

ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWNSHIP OF LOWER
MAKEFIELD, BUCKS COUNTY, PENNSYLVANIA
ESTABLISHING A NEW CHAPTER 165,
“STORMWATER UTILITY FEE.”**

WHEREAS, Lower Makefield Township (“Township”) is a township of the second class, organized and existing in accordance with the laws of the Commonwealth of Pennsylvania; and

WHEREAS, the Township has constructed and maintains a system of storm drains, basins, inlets, outfalls, and other infrastructure to convey and manage stormwater within the Township; and

WHEREAS, under Sections 607 and 1506 of the Second Class Township Code, 53 P.S. §§65607 and 66506, the Board of Supervisors of Lower Makefield Township (“Board of Supervisors”) is charged with the general governance of the Township, including the health, safety, and welfare of the citizens of the Township, and, therefore, it may adopt any ordinances, bylaws, rules and regulations necessary therefore, so long as they are not inconsistent with or restrained by the Constitution and laws of the Commonwealth of Pennsylvania; and

WHEREAS, Section 1601 of the Second Class Township Code, 53 P.S. §66601, provides that the Board of Supervisors may adopt Ordinances in which general or specific powers of the Township may be exercised, and, by the enactment of subsequent Ordinances, the Board of Supervisors may amend, repeal, or revise existing Ordinances; and

WHEREAS, Section 2705 of the Second Class Township Code, 53 P.S. §67705, provides that the Township may assess reasonable and uniform fees for construction, maintenance and operation of stormwater management facilities, systems, and management plans; and

WHEREAS, the Board of Supervisors of Lower Makefield Township, Bucks County, Pennsylvania, after public meeting and a careful review of the Township’s current and proposed stormwater infrastructure, has determined that the health, safety and general welfare of the residents and property owners of Lower Makefield Township will best be served by imposing a Stormwater Utility Fee to defray costs of construction, maintenance, repair, replacement, improvement and operation of the Township’s stormwater management systems.

NOW THEREFORE, in consideration of the foregoing, be it **ENACTED** and **ORDAINED** by the Board of Supervisors of Lower Makefield Township, Bucks County, Pennsylvania, that the Township’s Code of Ordinances is **AMENDED** as follows:

I. Add Chapter 165, “Stormwater Utility Fee,” to the Code as follows:

§165-101 Short Title.

This Chapter shall be known and may be cited as the “Lower Makefield Township Stormwater Utility Fee Ordinance.”

§165-102 Statement of Findings.

The governing body of the Township finds that:

- A. Inadequate management of accelerated stormwater runoff resulting from much of the Township being developed prior to the existence of contemporary stormwater management BMPs, and redevelopment across multiple significant watersheds 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 floodplain management and flood reduction efforts in upstream and downstream communities, reduces groundwater recharge, and threatens public health and safety.
- B. Adequate planning and management of stormwater runoff resulting from land development and redevelopment throughout a watershed can also harm surface water resources by changing natural hydrologic patterns, accelerating stream flows (which increase scour and erosion of streambeds 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.
- C. A comprehensive program of stormwater management (“SWM”), including minimization of impacts of development, redevelopment and activities causing accelerated erosion and loss of natural infiltration is fundamental to the public health, safety, welfare and protection of the people of the Township and all the people of the Commonwealth, their resources and the environment.
- D. In order to establish, operate, enhance and maintain the stormwater infrastructure of Lower Makefield Township; insure the continued effective operation of the system through installation and management of best practices; and to provide other services such as appropriate inspections, asset management, and regulatory oversight associated with stormwater and watershed management, sufficient and stable funding is required to fund these public services.
- E. Federal regulations, including those found at 40 CFR Part 122, and Pennsylvania state regulations require Lower Makefield Township to implement a program of stormwater controls that regulates the discharge from the Township's regulated stormwater outfalls to local water bodies. In accordance with those regulations, Lower Makefield Township is required to obtain a permit that allows stormwater discharges from its municipal separate storm sewer system ("MS4") under the National Pollutant Discharge Elimination System regulations.

- F. Lower Makefield Township intends to establish fair and equitable stormwater utility fees to ensure that each developed property within the Township will pay its proportional share of the costs of operation, maintenance, repair, administration, replacement and improvement of all stormwater services provided or paid for by the Township.
- G. Proposed programs for imposing a stormwater utility fee received input and comment by the public at multiple public meetings.

§165-103 Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the following meanings ascribed to them:

BMP (“Best Management Practice”)

Methods, measures or practices used to prevent or reduce surface runoff and/or water pollution, including but not limited to structural and nonstructural stormwater management practices and operation and maintenance procedures.

Board of Supervisors

The duly elected governing body of Lower Makefield Township, Bucks County, Pennsylvania.

Developed Property

A parcel altered from a natural state that contains impervious surface equal or greater than 300 square feet.

Impervious Surface

A surface that prevents the infiltration of water into the ground. Impervious surfaces include, but are not limited to, streets, sidewalks, pavement roofs or driveway areas. Any surface areas designed to be gravel or crushed stone shall be regarded as impervious surfaces.

Owner

Any person, firm, corporation, individual, partnership, company, association, government agency, society or group owning real property in Lower Makefield Township. Owner may be referred to as "property owner" or "landowner."

Stormwater

The surface runoff generated by precipitation reaching the ground surface.

Stormwater Fund

The dedicated stormwater account separate from all other accounts or funds, created in accordance with **Section 165-106**.

Stormwater Utility Fee

A fee assessed, imposed and to be collected for each developed property in Lower Makefield Township beginning January 1, 2026, and used to defray the Township's stormwater management costs.

Stormwater Management Costs

The associated public costs of equipment and facilities, energy, workforce, materials, property acquisition, transportation and all other services and equipment required to:

- A. Avoid, reduce, manage, treat, collect, convey, detain, infiltrate, pump and transport stormwater;
- B. Provide flood protection;
- C. Keep equipment and facilities, including best management practices, functioning satisfactorily and economically;
- D. Administer the Township's stormwater management program, including regulatory compliance; and
- E. Improve the Township's stormwater management system.

Stormwater Management System

The system of runoff avoidance, infiltration, collection and conveyance, including storm sewers, pipes, conduits, mains, inlets, culverts, catch basins, gutters, ditches, channels, detention ponds, streets, curbs, drains and all devices/appliances and stormwater best management practices ("BMPs") and facilities appurtenant thereto used for collecting, conducting, pumping, conveying, detaining, infiltrating, reducing, managing, avoiding the generation of, and treating, stormwater.

Township

Lower Makefield Township, Bucks County, Pennsylvania

§165-104 Imposition of Stormwater Utility Fee.

- A. For the purposes set forth above, a Stormwater Utility Fee, as described, defined, and calculated herein is hereby imposed upon each developed property within the Township, as each and every property is connected to, uses, is serviced by and/or is benefitted by the Lower Makefield Township stormwater management system.
- B. All Developed Properties shall be charged an annual fee at a tiered rate based on impervious area ("IA") according to the following table:

Tier	Impervious Area (“IA”) Range (SF)	Monthly Utility Fee per Property (Billed Quarterly)
Tier 0	0-299 SF	No Fee Assessed
Tier 1	300-4,999 SF	\$8.50
Tier 2	5,000	\$2.90 per 1,000 SF of IA or portion thereof (rounded up to next thousand)

C. The Board of Supervisors may review the Stormwater Utility Fee established by this Ordinance and may modify the fees by Resolution as deemed necessary.

§165-105 Uniform Application of Stormwater Utility Fee.

All fees shall be assessed, imposed, liened and collected by tax parcel numbers for all developed properties.

§165-106 Billing and Collection of Stormwater Utility Fee.

- A. The Stormwater Utility Fee fixed and established by this Ordinance shall be effective to all properties that use, are served by, or are benefitted by the Lower Makefield Township Stormwater Management System existing as of the effective date of this Ordinance, and shall be effective to all other properties thereof that use, are served, or are benefitted by the stormwater management system subsequent to the effective date of this Ordinance.
- B. Lower Makefield Township shall create and maintain a dedicated stormwater fund separate from all other accounts or funds. All Stormwater Utility Fees, and any penalties or interest on such fees, shall be deposited into that account, and shall be used solely for stormwater services and purposes, including operation, administration, maintenance, repair, and improvement of the stormwater management system.
- C. Lower Makefield Township may bill property owners directly, or the Board of Supervisors may designate a third-party billing agent to issue bills for the Stormwater Utility Fee.
- D. Bills for Stormwater Utility Fees shall be issued on a quarterly basis (January 1st, April 1st, July 1st, and October 1st) of each calendar year, with quarterly payments for services rendered in the immediately preceding quarter due thirty (30) days net.
- E. Lower Makefield Township may provide a three percent (3%) discount for payment if a full year of quarterly charges is paid by April 30th of each calendar year.
- F. The Stormwater Utility Fees imposed and collected will not be subject to proration or refund by Lower Makefield Township in the event a property is sold; provided,

however, that this provision shall not bind a buyer and seller from making their own proration of any Stormwater Utility Fee imposed hereunder.

§165-107 Late Payment Penalty; Interest Paid on Unpaid Stormwater Utility Fees.

The face amount of all Stormwater Utility Fee charges shall be payable in accordance with the bill mailed, with a penalty of ten percent (10%) assessed after the due date. On the first day of each subsequent month in which the account remains unpaid, an interest charge of one-half percent (0.5%) per month shall be added to the account. All unpaid Stormwater Utility Fee charges shall be a lien against the property, and the Township Solicitor shall file such lien. Any legal fees, including attorney's fees, filing fees, and court costs, and any other fees related to the collection of the account shall be borne by the property owner.

§165-108 Stormwater Utility Fees Constitute a Lien on Property.

In accordance with the Municipal Claims Act, 53 P.S. §§ 7101 *et seq.* (as amended), all fees, penalties, interest, collection fees, lien filing fees, satisfaction fees or any other charge imposed for failure to make prompt payment shall constitute a lien upon and against the subject Property and its owner from the date of imposition and assessment. In addition, the Township reserves the right to pursue any and all other remedies available to it for nonpayment of the Stormwater Utility Fee.

§165-109 Credits.

The Lower Makefield Township Board of Supervisors, by duly adopted Resolution, may establish a credit system to provide credit reductions to the Stormwater Utility Fee established by this Ordinance for properties improved with stormwater management BMPs.

§165-110 Appeal Procedures.

Any Owner who believes the provisions of this Ordinance have been applied in error may appeal in the following manner and sequence:

- A. An appeal of the Stormwater Utility Fee must be delivered or mailed to the Township Engineer within thirty (30) days of the charge being mailed to the Owner. The appeal must be in writing, on a form supplied by the Township, and state all reasons for the appeal. Using the information provided by the appellant, as well as information obtained by any other or additional investigation needed per the Township Engineer's opinion, including but not limited to a technical review of the conditions of the property, the Township Engineer shall review the written submission and respond to the appeal in writing within thirty (30) days of the date that the appeal was received by the Township Engineer. The Township Engineer has the authority to adjust the Stormwater Utility Fee if deemed appropriate.

- B. A decision of the Township Engineer that is adverse to an appellant may be further appealed to the Lower Makefield Township Board of Supervisors, or any other Board or Commission designated by duly adopted Resolution of the Lower Makefield Township Board of Supervisors, within thirty (30) days of the date that the adverse decision was issued by the Township Engineer. The appellant shall state, in writing, the grounds for further appeal and shall mail or deliver the appeal to the Lower Makefield Township Board of Supervisors or its designee. The Lower Makefield Township Board of Supervisors or its designee shall issue a written decision on the appeal within forty-five (45) days of the date that it was received.
- C. If the appeal to the Lower Makefield Township Board of Supervisors or its designee is rejected, and only upon exhaustion of all appeal remedies before the Township, the Owner may appeal the decision to the Court of Common Pleas of Bucks County within thirty (30) days of the date of receipt of the written decision of rejection from the Lower Makefield Township Board of Supervisors or its designee. If an appeal is not filed with the Court of Common Pleas of Bucks County within such time period, or if an appeal is not taken and payment is not made within thirty (30) days of receipt of the written decision of rejection from the Lower Makefield Township Board of Supervisors, or its designee, the property shall be liened for all past due amounts in accordance with **Sections 165-107 and 165-108**.

§165-111 Policies and Procedures Authorized.

The Lower Makefield Township Board of Supervisors may, by Resolution, adopt such policies and procedures as it deems appropriate and necessary to ensure collection of the Stormwater Utility Fee assessed and imposed pursuant to this Ordinance. Without limitation, collection procedures may include designation of a third-party billing agent; referral of delinquent accounts to a collection agency; filing of liens; scire facias sur municipal lien proceedings to collect filed liens; establishing or revising procedures and/or requirement for appeal; and any and all other measures or combination thereof that is otherwise permissible by law. The Board of Supervisors may also implement such administrative procedures necessary to implement the policies and requirements set forth in this Ordinance.

II. Partial Repealer.

All other provisions of the Ordinances of Lower Makefield Township, as amended, shall remain in full force and effect. All other Ordinances or provisions of the Ordinances inconsistent herewith or in conflict with any of the terms hereof are, to the extent of said inconsistencies or conflicts, hereby specifically repealed.

III. Severability.

The provisions of this Ordinance are severable. If any section, clause, sentence, part or provision thereof shall be held illegal, invalid, or unconstitutional by a court of competent jurisdiction, such decision of the court shall not affect or impair any of the remaining sections, clauses, sentences,

parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence or part of a provision had not been included herein.

IV. Effective Date.

All provisions of this Ordinance shall be in full force and effect on January 1, 2026.

ORDAINED AND ENACTED this _____ day of _____, 20__.

ATTEST:

David W. Kratzer Jr., Township Manager

**LOWER MAKEFIELD TOWNSHIP
BOARD OF SUPERVISORS**

Daniel R. Grenier, Chair

John B. Lewis, Vice Chair

Matt Ross, Treasurer

James McCartney, Secretary

Suzanne S. Blundi, Supervisor