

**Resolution No. 10-010**

**A RESOLUTION OF THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES, AMENDING THE STORMWATER TARIFF FOR STORMWATER SERVICES WITHIN THE CITY OF LEWES.**

**WHEREAS**, the Board of Public Works adopted Resolution No. 10-006, A RESOLUTION OF THE BOARD OF PUBLIC WORKS OF THE CITY OF LEWES, ESTABLISHING A STORMWATER UTILITY, ADOPTING A STORMWATER TARIFF AND SETTING FEES AND RATES FOR STORMWATER SERVICES WITHIN THE CITY OF LEWES on June 30, 2010; and

**WHEREAS**, the Board of Public Works desires to amend Resolution No. 10-006.

**NOW THEREFORE, BE IT RESOLVED** by the Board of Public Works of the City of Lewes, in session met, a quorum pertaining at all times thereto, that the Board of Public Works hereby amend the Stormwater Utility Tariff as follows: (addition are in italics and underlined, deletions are strikethrough)

**STORMWATER UTILITY TARIFF**

- 100 Purpose
- 200 Definition
- 300 Stormwater System District Established
- 400 Rates
- 500 Payment of Bills
- 600 *Waivers, Credits and Adjustments*
- 700 *Limitation on Liability*

**100 PURPOSE.**

The Board of Public Works of the City of Lewes (BPW) finds that the construction, operation and maintenance of the stormwater drainage system within the City of Lewes shall be funded by charging users of property that connects or discharges directly, or indirectly, into the stormwater drainage system. The purpose of this tariff is to establish a Stormwater Utility and to provide a means of funding the construction, operation and maintenance of stormwater management facilities on public property including, but not limited to, detention and retention basins, stormwater sewers, inlets, ditches and drains.

**200 DEFINITIONS.**

For use in this tariff, unless the context specifically indicates otherwise, the following terms are defined:

### **Connection**

The physical act or process of tapping or discharging, either directly or indirectly, into the public stormwater drainage system for the purpose of draining lands, surfaces, or other private stormwater sources or systems. Connection to the stormwater system also includes the creation or maintenance of impervious surface that causes or is likely to cause an increase in the quantity or decrease in quality or both from the natural state of stormwater runoff, and which drains, directly or indirectly, to the stormwater system.

### **Customer**

Any person receiving stormwater service including the owner of the any ~~property~~ *parcel of land* served and tenants in common. Among such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

### **Equivalent Residential Unit (ERU)**

A unit of stormwater service based on the median drainage load associated with residential property in the City of Lewes<sup>1</sup>.

### **Stormwater System**

Any combination of publicly owned stormwater quantity and quality facilities, pumping, or lift facilities, storm and secondary drain pipes and culverts, open channels, *swales*, creeks and ditches, force mains, laterals, manholes, catch basins and inlets, including grates and covers thereof, detention and retention facilities, laboratory facilities and equipment, and any other publicly owned facilities for the collection, *concentrated flow* conveyance, treatment and disposal of the stormwater system within the City, to which sanitary sewage flows are not intentionally admitted.

### **User**

Any person who uses property that maintains connection to, discharges to, or otherwise receives services from the BPW for stormwater management. The occupant of occupied property is deemed the user. If the property is not occupied, the person who has the right to occupy it shall be deemed the user.

## **300 STORMWATER SYSTEM DISTRICT ESTABLISHED.**

Pursuant to Sections 4.1 and 4.11 of the Charter of the Board of Public Works, being Chapter 10, Volume 77, Laws of Delaware as amended, the Board of Public Works has the authority to declare the entire City of Lewes a Stormwater System District for the purpose of establishing, imposing, adjusting and providing for the collection rates for the operation and maintenance of stormwater management facilities. The entire City, as increased from time to time by annexation, shall constitute a single Stormwater System District

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<sup>1</sup> *Currently, the median load is based on 2,250 square feet of impervious surface or equivalent as estimated by the Lewes BPW's consulting engineer.*

#### **400 RATES.**

Each customer shall pay for stormwater system service provided by BPW. The rates for the operation and maintenance of the stormwater management facilities shall be collected by imposing a monthly rate on each residential, commercial, and industrial customer within the City Lewes. The Board of Public Works may adopt rules, charges, rates and fees for the use of the public stormwater system, and for services provided by BPW relating to that system. Such rules may include delinquency and interest charges and penalties. Such charges and fees shall be just and equitable based upon the actual costs of operation, maintenance, acquisition, extension, and replacement of the public system, the costs of bond repayment, regulation, administration, and services of the BPW.

#### **500 PAYMENT OF BILLS.**

All Stormwater System District charges are due and payable under the same terms and conditions provided for payment of Water and/or Sanitary Sewer bills.

#### **600 WAIVERS, CREDITS AND ADJUSTMENTS**

Any customer who believes the total monthly stormwater charge they have been billed or have paid has been incorrectly calculated may submit an adjustment request in writing to the General Manager. Adjustment request shall be submitted within 60 calendar days from the date of the bill for challenged stormwater charge.

Any customer who believes the stormwater assessment of their property does not fairly reflect their contribution to stormwater runoff or that the customer has been assigned to the incorrect classification of service may appeal the stormwater assessment to the General Manager. All such requests must be submitted within 60 calendar days of the rendering of the stormwater assessment. Appeal requests pursuant to this subsection must be in writing and must set forth evidence to support the owner's claim for adjustment or reclassification. In all appeals, the customer shall bear the burden of substantiating the requested adjustment or reclassification.

The General Manager shall provide a response to the request within 60 calendar days of receipt of the request. A failure of the General Manager to issue a decision within 60 calendar days will be deemed a denial of the customer's request.

#### **700 LIMITATION ON THE BOARD OF PUBLIC WORKS AND THE CITY OF LEWES'S LIABILITY FOR FAILURE OF SUPPLY OF STORMWATER SERVICES.**

Floods from runoff may occur that exceed the capacity of stormwater facilities constructed and maintained by funds made available pursuant to this tariff. This tariff does not imply that property subject to the fees and charges established herein will be free from stormwater flooding or flood damage. The Board of Public Works and the City of Lewes shall not be liable to any person for any flood damage. Further, payment of a stormwater fee to BPW for stormwater service does not relieve a property owner from obtaining flood insurance if available. The BPW's acquisition of storm drainage easements and/or the construction, maintenance or repair by BPW of drainage facilities does not constitute a warranty against stormwater hazards including, but not limited to, flooding, erosion, or standing water

**AND NOW THEREFORE, BE IT FURTHER RESOLVED** by the Board of Public Works of the City of Lewes, in session met, a quorum pertaining at all times thereto, that the Board of Public Works hereby adopts the stormwater rate structure and rates retroactive as of ~~June~~ July 1, 2010 at 12:01am as follows:

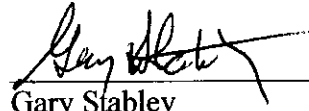
Rate per Equivalent Residential Unit (ERU)

\$5.00 per month

ERUs per Current Rate Class

Residential	One ERU
Commercial	Two ERUs
Industrial	Four ERUs

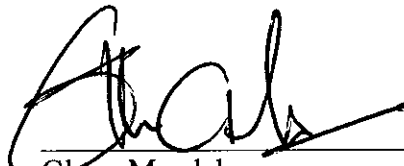
**PASSED AND ADOPTED**, by the Board of Public Works this 22nd day of September 2010.

  
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Gary Stabley  
Board President

ATTEST;

  
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C. Wendell Alfred  
Board Secretary

APPROVED AS TO FORM

  
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Glenn Mandalas  
Board Attorney