



TOWNSHIP OF FERGUSON

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**Board of Supervisors
Stormwater Management Utility Fee
Worksession Agenda
Tuesday, January 12, 2021
6:00 P.M.**

Zoom Link: <https://us02web.zoom.us/j/84737970847>

Call-In: (814) 238-4651, Ext. 3799

I. CALL TO ORDER

II. OVERVIEW OF WORKSESSION FORMAT

III. REVIEW OF STORMWATER MANAGEMENT UTILITY FEE PROGRAM ELEMENTS

1. Billing Unit Methodology and Fee Structure
2. Program Plan and Level of Service
3. Credit Policy Manual
4. Exemptions
 - a. Agricultural Properties
 - b. Economic Hardship
5. DRAFT Stormwater Management Utility Fee Ordinance

IV. BOARD DISCUSSION

1. Board of Supervisors – General Discussion Items

V. CITIZEN'S INPUT

The Board of Supervisors will accept public comment for one hour. The Township Manager will provide instructions on how members of the public may sign up to speak.

VI. WRAP-UP/NEXT STEPS

VII. ADJOURNMENT

Stormwater User Fee – Impervious Area and Billing Units

Key Definitions:

- **Total Impervious Area** – the amount of surface area that prevents the percolation of water into the ground as defined in Chapter 26 Stormwater Management found on each parcel, based on data gathered by the Township in the winter of 2018-19, measured in square feet. This information is used to calculate billing units.
- **Equivalent Residential Billing Unit (ERU)** – ERU means the number of billing units for each parcel based on the median value of impervious area for single family detached residential parcels within Ferguson Township (3097 sf). All single family detached residential parcels have one billing unit under this user-fee method. This approach is typically used when a community does not have impervious area data on a parcel-by-parcel basis.
- **Tiered ERU Billing Unit** – Assignment of single-family residential parcels into groups to recognize the variability of impervious area per parcel within this land use group. The assignment of a parcel to a group can be accomplished based on measured impervious area of each or by a common attribute with a high statistical correlation to variability of the distribution of impervious area within this land use group. This approach is used to increase the apparent equity in cost allocation across residential properties.
- **Fixed Value Billing Unit** – the number of billing units for each parcel, regardless of land use, using a fixed value per billing unit of impervious area divided into the total impervious area on the parcel. This approach is used increasingly as the cost and accuracy of digital data for impervious area per parcel has decreased significantly as technology has grown more sophisticated and multiple sources are made available.

Factors that Influence the Selection of an Impervious Area Billing Unit Methodology:

1. Data on impervious area for each parcel
 - a. Age of data
 - b. Frequency of data update
 - c. Source of data
 - d. Cost of data capture and maintenance
2. Variability found in development standards over time
 - a. Homogeneous building practices creating minimal variation in housing and commercial development
 - b. Percent of community built out
3. Equity of methods to distribute stormwater costs to parcel owners

Analysis for Ferguson Township:

The Township evaluated ways to allocate cost of services in stormwater management with user fees using two billing methods. Both methods consider the amount of impervious area on a property (ERU and Fixed Value Billing Unit).

The first method, **ERU method**, used the average impervious area for all residential properties which is 3097 SF of impervious surface. When an ERU approach is adopted, each single family detached residential property is assigned one ERU. Townhomes, condos, and duplex/triplex parcels are reviewed,

and policy formulated on the equitable application of the ERU. The number of billing units for non-residential properties is calculated by dividing the total impervious area on the parcel by the ERU value of 3097 SF for Ferguson Township. In Phase I of the User Fee Study available impervious area data was evaluated to estimate the total billing units. Tiered Rates for Single Family Detached Residential Parcels were considered as an option as well. The purpose is to increase the apparent equity of cost allocation by creating categories of these parcels to recognize the variability of the amount of impervious area within this land use group. Phase I of the study addressed the potential for tiered rates.

In Phase 2 of the Study, a **fixed value of impervious area** billing unit was analyzed, using 1000 SF units for all parcels regardless of land use, in addition to the ERU analysis. Total number of billing units per parcel is found by dividing the total impervious area by 1000SF. This analysis was possible due to the recent digitization of impervious area per parcel completed by the Township based on aerial imagery from 2018. This approach provides for an increase in perceived equity and the unit of 1000sf was chosen after review of the overall data.

Ferguson Township
Stormwater Management Utility Fee Residential Hardship Policy

Adopted: _____

Amended: _____

Purpose

The Ferguson Township Board of Supervisors enacted Ordinance ____ on _____, 2021, establishing a Stormwater Management Utility Fee for the purposes of funding the Township's obligation to maintain its stormwater management infrastructure; complying with state and federal permit requirements; and to more equitably assess all property owners in accordance with each property's total impervious area. This policy is intended to provide an opportunity for individuals and families whose earnings are equal to or less than the established federal poverty guideline as described below to receive a full exemption from the stormwater management utility fee applicable to their property.

Policy

- 1) It shall be the policy of the Township to provide a full (100%) exemption to individuals and families who earn less than or equal to two hundred percent (200%) of the Federal Poverty Income Level by household size as defined by the United States Department of Health and Human Services. A fifty percent (50%) exemption shall apply to individuals and families who earn less than or equal to two hundred and fifty percent (250%) of the Federal Poverty Income Level by household size as defined by the United States Department of Health and Human Services.
- 2) Individuals and households who wish to claim this exemption must do so by filing an application with the Township no later than September 30th of each year prior to the fiscal year for which the exemption is being requested. In order to be deemed eligible, applicants must demonstrate that their maximum income earned does not exceed the relevant maximum income threshold as defined above. This shall be done by providing supporting documentation such as the most recent W-2 Wage and Tax Statement for all employed individuals in the household. Other supporting documentation may be deemed eligible by the Director of Finance.
- 3) Applications for exemption shall be filed each year in accordance with the maximum income thresholds, as may be revised. No applications shall be accepted after September 30th of each year without written authorization from the Township Manager. Applicants who fail to reapply for the exemption, or whose household income exceeds the relevant maximum income guidelines described above, shall be deemed ineligible for the exemption and will be subject to the applicable stormwater management utility fee for their respective property in the upcoming fiscal year.
- 4) By October 31st of each year, the Director of Finance shall review each application for an exemption under this policy and provide a written response to the applicant communicating the outcome of the review. Applications which are deemed rejected or non-compliant may be appealed to the Township Manager no later than November 30th of

each year. On appeal, the Township Manager shall make a determination as to whether the guidelines prescribed above have been met and whether the household is eligible for the exemption. The outcome of the appeal to the Township Manager shall be communicated to the applicant no later than December 31st of each year. The decision of the Township Manager shall be binding and not subject to further appeal under this policy.

- 5) The revenue source for the implementation of the hardship policy shall be separate and distinct from the stormwater management utility fee and shall be deposited by the Township from the General Fund into the Stormwater Fund. Nothing shall prevent the Board of Supervisors from modifying or eliminating the hardship policy. Any such modification or elimination may apply to beneficiaries of an existing hardship policy at the discretion of the Board of Supervisors.
- 6) Only residential property owners are eligible to receive an exemption under this program. Tenants of rental properties shall not be eligible to apply for this exemption on behalf of the property owner.

Summary of Available Credits

Table 1. Summary of Available Credits by Property Type.

Credit	Eligible Property Type					Maximum Credit
	RES	NR				
		ALL	EDUC	AG	MS4	
Public Engagement		X				10%
Education			X			10%
Structural BMP Volume Control	X	X				10%
BMP for Water Quality	X	X				20%
BMP for Recharge	X	X				20%
Voluntary Exceedance	X	X				15%
BMP Operations and Maintenance Plan	X	X				5%
Disconnected Impervious (low impact develop.)		X				5%
Riparian Buffer/Floodplain Protection		X				30%
Turf Nutrient Management Plan	X	X				15%
Manure, Pesticide, Nutrient Management, E&S Controls				X		15%
Stream Buffer				X		30%
Adopt an Inlet	X					20%
Rain Barrel and Downspout disconnection	X					20%
Separate MS4 permit holder					X	50%
Urban Tree Canopy Expansion	X	X				40%
Innovation	X	X				20%

Table definitions of abbreviations

RES: A Residential use property

NR: A Non-Residential use property

ALL: Any NR property charged a Stormwater Management Program Fee

EDUC: Any public or private educational system property (K-12)

AG: Agriculture use property as defined in Chapter 27 Zoning of the Ferguson Township Code of Ordinances.

MS4: Any NR property charged a Stormwater Management Program Fee that is also the holder of a Municipal Separate Storm Sewer permit

BMP: a best management practice or stormwater control measure (SCM) as defined by the Pennsylvania Department of Environmental Protection and/or allowed by the Township stormwater ordinance

Table Notes:

1. Non-Residential properties that are categorized as **EDUC** or **AG** are also potentially eligible for any Non-Residential Credits listed as **ALL**.

2. All credits are cumulative but cannot exceed a total 40% credit for any property except MS4 properties which cannot exceed a cumulative total of 50% for any property.
3. Urban Tree Canopy Expansion – reference Table 2 for amount of credit
4. Unless noted below, credit assignment shall be the maximum credit allowed.

Credits

Public Engagement (NR ALL)

Community groups, businesses, non-profits, and other organizations are eligible for this credit and encouraged to promote water quality and sound stormwater management principles by providing opportunities for individuals to participate in activities such as:

- stream cleanups,
- rain barrel workshops,
- roadside clean-up,
- Township approved tree planting,
- sponsoring an educational event at a public venue.

Education (NR EDUC)

Deliver specific messages to target audiences consistent with the Township's stormwater management program and MS4 (municipal separate storm sewer system) permit. The Township encourages both public and private educational systems (K-12) to educate and inform their students on the importance of surface water and ground water resources, and the relationship to stormwater management, and how that relationship plays a role in preserving the quality of the Township's water resources.

The educational program may include but is not limited to:

- participation in a water resource-themed student poster session or science fair,
- take-home materials,
- classroom lessons,
- field trips.

The educational program/materials must be approved by the Township. A list of educational resources and materials can be found on the Township's web site.

Education Credits only apply to the impervious area on the school property associated with the teaching facility where the stormwater education is taught. For example, a high school course offering would allow a credit for impervious area on the high school property, not on the property of a middle school or elementary school.

Structural BMP for Volume Control (RES and NR ALL)

Demonstrate the ability to retain at least one inch of rainfall onsite through infiltration, reuse, or evapotranspiration. Must have a recorded BMP operation and maintenance plan and easement agreement allowing the Township to inspect the BMP.

BMP for Water Quality (RES and NR ALL)

Demonstrate the ability to improve the quality of surface runoff prior to discharge from the property. BMPs may be non-structural such as soil media and vegetated filter strips, or structural such as man made filters or hydrodynamic devices. Must have a recorded BMP operation and maintenance plan and easement agreement allowing the Township to inspect the BMP.

BMP for Recharge (RES and NR ALL)

Demonstrate the ability to infiltrate the runoff volume associated with at least 1 ½" (one and one half inches) of rainfall completely on site. Must have a recorded BMP operation and maintenance plan and easement agreement allowing the Township to inspect the BMP.

Voluntary Exceedance

Demonstrate that an on-site BMP exceeds the minimum regulatory control requirements of the Township stormwater ordinance for rate or volume control by at least 20%. For existing approved stormwater facilities, the minimum regulatory control requirements may be either those in effect at the time of subdivision or land development approval or the current Township stormwater management ordinance. Must have a recorded BMP operation and maintenance plan and easement agreement allowing the Township to inspect the BMP.

BMP Operations and Maintenance Plan (SF and NR ALL)

This credit applies to a property with a BMP such as a stormwater basin on site, yet no recorded operations and maintenance plan nor easement exists on the property for the BMP. The applicant receives this credit by recording a Township approved BMP operation and maintenance plan and easement agreement allowing the Township to inspect the BMP.

Disconnected Impervious or Low Impact Development (NR ALL)

A property must meet the following criteria:

Have 10% or less of the total site area as impervious area,

OR

Have 20% or less of the total site area as impervious area AND,

the impervious areas are not directly connected (for example but not limited to: gutter, swale, channel, pipe) to a storm sewer, curb line, stream, channel, street or other surface water conveyance AND,

the impervious areas are a minimum of fifty (50) feet (measured horizontally) from the edge of a stream, channel, wetland, or other surface water conveyance.

Riparian Buffer/Floodplain Protection (NR ALL)

This credit is available to property owners who create or have and then maintain a riparian buffer alongside a stream as defined in Chapter 27, Zoning Ordinance on their property (maintaining a stream buffer on property other than the Owner's may be eligible for a Public Participation Credit). The riparian buffer can be existing or a newly-planted buffer of native plants. Buffers must meet the following criteria:

1. A minimum of twenty-five (25) contiguous linear feet of stream must be buffered from the top of bank to a minimum distance of 25 feet measured horizontally from and perpendicular to the stream
2. Must have a recorded BMP operation and maintenance plan and easement agreement allowing the Township to inspect the BMP.

Turf Nutrient Management Plan (NR except AG)

Properties with lawns or landscape areas where fertilizers and pesticides are typically applied may apply for this credit (AG properties are eligible for a different credit). A property must meet the following criteria:

1. Soil fertility sample(s) must be collected and submitted to a qualified lab such as the Pennsylvania State Agricultural Analytical Services Laboratory for a soil fertility test. A sample must be taken a minimum of once every three years and a copy of the results must be submitted to the Township with the credit application;
2. The property owner must commit to following the recommendations provided on the soil fertility report, including the application of lime if recommended.
3. The impervious area of the property cannot exceed 40% of the total parcel area.

Manure, Pesticide, Nutrient Management, E&S Controls (NR AG)

To be eligible for this credit, agricultural properties must have current plans in place as applicable for manure, pesticide, nutrient, and/or erosion control management as required by the Centre County Conservation District. Property owner to provide evidence of appropriate approved plans with the credit application.

Stream Buffer (NR AG)

This credit is available to agricultural property owners who create or have and then maintain a stream buffer of plantings alongside a stream as defined in Chapter 27, Zoning on their property. A property must meet the following criteria:

1. A minimum of half the length of the stream on the property must be buffered from the top of bank to a minimum distance of 35 feet measured horizontally from and perpendicular to the stream,
2. The stream buffer BMP must be reviewed and approved by the Centre County Conservation District,
3. Must have a recorded BMP operation and maintenance plan and easement agreement allowing the Township to inspect the BMP.

Adopt and Inlet (RES)

This credit is available to property owners that participate in the Adopt an Inlet program. Although residents may adopt as many inlets as they like, only one adopted inlet will be applied per property for the purpose of Credit. Adopted inlets should be in close proximity to the property receiving the Credit. If there are no inlets in close proximity to the property, a property owner to adopt an inlet elsewhere in the Township. Participants will be responsible for keeping leaves and other debris away from their adopted inlet. Approved participants will receive periodic emails to alert them to check on and remove surface debris from their adopted inlet. Additionally, participants will be asked to alert the Township of any maintenance issues that need addressed around their adopted inlet.

Rain Barrel and Downspout Disconnects (RES)

This credit is available to property owners if downspouts on the property are properly connected to a rain barrel, cistern, or other approved containment device that provides a minimum of 40 gallons of storage per downspout. If all downspouts are connected to rain barrels, then all available credit per the table will be applied. If only half of the downspouts have rain barrels, then half the available credit will be applied. In lieu of counting the number of downspouts, the percentage of roof area captured can also be used to determine Credit amount.

Property owners are available for this credit if downspouts are disconnected from directly discharging into a stream, channel, stormwater inlet, stormwater conveyance pipe, driveway or other surface conveyance feature, including all IA. The amount of the Credit will be determined by the percent of downspouts disconnected or by the percent of the roof area discharged to disconnected downspouts. Disconnected downspouts should have a minimum of ten (10) feet of pervious land separation from the nearest down gradient impervious surface to qualify for Credit.

The use of rain barrels and downspout disconnection can be used together. For example, if you have four (4) downspouts and two (2) are connected to two (2) rain barrels and two (2) are disconnected and drain into the lawn, then you would be eligible for half available credit (rain barrel) + half available credit (downspout disconnection) = Total Credit.

Separate MS4 Permit Holder (NR MS4)

A Credit is available to those properties that have been identified by PADEP as being required to obtain and comply with the terms of a Non-Municipal MS4 permit. To be eligible for the Credit, the MS4 permit must be kept in full compliance and the Township must be provided a copy of the MS4 permit as well as copies of the annual reports.

Urban Tree Canopy Expansion (RES and NR) All properties

Property owners who complete an urban tree planting project on their property are eligible for this credit. Tree canopy Credits can also be applied to existing trees if the tree canopy covers existing impervious surfaces. New trees are not required to cover existing impervious surfaces. To be eligible, the planted tree must have a minimum diameter at breast height (DBH) of one (1)-inch. A minimum of four (4) trees are needed to qualify for the Credit, and can consist of a combination of existing and new plantings. Credits will be applied based on Table 2. Planting trees as part of restoration efforts associated with tree harvesting is not an eligible activity to receive Credits. For RES properties, Credits are applied based on absolute number of trees. For NR properties, Credits are applied based on the number of trees per ERU. Two examples of how Credits are calculated are shown below:

RES Example: Property has two (2) existing trees along the street in front of their house. The property owner plants three (3) additional trees in the backyard for a total of five (5) trees. The property owner is eligible for a 20% Credit for the five (5) trees.

NR Example: A property with 100 ERUs of IA has no existing trees. The property owner plants 30 trees around the perimeter of the property. This is equivalent to planting five (5) trees per ERU for six (6) ERUs. The property owner is eligible for a 45% Credit on six (6) of their 100 ERUs.

Table 2. Tree Canopy Credit based on Number of Trees

Number of Eligible Trees		Credit
RES	NR	
4	2 per ERU	15%
6	3 per ERU	25%
8	4 per ERU	35%
10	5 per ERU	45%

Innovation (RES and NR ALL)

Ferguson Township recognizes that the ultimate goal of the SMP and Credit Policy is to improve our stormwater management system and local and regional water quality. Therefore, Ferguson Township encourages property owners to propose other means to improve their property and our community through the use of innovative stormwater technologies. If a property owner has an idea for a project worthy of stormwater credits, the property owner may submit the project idea under the Innovation Credit. The project eligibility will be determined by the Director.

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA ESTABLISHING A UTILITY FEE FOR STORMWATER COLLECTION AND MANAGEMENT.

WHEREAS, The Ferguson Township Board of Supervisors is authorized under the Second-Class Township Code, and otherwise authorized and obligated under laws of the Commonwealth of Pennsylvania to regulate stormwater through its Municipal Separate Storm Sewer System (MS4) Permit; and

WHEREAS, the existing stormwater management system and infrastructure requires maintenance, repair, improvements, and replacement to meet current and future needs, including addressing increased precipitation and flooding events; and

WHEREAS, the Township, through its obligations under its Stormwater Management Ordinance and MS4 Permit requirements, maintains significant capital and operational infrastructure necessary to provide for water quality and rate control; and

WHEREAS, a comprehensive multi-phased analysis was completed to evaluate the feasibility, need, and structure of a proposed Stormwater Management Utility Fee; and

WHEREAS, the Board of Supervisors hereby determines that a Stormwater Management Utility Fee is necessary to equitably and proportionately assess property owners in the Township for stormwater runoff contributed to the public system as a result of the impact of land development.

NOW, THEREFORE, BE IT ORDAINED that the Ferguson Township Board of Supervisors hereby enacts and implements a Stormwater Management Utility Fee for the purposes of meeting the needs described herein and in accordance with the following provisions:

Section 1 – Purpose and Policy.

The Board of Supervisors finds that an adequate, sustainable source of revenue for stormwater management is necessary to protect the general health, safety, and welfare of the residents of the Township. Further, the Board of Supervisors finds that higher amounts of impervious area contribute greater amounts of stormwater and associated pollutants to the stormwater management system. Therefore, the Board of Supervisors determines that it is in the best interest of the public to enact a stormwater utility fee that allocates stormwater management program costs to property owners based on impervious area.

Section 2 – Definitions.

- A. Agricultural Properties – Properties that meet the definition of “agricultural use” as defined in Section 2 of the Act of December 19, 1974, known as the "Pennsylvania Farmland and Forest Land Assessment Act of 1974," regardless of whether the area is comprised of more than one deeded tract.

- B. Billing Unit – One billing unit equates to 1,000 feet of impervious area.
- C. Developed Parcel – A parcel that contains an impervious area equal to or greater than five hundred (500) square feet.
- D. Director – Refers to the Director of Public Works or his/her designee.
- E. Impervious Area - A surface that prevents the percolation of water into the ground. Impervious surfaces (or areas) shall include, but not be limited to: roofs; additional indoor living spaces, patios, garages, storage sheds and similar structures; and any new streets or sidewalks. Decks, parking areas, and driveway areas are not counted as impervious areas if they do not prevent infiltration. Gravel or crushed stone shall be considered impervious area when designed or primarily utilized to support vehicular traffic. The Director may develop specifications for the mapping of impervious area for the purpose of this Article, including the establishment of a uniform threshold under which a contiguous unit of impervious area is considered de minimis and not subject to mapping.
- F. Owner - any person, individual, firm, corporation, entity, institution, partnership, trust, company, association, government agency, society, or group owning real property in the Township.
- G. Stormwater - Drainage runoff from the surface of the land resulting from precipitation or snow or ice melt.
- H. Stormwater Management Program - The activities of the Township necessary to operate, maintain, enhance, and expand the stormwater management system and the activities necessary to carry out the Township's municipal separate storm system (MS4) permit and the stormwater-related provisions of the Subdivision and Land Development Ordinance, Floodplain Conservation Ordinance, and the Stormwater Management Ordinance.
- I. Stormwater Management System - The system of runoff avoidance, infiltration, collection, and conveyance, including storm sewers, curbs, pipes, conduits, mains, inlets, culvers, catch basins, gutters, ditches, channels, detention ponds, streets, drains, and all devices, appliances, and stormwater management practices and facilities used for collecting, conducting, pumping, conveying, detaining, infiltrating, reducing, managing, avoiding generation of, and treating stormwater.
- J. Township Manager – Refers to the Township Manager or his/her designee.

Section 3 –Stormwater Utility Fee Established.

- A. A stormwater utility fee shall be imposed on every developed parcel in the Township that appears in the Centre County parcel database as of October 31st of each year. All stormwater utility fees shall be deposited into the Stormwater Management Fund of the Township described in Section 4.

- B. The rate per billing unit to be used for calculating the stormwater utility fee shall be established by Resolution of the Board of Supervisors and shall be reviewed annually.

Section 4 –Stormwater Management Fund.

The Stormwater Management Fund is established as a separate enterprise fund of the Township, which shall be used solely to cover the cost of the Township's stormwater management program. The fund shall consist of revenue generated by the stormwater utility fee and other deposits that may be made from time to time by the Board of Supervisors, including but not limited to federal or state grants and revenue from the sale of bonds. All interest or other income derived from stormwater utility fees shall remain or otherwise be deposited into the fund.

Section 5 –Stormwater Utility Fee Calculation.

- A. Unless otherwise specified in this Article, the stormwater utility fee for each parcel shall be calculated in the following manner:
- a. Determine the location of the parcel as either within the Regional Growth Boundary or not;
 - b. Determine the impervious area of the parcel in square feet;
 - c. Divide the impervious area of the parcel by the billing unit;
 - d. Round the resulting calculation using natural rounding to determine the number of billing units;
 - e. Multiply the number of billing units by the rate established by Resolution of the Board of Supervisors to obtain the stormwater utility fee for the parcel.
- B. Impervious area held in common ownership shall be calculated using the methodology in Section 5(A), above. The resulting stormwater utility fee will then be divided equally among parcels sharing common ownership. The Township Manager may, on a case by case basis and at the request of an association representing the owners of the property under common ownership or the recommendation of the Director, implement alternative methodology for dividing the stormwater utility fee, including but not limited to an established par value.
- C. Stormwater Fee Calculation for Exempt Properties. Properties which are deemed eligible for a full or partial exemption as provided for in Section 7 shall have their fees calculated as described in the appropriate exemption policy. Unless otherwise noted, it shall be the responsibility of the property owner to request an exemption and demonstrate eligibility.

Section 6 –Stormwater Utility Fee Credits.

- A. The Board of Supervisors shall adopt by Resolution a Stormwater Management Program Credit Policy Manual for reductions in the stormwater utility fee in recognition of practices that are targeted to reduce the cost of the Township's stormwater management program. The types and amounts of credits are at the sole discretion of the Board of Supervisors. The credits shall be applied after determination of the stormwater utility fee in accordance with Section 5, above.

- B. The Director shall develop written policies and procedures necessary to implement the system of credits. These policies and procedures shall include, but not be limited to, provisions to reduce or eliminate the amount of credit if the Director determines that the practice is not functioning as intended.
- C. Nothing shall prevent the Board of Supervisors from modifying the adopted system of credits, and such modifications may apply to holders of existing credits.

Section 7 – Exemptions

- A. The Board of Supervisors may adopt by Resolution as part of the Stormwater Management Utility Fee policies and procedures a hardship policy that reduces or eliminates the stormwater management utility fee for a property owner who demonstrates financial hardship as a result of the imposition of the stormwater management utility fee.
- B. The Board of Supervisors may adopt by Resolution as part of the Stormwater Management Utility Fee policies and procedures a policy to reduce the stormwater management utility assessed to agricultural properties whose total area of impervious surface does not exceed thirty percent (30%) of the property's total land area to a fee that does not exceed twice the median assessment fee imposed on all other properties in the township.
- C. Notwithstanding Section 3.A. above, the following impervious area shall be exempt from the imposition of the stormwater utility fee:
 - a. Public Streets as defined in Chapter 22, Subdivision and Land Development; Section 502, Streets; and
 - b. Rail and associated rail ballast.
- D. The revenue source for the implementation of any exemptions established by the Board of Supervisors shall be separate and distinct from the stormwater management utility fee and shall be deposited by the Township from the General Fund into the Stormwater Fund. Nothing shall prevent the Board of Supervisors from modifying or eliminating any established exemptions. Any such modification or elimination may apply to beneficiaries of an existing exemption at the discretion of the Board of Supervisors.

Section 8 –Billing, Interest, and Enforcement.

- A. The stormwater utility fee shall be billed each year on or before March 1 to the record owner of each parcel subject to the fee in combination with bill for real estate taxes. If the property owner is making real estate tax payments on an installment basis as authorized in this ordinance, then the stormwater utility fee will be collected on the same schedule. Any portion of a stormwater utility fee that is unpaid as of the subsequent December 31st of each year the property owner or agent was billed shall be considered delinquent except if the unpaid stormwater utility fee is subject to an appeal in accordance with Section 8.
- B. The penalty assessed for delinquent fees will be 1.5% per month.

- C. In addition to any penalty assessed in Section 8(B.) above, any cost or fee incurred by the Township in conjunction with the collection of a delinquent fee shall be the responsibility of and paid by the owner of the subject parcel.
- D. A delinquent fee, along with cumulative penalties and collection costs or fees, shall constitute a lien on the parcel ranking on a parity with liens for unpaid real estate taxes and shall be handled in the same manner as provided for the collection of unpaid real estate taxes.

Section 9 –Appeal Process and Procedure.

- A. Any owner of a parcel who believes the provisions of this Article have been applied in error may appeal in accordance with this Section, provided, however, that grounds for appeal are limited to the following:
 - a. An error was made regarding the square footage of the impervious area attributed to the parcel;
 - b. The property is exempt under Section 7(C.);
 - c. There is a mathematical error in calculating the stormwater utility fee;
 - d. The identification of the parcel owner invoiced is in error; and/or
 - e. An approved credit was incorrectly applied.
- B. The parcel owner shall complete and submit to the Township Manager a Stormwater Utility Fee Appeal Form in a format approved by the Township within thirty (30) days of the charge being mailed or otherwise issued to the owner (“appeal date”). A Hearing Officer, designated by the Director, shall review the appeal for completeness and make a determination within fifteen (15) calendar days. In the event that the Hearing Officer finds that the appeal is incomplete, the Hearing Officer shall offer the owner thirty (30) calendar days from the determination that the appeal is incomplete to supply the missing information. If all information requested is not provided within the thirty (30) calendar days, the petition for appeal shall be deemed to have been withdrawn.
- C. Once the appeal has been determined to be complete, the Hearing Officer shall conduct a technical review of the alleged error and respond to the owner in writing within thirty (30) calendar days. The Hearing Officer may deny the appeal or adjust the stormwater utility fee if it is found to be in error.
- D. A decision by the Hearing Officer that is adverse to the appellant may be further appealed to the Township Manager within thirty (30) days of the determination being mailed or otherwise issued to the owner. The Township Manager shall review the determination of denial made by the Hearing Officer and either affirm, reject, or modify the determination. The Township Manager’s determination will be provided to the owner in writing by certified or registered mail within thirty (30) calendar days of receiving the denial appeal request.

- E. Any person aggrieved by a decision of the Township Manager may further appeal to the Centre County Court of Common Pleas within thirty (30) days of receipt of such written final decision.
- F. If payment is not made within fifteen (15) calendar days after the expiration of the owner's right to appeal in accordance with this Section or December 31st of each year, whichever date is later, or a decision that is adverse to the owner made by the Centre County Court of Common Pleas, the unpaid fee shall be considered delinquent and subject to the provisions of Section 8(B.) through Section 8(D.).

Section 10 – Policies and Procedures.

- A. The Board of Supervisors may by Resolution adopt such policies and procedures it deems appropriate to ensure collection of stormwater utility fees imposed pursuant to this article.
- B. The Director may implement such administrative procedures necessary to implement the requirements set forth in this Article.

Section 11 – 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 12 – 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 13 – Effective Date.

This Ordinance shall become effective on January 1, 2022.

Ordained and Enacted this _____ day of _____ 2021.

TOWNSHIP OF FERGUSON

By: _____
Laura Dininni, Chairwoman
Board of Supervisors

[SEAL]

ATTEST:

David G. Pribulka, Secretary

DRAFT

Ferguson Township

Draft Stormwater Program Implementation Schedule – FY21-FY30

Program Elements	FY21	FY22	FY23	FY24	FY25	FY26	FY27	FY28	FY29	FY30
A. Infrastructure Inspection and Assessment Program										
1. Research and inventory BMPs/Basins constructed prior to 2003 (back to 1975) capturing specific data on location, type, date constructed, owner and add to overall system inventory for inspection and assessment.	X	X	X	X	X					
2. Inspect inlets, developing inventory including condition, material, geolocation, photograph.	X	X	X	X	X					
3. Contract CCTV pipe inspection (35 miles) using NASSCO rating scale. Service includes pipe cleaning in advance, traffic controls, TV footage upload, classification by material type, rating, location.	X	X	X	X	X	X	X			
3a. West End cross-pipe inspection and assessment, updating inventory data: location, headwall/outlet condition, material, pipe status (clogged, open, debris build up, sediment buildup) and add inventory to database.	X	X	X	X	X	X	X			
4. Convert part-time stormwater inspector position to full-time MS4 Coordinator/Engineer.	X	X	X	X	X	X	X	X	X	X
5. Develop long-range inspection program to maintain current data on system status.					X					
6. Add Public Works maintenance workers to address non-roadway maintenance.										
Stormwater Worker (2 positions)			X	X	X	X	X	X	X	X
7. Establish Maintenance plan for above-ground system repairs based on assessment and prioritization plan.				X						
8. Develop protocols for on-going inspection program to ensure that all system components are inspected on routine basis. Implement after completion of the priority assessments of public and private system components (those addressed in policy regarding public runoff).					X					
9. Evaluate staffing/material/equipment needs based on initial system assessment and stormwater crew accomplishments		X								
10. Prepare system-wide master plan, identifying potential sites for GSI and partnerships to reduce runoff volumes impacting channels and stream erosion.								X	X	X
11. Sustain above ground infrastructure maintenance program for basins, BMPs, channels. Assess progress in addressing critical/high priority problems identified in the assessment program.		X								
12. Maintain pipe inspection program using Township equipment - priority is pipe with poor grade on first round								X	X	X
13. Evaluate overall investment program in GSI, based on Master Plan prepared in Year Three; identify strategies and opportunities for partnering in Year Four and Five										X
14. Maintain on-going operations for stormwater infrastructure management based on FY20.	X	X	X	X	X	X	X	X	X	X
B. Maintain MS4 primary program requirements responding to permit renewal feedback as needed. (Program Plan, Annual Report)										
1. Public Education and Outreach	X	X	X	X	X	X	X	X	X	X
2. Public Involvement	X	X	X	X	X	X	X	X	X	X
3. Construction Site Inspection/ Enforcement (done by CCCD).	X	X	X	X	X	X	X	X	X	X
4. Post Construction Management (20% inspection of private BMPs/enforcement of maintenance requirements)	X	X	X	X	X	X	X	X	X	X
5. Illicit Discharge – outfall screening of 20% a year including inspection for infrastructure condition	X	X	X	X	X	X	X	X	X	X
6. Good Housekeeping Practices	X	X	X	X	X	X	X	X	X	X
C. CIP – implement projects as adopted in 5-year plan.										
1. MS4 Chesapeake Bay Pollutant Reduction Plan Implementation (Design, ROW, Permitting, Construction)	X	X	X	X						
2. Park Hill Drainage Improvement		X	X	X						
3. Line CMP	X	X	X	X	X	X	X	X	X	X
4. Repair stormwater inlets based on assessment/inspection program (10-15)	X	X	X	X	X	X	X	X	X	X
5. Partnership Program		X	X	X	X	X	X	X	X	X

**PROPOSED STORMWATER MANAGEMENT UTILITY FEE
ORDINANCE REVIEW SCHEDULE**

<ul style="list-style-type: none"> • Review Proposed Schedule • Review DRAFT Hardship Policy 	November 2 nd
<ul style="list-style-type: none"> • Review DRAFT Credit Policy Manual 	November 16 th
<ul style="list-style-type: none"> • Discuss billing unit methodologies • Discuss program schedule 	December 7 th
<ul style="list-style-type: none"> • Schedule worksession to review to finalize ordinance and program components 	January 4 th
<ul style="list-style-type: none"> • Worksession 	TBD
<ul style="list-style-type: none"> • Public Hearing 	February 1 st
<ul style="list-style-type: none"> • Consideration of enactment of ordinance 	February 15 th

*All items are proposed to be discussed during Regular Meetings unless otherwise noted.