



ORDINANCE NO. 2019-04

AN ORDINANCE OF THE BOROUGH OF GREENCASTLE, FRANKLIN COUNTY, PENNSYLVANIA AMENDING CHAPTER 166, STORMWATER MANAGEMENT, BY ADDING A NEW SECTION, ARTICLE IX, STORM SEWER UTILITY, TO THE CODE OF THE BOROUGH OF GREENCASTLE.

WHEREAS, pursuant to its powers under laws of the Commonwealth of Pennsylvania, the general supervision of the affairs of the Borough of Greencastle, Commonwealth of Pennsylvania, is in the hands of its Borough Council; and,

WHEREAS, the Borough of Greencastle is empowered to regulate land use activities that affect runoff by the authority of the Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247, 53 P.S. § 10101 et seq., as amended, and the Act of October 4, 1978, P.L. 864, No. 167, 32 P.S. § 680.1 et seq., as amended, the “Storm Water Management Act”; and,

WHEREAS, Section 1202(2) of the Borough Code, 8 Pa.C.S.A. § 1202(2), authorizes the Borough of Greencastle to charge fees associated with the use of Borough utilities; and Section 2203 of the Borough Code, 8 Pa.C.S.A. § 2203, authorizes the Borough of Greencastle to assess benefitted properties; and,

WHEREAS, the Borough Council deems it necessary and advantageous to amend Chapter 166 of the Code of the Borough of Greencastle in accordance with regulatory requirements; and,

WHEREAS, the ongoing maintenance responsibility of the publicly owned Municipal Separate Storm Sewer System (“MS4”) has made it necessary to establish an organizational plan and funding model to permit these activities and to protect the health, safety and public welfare of the citizens and property owners of the Borough of Greencastle; and,

WHEREAS, the ongoing capital improvements needs of the publicly owned MS4 has made it necessary to establish a funding system to allow for these improvements and to protect the health, safety and public welfare of the citizens and property owners of the Borough of Greencastle; and,

WHEREAS, the collection and conveyance system of the storm sewer includes but is not limited to underground pipes, conduits, inlets, culverts, catch basins, gutters, ditches, channels, detention ponds, streets, curbs drains, and all devices, appliances and facilities appurtenant thereto used for collecting, conducting, pumping, conveying, detaining, and/or treating stormwater; and,

WHEREAS, the ongoing responsibility of the Borough of Greencastle to regulate, manage, enforce, and supervise the publicly owned and privately owned stormwater management facilities, as well as to respond effectively to regulatory requirements, proper planning, and efficient allocation of municipal resources to these important activities requires an organizational infrastructure.

NOW THEREFORE BE IT ENACTED AND ORDAINED, by the Mayor and Borough Council of the Borough of Greencastle, Commonwealth of Pennsylvania, hereby amends Chapter 166 of the Code of the Borough of Greencastle as provided herein.

SECTION 1: Chapter 166 of the Code of the Borough of Greencastle entitled “Stormwater Management” is hereby amended to add Article IX entitled “Storm Sewer Utility” and

Article IX shall read as follows:

Article IX Storm Sewer Utility

§ 166-37. Legislative intent. The Borough Council of the Borough of Greencastle is responsible for the protection and preservation of the public health, safety, and welfare of the community and the environment and finds that it is in the best interests of the health, safety, and welfare of the citizens of the Borough and the community at large and the environment to proceed with the development, implementation, and operation of a utility for stormwater management accounted for in the Borough budget as a separate enterprise fund dedicated solely to stormwater management and to institute funding methods associated therewith.

§ 166-38. Definitions. The following definitions shall apply to this Article IX. Any word or phrase not defined below but otherwise defined in the Code of Ordinances shall be given that meaning. All other words or phrases shall be given their common ordinary meaning unless the context clearly requires otherwise:

BOROUGH STANDARDS

The Borough of Greencastle rules, policies, procedures, regulations, and ordinances that govern water quality and water quantity, including but not limited to the Subdivision and Land Development Ordinance, the Zoning Ordinance, and any Stormwater Management Manual, together with all procedures, rules, regulations and policies pertaining thereto as these may be updated or amended from time to time.

CREDIT

A conditional reduction allowed against the storm sewer service fee charged to an individual customer based upon the technical requirements and the design and performance standards contained in the Borough's Storm Sewer Credits Manual as may be adopted, updated, or amended from time to time.

CUSTOMER

All persons, parcels, trusts, corporations, partnerships, companies, and entities served by the utility's acquisition, management, maintenance, extension, and improvement of the public stormwater management systems and facilities and regulation of public and private stormwater systems, facilities, and activities related thereto, and persons, parcels, trusts, corporations, partnerships, companies, and entities which will ultimately be served or benefited as a result of the stormwater management program.

DEVELOPED LAND

All parcels not deemed as undeveloped land as defined herein.

DIRECT LIEN

A lien enforced against an individual or parcel prior to obtaining a judgment against the individual or parcel, such as liens established by operation of law for unpaid taxes.

PRIVATE STORMWATER MANAGEMENT SYSTEMS AND FACILITIES

Those natural and man-made channels, swales, ditches, rivers, streams, creeks, branches, reservoirs, ponds, drainageways, inlets, catch basins, pipes, headwalls, storm drains, lakes and other physical works, properties and improvements which transfer, control, convey, or otherwise influence the movement of stormwater runoff or water quality, which are not public.

PUBLIC STORMWATER MANAGEMENT SYSTEMS AND FACILITIES

Those natural and man-made channels, swales, ditches, rivers, streams, creeks, branches, reservoirs, ponds, drainageways, inlets, catch basins, pipes, headwalls, storm drains, public streets, curbs and gutters, lakes and other physical works, properties and improvements which transfer, control, convey, or otherwise influence either the movement of stormwater runoff or water quality, which are either owned by the Borough or over which the Borough has accepted an offer of dedication of an easement or other legally binding permanent right of use for stormwater drainage, and for which the Borough has the obligation of maintenance for stormwater drainage purposes.

STORMWATER POLLUTANT IMPACT FEE

The periodic service charge imposed by the Borough of Greencastle to a customer pursuant to this Article IX for providing the storm sewer system, the stormwater management services, and stormwater management systems and facilities, which fees shall be used only for the purpose of funding the Borough of Greencastle’s Storm Sewer Utility's cost of providing stormwater management services and stormwater management systems and facilities.

STORMWATER MANAGEMENT SERVICES

Addresses the quality and the quantity of stormwater runoff and includes all services provided by the Borough which relate to the:

- A. Operation, maintenance, repair, enhancement, and replacement of existing public stormwater management systems and facilities.
- B. Planning, development, design, and construction of additional stormwater management and facilities to meet current and anticipated needs.
- C. Regulation of the use of stormwater management services or of stormwater management systems and facilities.
- D. Education of the public as to stormwater issues.
- E. Development plan review to require compliance with Borough standards.
- F. Inspection for water quantity and water quality to require compliance with generally accepted standards.
- G. Monitoring for water quantity and water quality to determine compliance with generally accepted standards, state water quality standards and stormwater management programs.
- H. Other services as may be deemed appropriate.

UNDEVELOPED LAND

A parcel that has less than 100 square feet of impervious surface.

§ 166-39. Establishment of Storm Sewer Utility. The Borough hereby establishes and creates the Storm Sewer Utility as a department of the Borough of Greencastle. The Storm Sewer Utility shall be responsible for providing stormwater management services, for providing stormwater management systems and facilities and for determining labor, material and administrative fees for the operation of the Storm Sewer Utility in the Borough of Greencastle.

§ 166-40. Public stormwater management systems and facilities. The Borough Council of the Borough of Greencastle hereby transfers responsibility for stormwater management services over the existing municipal separate storm sewer system (MS4) and facilities and other related assets, including but not limited to properties upon which such facilities are located, easements, rights-of-entry and access, and certain equipment to the Storm Sewer Utility.

§ 166-41. Scope of responsibility for Storm Sewer Utility.

- A. The Storm Sewer Utility shall provide stormwater management services for existing and proposed public stormwater management systems and facilities as defined in this Article IX, subject to funding availability and to policy determinations made in the best interests of the public health, safety, welfare, and the environment. Additionally, the Storm Sewer Utility, at the Borough's sole discretion, may accept the responsibility for providing stormwater management services to private stormwater management systems and facilities, acceptance of which conforms to policies, rules, and regulations established by the Borough

Council of the Borough of Greencastle or those persons or entities designated by the Borough Council to set such policies, rules, and/or regulations.

- B. The Storm Sewer Utility may, subject to the approval of an intermunicipal cooperation agreement, provide similar or same services to the other municipalities of the County of Franklin, pursuant to the laws of the Commonwealth of Pennsylvania.
- C. The Borough of Greencastle shall own or has rights established by written agreements which allow the Storm Sewer Utility to provide stormwater management services and access to those stormwater management systems and facilities and the storm sewer systems which are located i) within public road rights-of-way and public road easements, ii) on private property but within easements granted to and accepted by the Borough, or are otherwise permitted to be located on such private property by written agreements for rights of entry, rights of access, rights of use or other permanent provisions, or iii) on public land which is owned by the Borough or by another governmental entity and with which the Borough has written agreements to provide stormwater management services and access to the stormwater management systems, facilities, and storm sewer system.
- D. The Storm Sewer Utility may provide stormwater management services to privately owned stormwater management systems and facilities to ascertain that said facilities are functioning as designed and approved. The Storm Sewer Utility may provide for remedial maintenance of said private facilities based upon the severity of stormwater and storm sewer problems and potential hazard to the public health, safety, and welfare and the environment, and in cases where such remedial maintenance is required, the Borough shall bill the owner or owners of said private facility for the costs of such maintenance.
- E. It is the express intent of this Article IX to protect the public health, safety, and welfare of people, property, and the environment, in general, but not to create any special duty or relationship with any individual person, trust, corporation, partnership, company, entity, or to any specific parcel within or outside the boundaries of the Borough of Greencastle. The Borough expressly reserves the right to assert any and all available immunities, privileges, limits of liability, and defenses in any action seeking to impose monetary damages or equitable remedies upon the Borough, its elected or appointed officials, officers, employees, and agents arising out of any alleged failure or breach of duty or relationship.

§ 166-42. Establishment of enterprise fund.

- A. Borough Manager.
 - (1) The Borough Manager shall supervise all municipal utility functions of the Storm Sewer Utility, including but not limited to planning, developing and implementing proposals and programs, administration of revenues and expenses, maintenance and expansion of services, conferring with residents and public officials and the supervision and direction of the activities of supervisory, technical, and clerical staff.
 - (2) The Borough Manager shall establish a stormwater enterprise fund in the Borough budget and accounting system for the purpose of dedicating and protecting funding applicable to the purposes and responsibilities of the Storm Sewer Utility, including but not limited to rentals, rates, charges, fees, and licenses as may be established by resolution of the Borough Council as amended from time to time.
- B. Any revenues and receipts of the Storm Sewer Utility shall be placed in the stormwater enterprise funds, and all expenses of the Storm Sewer Utility shall be paid from the stormwater enterprise funds, except that other revenues, receipts, and resources not in the stormwater enterprise funds may be applied to stormwater management operations and capital investments as deemed appropriate by the

Borough Council, upon recommendation of the Borough Manager, or those funds dedicated to the internal administrative services of the Borough of Greencastle.

§ 166-43. Rates of storm sewer service fees to be established. The Borough Council of the Borough of Greencastle may establish by resolution a storm sewer service fee schedule, which may be amended from time to time. The cost of operating expenses, capital investments and reserve accounts may be included in the storm sewer service fees.

- A. Storm sewer service fees may be based on the relative contribution of each parcel to the demand for stormwater management services and shall be structured so as to be fair and reasonable and shall bear a rational relationship to the cost of providing stormwater management services and stormwater management systems and facilities and for the storm sewer system.

§ 166-44. Reimbursement of Storm Sewer Utility expenses related to individual customer.

- A. In addition to the imposition of a storm sewer service fee, the Borough may request reimbursement for expenses associated with storm sewer service provided to benefit any one particular customer and/or parcel. The fees and charges to reimburse the Borough's expenses for each individual customer shall be based on the cost of providing the services. These service charges shall be based on the cost to the Borough to provide individual services to each customer and shall be billed to the customer upon the rendering of services. The cost shall be the total of:
 - (1) The direct payroll for Borough employees undertaking inspections, sampling, and laboratory work multiplied by a factor of 2.0 (so as to also cover benefits and other overhead related to the sampling and inspections); and
 - (2) Laboratory and consulting charges multiplied by a factor of 1.15; and
 - (3) Engineering and design charges multiplied by a factor of 1.5; and
 - (4) Construction or physical improvement expenses multiplied by a factor of 1.1.
- B. All invoices and bills shall be due and payable upon receipt.

§ 166-45. Credits. The Borough Council of the Borough of Greencastle may establish by resolution a credit system for activities or other means that reduce the level of service provided to the Developed Land. The Borough Manager or his designee shall determine such credits based on the technical requirements, design and performance standards, and a survey of all parcels, together and to be contained in a Borough Storm Sewer Credits Manual as may be adopted and to be promulgated from time to time by the Borough Manager or his designee pursuant to this article, and as it may be updated or amended from time to time. Promulgation and adoption of the Borough Storm Sewer Credit Manual may occur only after completion of an underlying study. Until the Borough establishes a Borough Storm Sewer Credit Manual, no credits may be applied to reduce the applicable storm sewer service fee

§ 166-46. Terms and conditions of storm sewer services.

- A. Terms and conditions of service, including, but not limited to: establishing service, billing for service, interest and penalties, payment requirements, and termination of service may be established from time to time by the Mayor and Borough Council, and shall be available for public inspection at the Borough of Greencastle Municipal Building at 60 North Washington Street, Greencastle, PA 17225 and online at www.greencastlepa.gov.
- B. Where, as a result of equipment malfunction, estimated billing, billing error, or other circumstances, storm sewer service is not billed, the unbilled storm sewer

service may be retroactively charged to the customer for service rendered within the last three years.

- C. Borough Council shall have the right to establish, from time to time, by resolution, rules, regulations, provisions, terms, or standards under which storm sewer service shall be rendered.
- D. Each owner of Developed Land shall pay a storm sewer service fee regardless if any other utility services are furnished to said property or parcel. For example, disconnection of water or sanitary sewer service does not remove the requirement to pay the storm sewer service fee. Only undeveloped land may be exempt.
- E. The owner of the Developed Land served shall be responsible to the Borough for payment of the storm sewer service fees herein provided, regardless of to whom the bills are rendered.

SECTION 2: REPEALER: All provisions of previous ordinances of the Borough of Greencastle, or parts thereof, which are contrary or inconsistent with this Ordinance, are expressly repealed.

SECTION 3: SAVINGS CLAUSE: In all other respects, Chapter 166 of the Code of the Borough of Greencastle shall remain as previously enacted and ordained.

SECTION 4: SEVERABILITY: The provisions of this Ordinance are severable and if any of its sections, clauses, or sentences shall be held illegal, invalid, or unconstitutional, such provisions shall not affect or impair any of the remaining sections, clauses, or sentences.

SECTION 5: EFFECTIVE DATE: This Ordinance shall take effect upon enactment.

ENACTED, ORDAINED, AND APPROVED this 30th day of May, 2019.

(Seal)

BOROUGH OF GREENCASTLE
FRANKLIN COUNTY, PENNSYLVANIA

Attest

By:

Eden R. Ratliff, Borough Secretary

Steven J. Miller, Council President

Benjamin F. Thomas, Mayor