

FILE OF THE CITY CLERK

ADMINISTRATION ORDINANCE NO. 1 - 2014

ADMINISTRATION BILL NO. 1 - 2014

INTRODUCED – FEBRUARY 11, 2014

ADOPTED BY COUNCIL- FEBRUARY 25, 2014

(AS AMENDED)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER, PENNSYLVANIA ESTABLISHING A STORMWATER MANAGEMENT FEE FOR STORMWATER COLLECTION AND MANAGEMENT; TITLING THE ORDINANCE AS THE “CITY OF LANCASTER, PENNSYLVANIA STORMWATER MANAGEMENT FEE ORDINANCE”; PROVIDING A STATEMENT OF FINDINGS; PROVIDING DEFINITIONS FOR TERMS USED HEREIN; IMPOSING THE STORMWATER MANAGEMENT FEE; ESTABLISHING TIERS OF PROPERTIES; ESTABLISHING PROVISIONS FOR BILLING AND PAYMENT; ESTABLISHING PROVISIONS FOR THE CALCULATION OF THE STORMWATER MANAGEMENT FEE; PROVIDING PROVISIONS FOR THE ESTABLISHMENT AND ADMINISTRATION OF A STORMWATER MANAGEMENT FUND; PROVIDING PROVISIONS FOR THE ESTABLISHMENT AND GRANTING OF STORMWATER CREDITS; CREATING A CITY OF LANCASTER STORMWATER APPEAL BOARD; ESTABLISHING PROCEDURES TO REQUEST ADJUSTMENTS AND TO FILE APPEALS; PROVIDING FOR THE COLLECTION OF UNPAID STORMWATER MANAGEMENT FEES; AUTHORIZING THE ESTABLISHMENT OF POLICIES AND PROCEDURES; CREATING AN EFFECTIVE DATE FOR THE ORDINANCE; PROVIDING FOR THE LIMITATION ON THE CITY’S LIABILITY; PROVIDING FOR THE SEVERABILITY OF THE ORDINANCE; PROVIDING FOR THE REPEAL OF INCONSISTENT ORDINANCES; AND PROVIDING THAT THE ORDINANCE SHALL TAKE EFFECT AS PROVIDED BY PENNSYLVANIA LAW.

NOW THEREFORE BE IT ENACTED by the City of Lancaster, Pennsylvania:

Section 1. Title

This chapter shall be known and cited as the “City of Lancaster, Pennsylvania Stormwater Management Fee Ordinance.”

Section 2. Statement of Findings

A. The City of Lancaster owns, operates, and maintains stormwater management facilities;

B. Inadequate management of accelerated stormwater runoff throughout a watershed increases flood flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of existing streams and storm sewers, greatly increases the cost of public facilities to convey and manage stormwater, undermines flood plain management and flood reduction efforts in upstream and downstream communities, reduces groundwater recharge and threatens 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 are also impacted through loss of recharge; stormwater is an important water resource which provides groundwater recharge for water supplies and baseflow of streams, which also protects and maintains surface water quality.

D. A comprehensive program of stormwater management is fundamental to the public health, safety, welfare and the protection of the residents of the City of Lancaster, their resources and the environment in order to control items such as flooding, erosion and pollution;

E. The collection and conveyance system for stormwater includes underground pipes, but also includes conduits, inlets, culverts, catch basins, gutters, ditches, channels, detention ponds, streets, curbs and drains;

F. 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 runoff volume and pollution in the stormwater;

G. These three factors all relate to and are driven by impervious surface; once property is developed, peak flow, runoff volume and pollution all increase greatly;

H. 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);

I. Because of the effect of weather on stormwater (e.g. extended dry or wet periods), no developed property can always accept all stormwater, and all developed properties therefore generate stormwater runoff;

J. In a developed, urban environment such as the City of Lancaster, each developed property generates runoff and therefore uses or is in some fashion connected with, serviced by or benefited by the stormwater sewerage system, which normally functions by collecting stormwater from a property and/or by preventing stormwater from entering another property;

K. Stormwater is heavily polluted when there has not been rain for a period of time, and sediment, yard waste, animal waste, pesticides, herbicides, oil and grease can be found in stormwater;

L. Impervious surface is a primary indicator of the generation of stormwater and usage of the stormwater sewerage system;

M. The effects of stormwater runoff can be minimized by using project designs that maintain the natural hydrologic regime and sustain high water quality, groundwater recharge, stream baseflow and aquatic ecosystems;

N. Federal and state regulations require the City of Lancaster to implement a program of stormwater controls;

O. On October 23, 2012, the Green Infrastructure Advisory Committee presented a report to the City of Lancaster on “Impervious Area Fee Policy Options and Recommendations”, which summarized the City’s stormwater program needs and policy options for funding those program needs.

P. The City is facing numerous drivers requiring changes to the way it manages urban stormwater runoff, all of which are addressed in the City’s Green Infrastructure

(GI) Plan. These drivers include increased regulatory requirements for managing the quantity and quality of stormwater runoff, as well as maintenance requirements to ensure facilities are kept in working order with appropriate repair and replacement.

Q. The report concluded that the City of Lancaster formed a Green Infrastructure Advisory Committee to advise the City on options to manage stormwater and options to fund those stormwater management obligations;

R. The Green Infrastructure Advisory Committee worked with City staff to define those program needs, level of service and costs, and evaluated alternative funding options that support the need for a dedicated funding source and recommended creation of an impervious area based fee, referred to as the Stormwater Management Fee, that would be paid by all City properties in direct proportion to the amount of impervious area that is on their property using a system of tiers as presented in this ordinance. In addition, the committee recommended that the City establish a system of credits to incentivize property owners to build and maintain stormwater management systems on their property;

S. The Committee's recommendations to charge a fee are based on a lengthy review and analysis of the real costs associated with the management and maintenance of the stormwater management system;

T. The fee recommended by the Committee is intended to recoup such costs and is based upon the determination that the City of Lancaster has no other means by which those costs can be recouped;

U. City Council accepts and concurs with the recommendations and findings of the Committee; and

V. City Council is aware that it has been granted by the Pennsylvania General Assembly by and through the Third Class City Code and the Home Rule Charter and Optional Plans Law, and other legislation and through decisions of the courts of the Commonwealth of Pennsylvania the power, the duty and the obligation to regulate and manage stormwater within the City and to recoup costs associated with such regulation and management from the owners of properties impacting the City of Lancaster's stormwater system.

Section 3. Definitions

A. For purposes of this Ordinance, the following words and terms shall have the following meaning:

- 1) **Base Rate** means the dollar rate per Base Unit calculated by the Director, recommended by the Mayor and adopted by the City Council from time to time by Resolution.
- 2) **Base Unit** means one thousand (1,000) square feet of impervious surface.
- 3) **Best Management Practice** means the definition as set forth for the same in Chapter 260 of the Code of the City of Lancaster.
- 4) **Board of Appeals** means the City of Lancaster Stormwater Board of Appeals created and acting in accordance with the terms hereof.
- 5) **Condominium Property** is a Property subject to a condominium regime established under the Pennsylvania Uniform Condominium Act.
- 6) **Customer** means any Property Owner or Tenant of Property who is listed as a customer of the City of Lancaster on the City of Lancaster billing records for water and/or sewer billings for the particular Property given a notice of assessment under this Ordinance and whom is contractually responsible for payment of the Stormwater Management Fee.
- 7) **Department** means the Department of Public Works.
- 8) **Design Manual** means the 2006 Pennsylvania Stormwater Best Management Practices Manual, as revised from time to time, which serves as the official guide for stormwater management principles, methods, and practices in Pennsylvania.
- 9) **Developed** means that manmade changes have been made to a property, which changes may include, but are not limited to, buildings or other structures for which a building permit must be obtained under the requirements of the [Pennsylvania] Building Code and this Code, mining, dredging, filling, grading, paving, excavation or drilling operations, or the storage of equipment or materials.
- 10) **Development** means a project that consists of subdividing land or adding buildings and other improvements to individual parcels of land.
- 11) **Director** means the Director of the Department of Public Works of the City of Lancaster or the Director's designee.

- 12) **Drainage Area** means that area that contributes runoff to a single point, measured in a horizontal plane.
- 13) **Green Infrastructure (GI)** means small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of development on water resources. Methods to design GI practices are specified in the Design Manual.
- 14) **Impervious Surface (Impervious Area)** means any surface that prevents or limits the infiltration of water into the ground. Any structure, building, parking area, driveway, road, street, sidewalk, patio, deck, and any area of concrete, asphalt, pavement, compacted gravel, packed stone, stone, brick, tile, swimming pool, or artificial turf, and highly compacted soil shall be considered “impervious surface” if they prevent or limit infiltration. Impervious surface also includes any area used by or for motor vehicles or heavy commercial equipment, regardless of surface type or material, including any road, road shoulder, driveway, or parking area.
- 15) **Infiltration** means the passage or movement of water into the soil surface.
- 16) **Property** means each and every parcel of real estate located within the City of Lancaster.
- 17) **Property Owner** means the owner of record for a given Property within the City, as registered in the City’s real estate database.
- 18) **Property Manager** means a person, company or other entity hired by a property owner to manage a Property.
- 19) **Stormwater** means water that originates from precipitation.
- 20) **Stormwater Management** means the collection, conveyance, storage, treatment, and control of stormwater as needed to reduce accelerated stream channel erosion, flood damages and water pollution.
- 21) **Stormwater Management Facility** means an infiltration device, filtering device, stormwater pond, stormwater wetland, hydrodynamic structure, or other practice designed and constructed to control stormwater to reduce accelerated stream channel erosion and pollution of surface waters. A stormwater management

facility does not include environmental site design practices or any nonstructural stormwater management system.

- 22) **Stormwater Management Fee (SWMF)** means an assessment levied by the City to cover the cost of constructing, operating, and maintaining stormwater management facilities and fund expenses related to the City's compliance with NPDES permit requirements under applicable state law based on the impact of stormwater runoff from impervious areas of developed land in the City.
- 23) **Stormwater Management Fund** means the Stormwater Management Fund described in Section 8 hereof.
- 24) **Stormwater Management System** means natural areas, environmental site design practices, stormwater management measures, and any structure through which stormwater flows, infiltrates, or discharges from a site.
- 25) **Structural Maintenance** means the inspection, construction, reconstruction, modification, repair, and cleaning of any part of a stormwater management facility undertaken to assure that the facility remains in the proper working condition to serve its intended purpose and prevent failure. Structural maintenance does not include landscaping, grass cutting, or trash removal.
- 26) **Watershed** means the total drainage area contributing runoff to a single point.
- 27) **Undeveloped Land** means any land that is undeveloped or, if previously developed, land that has been allowed to return naturally to an undeveloped state.

B. All of the terms and definitions set forth in Chapter 260 of the Code of the City of Lancaster be and hereby are incorporated herein. To the extent that there is any inconsistency between a term defined in Section 4B above and in Article 260 of the Code of the City of Lancaster, the definition set forth in Article 260 of the Code of the City of Lancaster shall control. Further, should terms used herein be undefined, they shall have the definition given herein in Article 260, and in the event no such definition is provided, such terms shall be given their normal and customary meaning.

Section 4. Imposition of Stormwater Management Fee

For the purposes set forth above, a Stormwater Management Fee (“Fee”) as described, defined, and calculated herein is hereby imposed upon each Property within the City.

Notwithstanding the foregoing, the Properties described on “Exhibit A” hereto which are Properties that are owned by the City of Lancaster and which are not related to the City’s use of enterprise funds are exempt from the provisions of this Ordinance. Should the City ever sell any such exempt Properties, the Properties would no longer be exempt, and the new Property Owner would be responsible for compliance of all terms of this Ordinance related to such Properties.

Section 5. Tiers of Properties

For purposes of determining the appropriate assessment rate for the Stormwater Management Fee, all Properties that are subject to the Stormwater Management Fee are assigned to one of the following tiers (“Tier” or “Tiers”):

- A. Tier 0: For Properties where the total impervious surface area is less than or equal to 300 square feet.
- B. Tier 1: For Properties where the total impervious surface area is greater than 300 square feet and less than or equal to 1,000 square feet.
- C. Tier 2: For Properties where the total estimated impervious surface area is greater than 1,000 square feet and less than or equal to 2,000 square feet.
- D. Tier 3: For Properties where the total estimated impervious surface area is greater than 2,000 square feet and less than or equal to 3,000 square feet.
- E. Tier 4: For Properties where the total estimated impervious surface area is greater than 3,000 square feet.

Section 6. Billing and Payment

A. The Director will prepare the necessary data for collecting the Stormwater Management Fee from Property Owners subject to the Fee, including the identification of every parcel of Property to be charged and the amount of the Fee.

B. In the first year of the assessment of the Stormwater Management Fee, all Properties will be issued an assessment notice by the City of Lancaster with the Property’s

estimated Fee and the basis of that Fee (This initial assessment notice may be issued by the City prior to the effective date of this Ordinance). In subsequent years, only newly developed Properties or Properties where the impervious surface has been modified will be issued assessment notices.

C. The City of Lancaster will include the Fee as a separate line item on the water and/or sewer utility bill for each Property subject to the Fee. For those Properties, without a water and/or sewer account with the City of Lancaster, the Fee will be charged and invoiced on a separate Stormwater Management Fee bill/invoice. In both cases, the Fee must be paid in the same manner and within the time frame required for payment of water and/or sewer bills.

D. A Property Owner, whose Property is subject to the Fee, may delegate responsibility for the payment of the Fee to customers and/or property management companies in the same manner as payment responsibility for water and/or sewer bills is so delegated and as further set forth in the policies and procedures to be adopted from time to time by the Director.

E. Should the Fee not be paid when due, a finance charge shall accrue thereon monthly at the same rate as finance charges accrue on unpaid City of Lancaster water and/or sewer bills.

F. The City of Lancaster shall deposit all payments collected under this Section into the City Stormwater Management Fund.

Section 7. Establishment and Calculation of the Stormwater Management Fee

A. The Stormwater Management Fee shall be based on a percentage of the Base Rate, as follows:

1. Tier 0: The fee for each Tier 0 Property is zero.
2. Tier 1: The Fee for each Tier 1 Property is 50 percent of the applicable Base Rate.
3. Tier 2: The Fee for each Tier 2 Property is 150 percent of the applicable Base Rate.
4. Tier 3: The Fee for each Tier 3 Property is 250 percent of the applicable Base Rate.

5. Tier 4: The Fee for each Tier 4 Property is calculated as the number of base units assigned to the Property in accordance with the following procedure: The Director determines the number of Base Units for a Tier 4 Property by dividing the Property's actual impervious surface area by the Base Unit.

B. The Director computes the Stormwater Management Fee by multiplying the number of Base Units assigned to the Property by the Base Rate.

C. The Base Rate utilized by the Director shall be the Base Rate as established from time to time by Resolution of City Council in accordance with the provisions of Section 3.A.(1) of this Ordinance.

D. If the property is a Condominium Property, the Director may calculate the Stormwater Management Fee to be billed in equal shares to the condominium units owners by dividing the total number of Base Units by the number of individual condominium units and then multiplying that by the Base Rate to determine the amount billable to each condominium unit owner or in such other manners as may be promulgated by the Director in policies and procedures based on square footage, types of condominium units or other similar classification and calculations.

Section 8. Establishment and Administration of a Stormwater Management Fund

A. All sums collected from the payment of Stormwater Management Fees shall be deposited into the City of Lancaster's Stormwater Management Fund.

B. The Stormwater Management Fund shall be used by the City solely for (i) the implementation and management of stormwater program, (ii) constructing, operating, and maintenance of stormwater facilities; and (iii) payment for other project costs and performance of other functions or duties authorized by law in conjunction with the maintenance, operation, repair, construction, design, planning and management of Stormwater facilities, programs and operations. All stormwater facilities shall be operated in accordance with all applicable laws. The Director shall have all reasonable and lawful authority to construct, operate, repair, relocate and

maintain the stormwater facilities and shall have the authority to enforce the provisions of this article.

Section 9. Stormwater Water Credits

A. The City may provide a system of credits against Stormwater Management Fees for Properties on which stormwater facility construction or maintenance substantially mitigates the peak discharge or runoff pollution flowing from such Properties or substantially decreases the City's cost of maintaining the public stormwater system. The Director will develop written policies to implement the credit system. The amount of credit for maintenance may be limited to Properties that have a specified minimum impervious surface area. Such system of credits may be set forth from time to time by the Director in the Policies and Procedures promulgated hereunder.

B. The above credits are provided in recognition of the use and utility of the above Properties as corridors with independently, regularly improved and maintained stormwater management systems that pass through numerous private and public Properties and that collect and control the drainage through those Properties.

C. The Director may issue a maximum credit to a Property Owner as specified in the application provided by the Department if the Property contains a City stormwater management system and the system is maintained in accordance with the maintenance requirements of the Department.

D. Credit Application Schedule:

1. To receive a credit, the Property Owner must apply to the Director in a form prescribed by the Director not later than October 31 of the year before payment of the Fee is due.
2. Once approved, the credit is valid for two years. To renew the credit, the Property Owner must reapply to the Director in a form prescribed by the Director not later than October 31 of the year before payment of the Fee is due.
3. The credit shall become effective on the first day of the Property's monthly or quarterly billing cycle, following the approval of the credit.

E. Appeals

The Property Owner may appeal the Director's decision regarding the issuance or non-issuance of a credit within 30 days after that decision to the Board of Appeals. All such appeals shall be in accordance with Section 11 of this Ordinance.

Section 10. Petitions for a Review and/or Adjustment

A. Within 30 days of the date of any assessment, a Property Owner may file a petition for review and/or adjustment to the Director in writing if the Property Owner believes that the Property which is the subject of the assessment has been improperly Tiered or that the Fee has been calculated incorrectly.

B. When submitting a petition for review and/or adjustment of the Fee as set forth above, the Property Owner must include a detailed statement of the basis for the appeal and documents supporting the owner's assertion that the Property should be assigned to a different Tier, or that the impervious area measurements used to calculate the number of Base Units for the Property are incorrect.

C. When submitting a petition for appeal of a denial of calculation of a credit the Property Owner must include a detailed statement of the basis for appeal along with any documents necessary to support the appeal, and pay any fees established by Resolution of City Council for the handling of such appeals.

D. If the Director concludes that the petition for review and/or adjustment should be granted, the City of Lancaster must submit an adjustment to the Property Owner's bill and refund any overpayment for the current levy year to the Property Owner or apply a credit on the subsequent bill equal to the adjustment amount.

E. No appeals may be taken to the Appeals Board unless and until a petition for reconsideration/adjustment has been filed with and ruled upon by the Director.

Section 11. Requests for Adjustments; Appeals.

A. A Property Owner may appeal any decision of the Director in writing, not later than 30 days after receipt of the Director's denial of the Property Owner's petition for adjustments/reconsideration.

B. When submitting a petition for appeal of the assessment of the Fee as set forth above, the Property Owner must include a detailed statement of the basis for the appeal and documents supporting the owner's assertion that the Property should be assigned to a different Tier, or that the impervious area measurements used to calculate the number of Base Units for the Property are incorrect, and pay any fee established by Resolution of City Council for the handling of appeals.

C. If the Appeals Board concludes that the appeal should be granted, the City of Lancaster must submit an adjustment to the Property Owner's bill and refund any overpayment for the current levy year to the Property Owner or apply a credit on the subsequent bill equal to the adjustment amount.

D. Any appeals from a decision of the Appeals Board shall be made to the Court of Common Pleas of Lancaster County, Pennsylvania in accordance with the Local Agency Law of the Commonwealth of Pennsylvania.

E. The City Board of Appeals is charged with hearing and deciding all appeals taken from the actions of the City or Director or their employees under this Ordinance.

Section 12. City of Lancaster Stormwater Appeal Board

A. The Mayor, with Council approval, shall appoint a City of Lancaster Stormwater Appeal Board consisting of five (5) members. The five (5) members need not be residents of the City of Lancaster and shall hold no other office in the City of Lancaster.

B. The Appeals Board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all members of the Appeals Board, but the Appeals Board may appoint the hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Appeals Board as provided hereinafter.

C. The Appeals Board may make, alter and rescind rules in forms for its procedure, consistent with the ordinances of the City of Lancaster and the laws of the Commonwealth. The Appeals Board shall keep full public records of its business, which record shall be property of the City of Lancaster, and shall submit a report of its activities to the City Council and Mayor as requested by the same.

D. Any Appeals Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the City Council, taken after the member has received 15 days advanced notice of the intent to take such a vote. Hearing shall be held by City Council in connection with the vote that the member shall request the same in writing.

E. The Appeals Board shall conduct all of its hearings and make decisions in accordance with the following requirements:

1. Written notice shall be given to the applicant or appellant requesting the appeals hearing.

2. The hearing shall be held within 90 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.

3. The hearing shall be conducted by the Appeals Board or the Board may appoint any member as a hearing officer. The decision, or where no decision is called for, the finding, shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the City of Lancaster, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

4. The parties to the hearing shall be the City of Lancaster, any person affected by the application who has made timely appearance of record before the Board and any other person, including civic or community organizations, permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.

5. The Chairman or Acting Chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of

witnesses and the production of relevant documents and papers including witnesses and documents requested by the parties.

6. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine all witnesses on all relevant issues.

7. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.

8. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

9. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed, and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

10. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reason therefore. Conclusions based on any provisions of this chapter or of any ordinance rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that his decision or

findings are final, the Board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representation thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than 30 days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this subsection or fails to hold the required hearing within 90 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in Subsection A above. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to Lancaster County Court of Common Pleas in accordance with the Local Agency Law of the Commonwealth of Pennsylvania.

11. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following the date of the decision or findings. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide, by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

12. The City of Lancaster Stormwater Appeals Board shall have exclusive jurisdiction to hear and render final adjudications to:

- A. Appeals of the Director's denial of a credit; and
- B. A Property Owner's appeal/request for a review and an adjustment of the assessment and matters related thereto including, designation of the Property Owner's Property to a particular Tier, and the impervious area measurements used to calculate the number of Base Units for the Property.

Section 13. Fees for Petitions for Reconsideration and Appeals

City Council of the City of Lancaster may, from time to time, by Resolution establish fees for the processing and handling of Petitions for Reconsideration or Adjustment and any other matters related to the enforcement of this chapter, and including filing fees, court reporter and transcription fees.

Section 14. Collection of Unpaid Stormwater Management Fees

The City of Lancaster, through the Director or any other official authorized by the Director or the Mayor may utilize any and/or all of the following remedies to pursue collection of any unpaid Stormwater Management Fees:

A. In accordance with the Municipal Claims Act, 53 P.S. Section 7101, eq sect (as amended from time to time), all unpaid Stormwater Management 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 and the City may take any and all action to file and/or collect the same in accordance therewith.

B. Terminate water service to the Property in accordance with the applicable provisions of the Ordinances of the City of Lancaster regarding termination of water service to Properties for unpaid water bills.

C. File any appropriate action, whether in law or in equity, in any court of competent jurisdiction to collect all unpaid Stormwater Management Fees, finance charges, attorneys fees and other costs of collection.

D. Refer the collection of all such unpaid Stormwater Management Fees and other charges to a collection agency.

E. All costs of collection of all unpaid Stormwater Management Fees and other charges thereon include, but are not limited to fees for filing, perpetuation and satisfaction of liens, collection fees, attorney's fees, court costs, litigation expenses, charges for service of

document shall, upon being incurred by the City of Lancaster, be imposed as a charge for nonpayment and added to the balance due on said Property Owner's account.

Section 15. Rules and Regulations

The Director may promulgate policies and procedures, appeal applications and other forms relating to the interpretation, enforcement and application of the provisions of this chapter.

Section 16. Effective Date

This Ordinance shall take effect in accordance with Pennsylvania law.

Section 17. Limitation on City's Liability for Failure of Supply of Stormwater Services

A. Floods from runoff may occur that exceed the capacity of stormwater facilities constructed and maintained by funds made available pursuant to this chapter. This chapter does not imply that property subject to the fees and charges established herein will be free from stormwater flooding or flood damage. The city shall not be liable to any person for any flood damage. Further, payment of a Stormwater Fee to the City does not relieve a Property Owner or Customer from any local, State or Federal requirements to obtain flood insurance or other laws applicable to the Property.

B. The City, by taking any action pursuant to this chapter, does not waive, reduce, lessen or impair the lawful police powers vested in the City of Lancaster under applicable Federal, State and local laws and regulations.

C. The failure of the City of Lancaster to insist on timely performance or compliance shall not constitute a waiver of the City of Lancaster's right to later insist on the same. Further, the failure of the City of Lancaster to enforce any provision of this chapter on any occasion shall not operate as a waiver or estoppel of its right to enforce any provision of this chapter on any other occasion, nor shall the failure to enforce any prior ordinance or rule or regulation relating to sewer services, water services, stormwater services, sewer charges, water charges or the Stormwater Management Fee, act as a waiver or estoppel against enforcement of this chapter or any other provision of applicable law.

Section 18. Severability

In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any of the remaining provisions, sections, sentences, clauses or parts of this Ordinance; it being the intent of the City of Lancaster that the remainder of the Ordinance shall be and shall remain in full force and effect.

Section 19. Inconsistent Ordinances

All ordinance or resolutions or parts of ordinance or resolutions insofar as they are inconsistent herewith are hereby repealed and rescinded.

DULY ORDAINED AND ENACTED this 25th day of February, 2014, by the Council of the City of Lancaster, Lancaster County, Pennsylvania, in lawful session duly assembled.

ATTEST:

CITY OF LANCASTER

City Clerk

J. Richard Gray, Mayor