY, PENNSYLVANIA, ESTABLISHING A USER FEE FOR STORMWATER COLLECTION AND MANAGEMENT

WHEREAS, Radnor Township (“Radnor”) has constructed and maintains a system of sewers, drains, basins, inlets, outfalls and other infrastructure to collect and manage Stormwater; and

WHEREAS, the existing Stormwater Management System requires maintenance, repair, enhancements and replacement to meet existing and future needs, including flooding concerns and water quality protection; and

WHEREAS, Radnor finds that excess Stormwater runoff peak rate, volume and poor water quality in a watershed can threaten public health, safety and welfare; and

WHEREAS, the requirements of the United States Environmental Protection Agency demand a comprehensive approach to municipal Stormwater management and Radnor wishes to take a proactive approach to these requirements; and

WHEREAS, 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; and

WHEREAS, a professional engineering and financial analysis of the Stormwater management needs for Radnor has been performed concluding that substantial Stormwater management needs exist; and

WHEREAS, under the Radnor Township Home Rule Charter and the Pennsylvania Stormwater Act, Radnor is authorized to enact ordinances to protect the health, safety and welfare of its residents.

NOW, THEREFORE, be it **ENACTED** and **ORDAINED** by the Radnor Township Board of Commissioners, as follows:

Section 1. Title.

This Ordinance shall be known and may be cited as the “Radnor Township Stormwater Management Fee Ordinance.”

Section 2. Statement of findings.

Radnor Township makes the following findings:

- A. The Stormwater management needs of Radnor have been identified through citizen notifications, field investigations and in studies conducted by AMEC Environment and Infrastructure, Inc., Chagrin Valley Engineering and many other engineering studies and findings, indicating more comprehensive and effective Stormwater management in Radnor would contribute to the protection of the health, safety and welfare of the residents, and that Stormwater facilities, infrastructure and activities associated with Stormwater management provide services and benefits to all properties, property owners, residents and citizens of Radnor.
- B. Inadequate management of accelerated Stormwater runoff throughout a watershed (i) can increase flood flows and velocities, (ii) contribute to erosion and sedimentation, (iii) overtax the carrying capacity of existing streams and storm sewers, (iv) greatly increase the cost of public facilities to convey and manage Stormwater, (v) undermine floodplain management and flood reduction efforts in upstream and downstream communities, (vi) reduce groundwater recharge, (vii) impact other related water resource needs and (viii) threaten public health and safety.
- C. 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 can also be impacted through loss of recharge. Stormwater is an important water resource which supports groundwater recharge for water supplies and base-flow of streams.
- D. A comprehensive program of public Stormwater management services which seeks to avoid and minimize flooding, erosion, and water quality degradation is fundamental to the public health, safety, welfare of the residents of Radnor, local property and the environment.
- E. In order to (i) establish, operate, enhance and maintain the Stormwater infrastructure of Radnor, (ii) insure the continued effective operation of the system through installation and management of best practices, and (iii) to provide other services such as appropriate inspections, asset management, and regulatory oversight associated with Stormwater and watershed management, sufficient and stable funding is required to fund these public services.
- F. Federal regulations, including those found at 40 CFR Part 122, and Pennsylvania state regulations require Radnor to implement a program of Stormwater controls that regulates the discharge from the Township's regulated Stormwater outfalls to local water bodies. In accordance with those regulations Radnor is required to obtain a permit that allows Stormwater discharges from its municipal separate storm sewer system ("MS4") under the National Pollutant Discharge Elimination System regulations.

- G. Radnor intends to establish fair and equitable User Fees to assure that each developed property within Radnor 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 Radnor based on an impervious surface rate methodology.
- H. A proposed program for imposing User Fees has received input and comment by the public through the Radnor Township Stormwater Stakeholder Advisory Committee.
- I. A User Fee schedule based on land area and impervious surface area documented by aerial imagery from the Delaware Valley Regional Planning Commission has been determined to be an appropriate method to raise revenue that will be dedicated to supporting a more effective Stormwater management program, in accordance with the following determinations:
 - (1) A minimum fee per residential unit is reasonable.
 - (2) Subject to such minimum level, basing the fee upon lot area square footage tiers, as described in Section 4 below, was derived from a statistical sampling of impervious surfaces on single family residential properties (“SFR”) in Radnor.
 - (3) Under the tiered approach, SFR parcels would be covered by the square footage tiers.
 - (4) All other properties would be classified as “Other Developed Properties”.
 - (5) The operation, maintenance, repair, replacement and improvement of the Radnor Stormwater Management System has been and will be of substantial and direct benefit to Users.

Section 3. Definitions.

- A. Words and terms used in this Ordinance, and not given specific definition, shall be defined as set forth in the applicable statutes of the Commonwealth of Pennsylvania or ordinance of Radnor, 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:

BEST MANAGEMENT PRACTICES- methods, procedures and analyses specified in the *Pennsylvania Stormwater Best Management Practices Manual* to reduce flooding potential and control the volume, flow rate and water quality of Stormwater.

IMPERVIOUS SURFACE- a surface that prevents or impedes the infiltration of water into the ground. Impervious surfaces include, but are not limited to, streets, sidewalks, pavements, driveway areas and roofs. Any surface areas designed to be gravel or crushed stone shall be regarded as impervious surfaces.

OTHER DEVELOPED PROPERTIES (ODP) – all developed properties other than single family residential properties, including multi-family properties such as apartment or condominium complexes and common areas associated with such uses, and commercial, institutional, governmental and industrial parcels.

OWNER – any person, firm, corporation, individual, partnership, company, association, organization, society or group owning real property in Radnor.

PROPERTY – each lot, parcel, building or portion thereof, separately established by folio number on the tax rolls of Radnor Township or Delaware County.

RADNOR - Radnor Township, Delaware County, Pennsylvania, a home rule municipality.

REPLACEMENT – the associated costs of obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the Radnor 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, including addition of Best Management Practices to the Stormwater Management System.

SINGLE FAMILY RESIDENTIAL (SFR) – single family detached homes, attached homes, townhouses, duplexes and row homes.

STORMWATER – includes runoff water from all precipitation events, snowmelts and springs.

STORMWATER MANAGEMENT COSTS – the associated public costs of equipment and facilities, energy, manpower, materials, property acquisition, transportation and services required to (i) avoid reduce, manage, treat, collect, convey, detain, infiltrate, pump and transport Stormwater; (ii) provide flood protection; (iii) keep equipment and facilities including best management practices functioning satisfactorily and economically; (iv) administer the Stormwater management program, including regulatory compliance, and (v) to improve Radnor’s Stormwater Management System.

STORMWATER 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 Stormwater Best Management Practices and facilities appurtenant thereto used for collecting, conducting, pumping, conveying, detaining, infiltrating, reducing, managing, avoiding the generation of, and treating Stormwater.

USER – any person, firm, corporation, individual, partnership, company, association, society or group using, benefiting from or being served by the Radnor Stormwater Management System.

USER FEES – sums assessed, imposed and to be collected from each developed property by Delaware County folio number which uses, benefits from, or is serviced by the Radnor

Stormwater Management System, or discharges Stormwater, directly or indirectly, into the Radnor Stormwater Management System for the use of such system and the service rendered by, and improvement of, such system.

Section 4. Imposition of user fees.

It is hereby imposed upon each and every developed property that is connected with, uses, or is benefited by Radnor’s Stormwater Management System, either directly or indirectly, a User Fee for the use, benefit, operation, maintenance, repair, replacement and improvement of the Radnor Township Stormwater Management System. Such User Fees are to be imposed on an annual basis.

- A. Each single family residential parcel shall be charged based upon lot square footage at an annual rate of \$29.00 per billing unit in accordance with the following tiers:

Tier Lot Square Footage	Billing Units	Acreage
0 to 7,000	1	0 to 0.16
7001 to 20,000	2	0.16 to 0.46
20,001 to 43,560	3	0.46 to one acre
Greater than 43,560	4	Greater than one acre

- B. All Other Developed Properties shall be billed at the annual rate of \$29.00 per billing unit, with one billing unit equaling 1,500 square feet of impervious area.
- C. Notwithstanding the foregoing, the following property shall be exempt from user fees under this Ordinance:

- (1) Public Street, as defined in the Radnor Subdivision and Land Development Ordinance.

Section 5. Uniform application of user fees.

User Fees shall be assessed, liened and collected by folio number as to all property, owners, lots parcels, building units and users, unless exempted.

Section 6. “User” and “Owner” distinguished.

Reference in this Ordinance to “use”, “user”, or portion of a property, lot, parcel or building with respect to the calculation and assessment of User Fees shall not be construed to modify or alter the fact that user 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 User Fees are imposed and assessed under this Ordinance 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 Radnor or limit in any way Radnor’s authority to impose, assess, lien and collect User Fees.

Section 7. Billing and collection of user fees.

- A. The user fees fixed and established by this Ordinance shall be effective as to all properties that use, are served, or are benefited by the Radnor Stormwater 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 benefitted by the Stormwater Management System subsequent to the effective date of this Ordinance. User fees imposed by this Ordinance shall be assessed and billed by Radnor on an annual basis. Such assessments shall be payable at their face amount during the 30 days next following the date on which said assessment bill was mailed. The annual billing date shall be on or about January 1. The user fees assessed and collection will not be subject to proration or refund by Radnor 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 user fees assessed hereunder.
- B. The Board of Commissioners will review and update the user fees fixed and established by this Ordinance by resolution every five years or sooner as deemed necessary.

Section 8. Late payment penalty; interest paid on unpaid user fees.

The face amount of all user fee charges shall be payable within 30 days of annual bill distribution, with a penalty of 10% assessed on the 31st day. On the first day of each subsequent month in which the account remains unpaid, an interest charge of .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 31st of the year in which the account remains unpaid.. Any collection, legal and filing fees, as set forth in Chapter 162 of the Radnor Code of Ordinances shall be borne by the user.

Section 9. Stormwater management user fees constitute a lien on property.

In accordance with the Municipal Claims Act, 53 P.S. § 7101, *et. seq.*, as amended, all user fees, 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. Credits.

- A. Within six months of the effective date of this ordinance, Radnor shall develop and implement procedures by action of the Board of Commissioners whereby users of the Stormwater Management System may receive credit for onsite activities which reduce and manage Stormwater runoff through detention, retention, infiltration of water and recharge of the aquifer and thereby avoid or minimize public construction, operation, repair and maintenance of facilities and services.

- B. No credit in user fees shall be granted based on age, race, tax status, gender, sexual preference, economic status or religion of the property owner, or any other conditions unrelated to the demand for and cost of services provided by Radnor.

Section 11. Appeal procedures.

- A. 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 user fees must be filed in writing with the Public Works Director, or his/her designee, within 30 days of the charge being mailed or delivered to the property owner (“Appeal Date”). The Appeal Date may be extended up to an additional 30 days within the sole discretion of the Township. Any appeal must state the reasons for the appeal.
 - (2) Using information provided by the appellant, the Public Works Director, or his/her designee, shall conduct a technical review of the conditions on the property and respond to the appeal in writing within 30 days of the Appeal Date. In response to an appeal, the Public Works Director may adjust the user fees applicable to the property in accordance with the provisions of this Ordinance.
 - (3) A decision of the Public Works Director that is adverse to an appellant may be further appealed to the Township Manager, or his/her designee, within 30 days of the adverse decision. The appellant, stating the grounds for further appeal, shall deliver notice of the appeal to the Radnor Manager, or his/her designee. The Township Manager, or his/her designee, shall issue a written decision on the appeal within 30 days. All decisions by the Township Manager, or his/her designee, shall be personally delivered to the owner or sent to the billing address of the customer by registered or certified mail.
 - (4) If payment is not made within 30 days of receipt of an adverse decision by the Township Manager, appellant’s property shall be liened for all past-due amounts in accordance with the Municipal Claims Act, 53 P.S. 7101, *et seq.*, as amended.

Section 12. Policies and procedures authorized.

- A. The Board of Commissioners may by resolution adopt such policies and procedures as it deems appropriate to ensure collection of User Fees assessed and imposed pursuant to this Ordinance. Without limitation, collection procedures may include referral of delinquent accounts to a collection agency, filing of liens, scire facias sur municipal lien proceedings to collect filed liens, and all other measures or combination thereof which the Board may deem appropriate.
- B. All costs of such collection procedures, including, but not limited to, fees for filing, perpetuation and satisfaction of liens, collection fees, attorneys’ fees, court costs, litigation expenses, and charges for service of documents shall, upon being incurred by Radnor, be imposed as a charge for nonpayment and added to the balance due on said owner’s account. Chapter 162 of the Radnor Code of Ordinances contains a listing of such charges.

- C. No lien shall be satisfied nor shall any collection proceeding be discontinued until all amounts due on an account, including user fees, interest, collection fees, attorneys' fees, court costs and other charges are first paid in full to Radnor.
- D. The Township manager may implement such administrative procedures necessary to implement the policies and requirements set forth in this ordinance.

Section 13. Stormwater Management Fund.

All User Fees and other Stormwater related funds, such as interest or grant monies, shall be deposited in the Stormwater Management Fund of the Township. This fund will be a separate enterprise fund 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 the Board of Commissioners and the Board shall establish a citizen advisory committee to assist in implementation of the program and education of township residents.

Section 14. Floods and liability.

Floods from Stormwater may occur occasionally that exceed the capacity of the Stormwater system maintained and financed with User 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 Stormwater can provide complete protection from all flood and storm events. Nothing whatsoever in this Ordinance shall deem Radnor liable for any damages incurred from Stormwater or from adverse water quality. Nothing in this Ordinance purports to reduce the need or necessity for flood insurance and Radnor expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon Radnor, its officers, employees and agents arising out of any alleged failure or breach of duty with respect to Radnor's Stormwater Management System.

Section 15. Repealer.

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

Section 16. Severability.

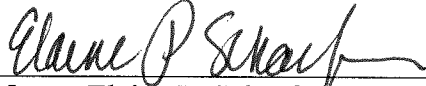
If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

Section 17. Effective Date.

This Ordinance shall become effective in accordance with the Home Rule Charter of Radnor Township.

ENACTED and *ORDAINED* this 14th day of October 2013.

RADNOR TOWNSHIP

By: 
Name: Elaine P. Schaefer
Title: President

ATTEST: 
Robert A. Zienkowski, Secretary