

RESOLUTION NO. 2022-23

A RESOLUTION OF THE TOWNSHIP OF FERGUSON, CENTRE COUNTY, PENNSYLVANIA AUTHORIZING FERGUSON TOWNSHIP TO GRANT A PARTIAL EXEMPTION FOR ELIGIBLE AGRICULTURAL PROPERTIES FROM THE FERGUSON TOWNSHIP STORMWATER MANAGEMENT UTILITY FEE AND REPEAL RESOLUTION 2021-06.

WHEREAS, the Ferguson Township Board of Supervisors adopted Ordinance #1066 on February 16, 2021, establishing a Stormwater Management Utility Fee for all property owners in Ferguson Township; and

WHEREAS, the intention of the ordinance and fee is to offset the direct and indirect costs of stormwater management in Ferguson Township; and

WHEREAS, a component of the Township's stormwater management obligations is to encourage and recognize best management practices for the conveyance and treatment of stormwater by property owners in the Township; and

WHEREAS, in recognition of the unique attributes that agricultural properties possess to recharge the watershed and reduce the burden on public and private treatment of stormwater runoff, the Board of Supervisors is desirous of providing a partial exemption to qualified Agricultural Properties from the Stormwater Management Utility Fee; and

WHEREAS, the Ferguson Township Board of Supervisors previously adopted Resolution 2021-06 to establish a partial exemption for agricultural properties from the Ferguson Township Management Utility Fee which required an annual application submission for the partial exemption to be applied each year pending review and approval by the Township.

NOW THEREFORE, the Ferguson Township Board of Supervisors hereby amends the Agricultural Properties Exemption Policy for the partial exemption for qualified Agricultural Properties from the Stormwater Management Utility Fee as described in the amended policy attached hereto and made part of this Resolution as Exhibit "A".

RESOLVED this 18th day of October, 2022.

TOWNSHIP OF FERGUSON

By: _____


Laura Dininni, Chair
Board of Supervisors

[S E A L]

ATTEST:



Centrice Martin, Secretary

Exhibit "A"

Ferguson Township Stormwater Management Utility Fee Agricultural Properties Exemption Policy

Purpose

The Ferguson Township Board of Supervisors enacted Ordinance #1066 on February 16, 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 a partial exemption for agricultural properties that limits the maximum fee assessed to twice the median assessment fee imposed on all other properties in the Township. It is the intent of this Policy to acknowledge the unique infiltrative characteristics of agricultural properties.

Definitions

- 1) 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.
- 2) Dwelling Unit. A dwelling used by one family or single housekeeping unit.
- 3) Equivalent Residential Unit ("ERU"). The basic unit for the computation of Stormwater Program Fees. An ERU is based on the analysis of all single-family-detached-residential properties within the Township and is the value of impervious area found on the median. It is 3,097 square feet of impervious area. The ERU billing unit of 3,097 square feet is used to calculate the Stormwater Utility Fee for each parcel of developed property within the Township.
- 4) 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.

Policy

- 1) By enactment of this Policy, Ferguson Township limits the maximum Stormwater Management Utility Fee assessed to Agricultural Properties in the Township whose total impervious area does not exceed thirty percent (30%) of the property's total land area to no greater than twice the median assessment fee imposed on all other properties in the Township. As established by Ordinance, this shall equal a maximum of two (2) Equivalent Residential Units, or "ERUs".
- 2) Dwelling units situated on Agricultural Properties, regardless of whether or not they are located on the same tax parcel as the property in agricultural use, shall be assessed separately and distinctly from the property in agricultural use. Therefore, the maximum fee that may be assessed to Agricultural Properties that include one or more dwelling units shall equal the sum of the assessment to the property in agricultural use and the assessment charged to the dwelling units.
 - a. For example, an Agricultural Property with one (1) single-family detached dwelling unit could be assessed a maximum of three (3) ERUs, including a maximum of two (2) ERUs for the property in agricultural use, and one (1) ERU for the dwelling unit. The total number of ERUs assessed to the property shall be multiplied by the rate assessed per ERU for properties inside or outside the Regional Growth Boundary, whichever applies to the specific property, to determine the total fee assessed.
 - b. For the purposes of determining whether the Agricultural Property with one or more dwelling units qualifies for the partial exemption established by this Policy, the maximum allowable impervious area permitted for the property to qualify shall not include the impervious area attributable to the dwelling unit(s), including any driveways used to access the dwelling unit(s) regardless of whether the driveways are also used to access property in agricultural use.
- 3) Property owners of Agricultural Properties shall file a one-time application by September 30th that will result in the Stormwater Engineer to conduct a review and a response no later than October 30 of the filing year. A partial agricultural exemption awarded and applied to Agricultural Properties will renew annually subject to the property sustaining no changes. Property owners that received approval for the partial exemption do not need to file a new application for the exemption to apply in future years. Application approvals shall be valid indefinitely or until such time as the property is no longer used for agriculture as defined in the Act of December 19, 1974, or as amended. Property owners whose property no longer meets the definition of Agricultural Property as defined herein, shall be deemed ineligible for the exemption and will be subject to the applicable stormwater management utility fee for their respective property. Property owners who receive this exemption are required to notify the Township in writing of any change of ownership of the property and/or a change in use of the property. Failure to provide such notification may result in removal of the exemption afforded herein regardless of the property's continued qualification for the exemption.

- 4) By October 31st of each year, the Stormwater Engineer 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 property is eligible for the partial 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. In accordance with the Stormwater Utility Fee Ordinance, a 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.

- 5) It shall be permissible for a property that qualifies for a partial exemption under the provisions of this policy to further reduce its associated Stormwater Management Utility Fee by an additional amount through the application of qualified eligible credits as defined in the Credit Policy Manual. The credits shall be applied to the total fee assessed to the property including any dwelling units that are situated on the property, with the exception of the downspout disconnection credit which applies only to the residential dwelling(s) on the property.
 - a. For example, a qualified agricultural property with one (1) dwelling unit would be assessed a maximum of three (3) ERUs (2 ERUs for the agricultural property and one for the dwelling unit), and the cumulative fee could be further reduced through any eligible credits on the property.

- 6) The revenue source for the implementation of the agricultural exemption 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 repealing the agricultural exemption policy. Any such modification or elimination may apply to beneficiaries of an existing agricultural exemption at the discretion of the Board of Supervisors.