

Stormwater Authority Legislation

In 2013, Pennsylvania amended its Municipality Authorities Act to enable municipalities to create independent municipal authorities to finance, acquire, construct, improve, maintain, operate and oversee stormwater management under the Act. (Act 68 of 2013, Pa.C.S.A. 5603)

The amended Act is intended to help municipalities respond to escalating costs of stormwater management as ultimately imposed through federal and state regulatory requirements. The amended Act also expressly protects existing authorities already engaged in some types of stormwater controls as part of managing combined or sanitary sewer overflows, or for flood control projects.

In 2014, a new law permitted stormwater authorities to impose “reasonable and uniform” storm water fees. A subsequent law in 2016 (Act 62) extended those same powers to second class townships. No additional types of municipalities, such as first-class townships or boroughs, have been granted the right to directly charge a storm water fee, and they must go the route of establishing an authority to do so.

STORMWATER AUTHORITIES & FEES

CWQE WORKSHOP – DECEMBER 8, 2021

BENEFITS

Like gas, electricity, water, and sewage, stormwater runoff can be managed by an authority and billed as an administrative fee.

Municipalities can realize many benefits by establishing municipal authorities to handle stormwater permitting and management functions.

A few examples of those benefits include:

- Municipal authorities have clear power to establish stormwater fees to fund their activities, so general tax revenues can be conserved for other municipal needs.
- Because municipal authority staff will be responsible for stormwater, municipal staff will not need to spend time or resources on stormwater permitting or stormwater management.
- Having people dedicated to stormwater management allows authority staff to develop expertise, which will allow for more efficient and effective stormwater management.
- Long-term planning of stormwater projects will be easier, because there will be a steady stream of funding and committed full-time staff.
- Dedicated revenue sources provide eligibility for grants and low-interest loans by meeting requirements-for match dollars.
- If municipalities form a joint municipal authority, they will be able to add efficiency to their stormwater management efforts by creating economies of scale and locating stormwater management projects in areas where they can be most beneficial.
- Generation of immediate capital improvements due to bonding authority.

CHALLENGES

- Requires municipality’s determination and public announcement of intent and purpose to form the municipal authority.
- Requires public education to build local support for administrative fees.
- Takes staff time and money to establish and begin operations of a municipal authority (can avoid start-up costs by adding stormwater to the existing water or wastewater utility).
- Concern over independent decisions made by Authority while retaining the liability for not complying with MS4 permit.
- Incurs fees on all property owners.

FORMING A STORMWATER AUTHORITY

To form a municipal authority, such as a stormwater authority, in Pennsylvania, a municipality must follow the procedures described in the Municipality Authorities Act, 53 Pa.C.S.A. § 5603 and summarized below. Municipal attorneys are advised to refer to this law when forming an authority.

- 1.) Publish public notice of public hearing of municipality's intent to consider and adopt a resolution or ordinance to form an authority. Public notice must be published (at least 30 days before the hearing, following notice procedures in § 5603(b)). 53 Pa.C.S.A. § 5603(a).
- 2.) Hold public hearing to inform and obtain public comment on the resolution or ordinance proposing the formation of the municipal authority. 53 Pa.C.S.A. § 5603(a).
- 3.) Adopt a resolution or ordinance providing for the formation of the municipal authority. 53 Pa.C.S.A. § 5603(a).
- 4.) If the resolution or ordinance is adopted, publish the following described notice at least once in the legal periodical of the county and at least once in a newspaper of general circulation in the municipality. 53 Pa.C.S.A. § 5603(b). The notice (a) shall contain brief statement of the substance of the ordinance or resolution, including reference to Section 5603 of the Municipality Authorities Act and (b) shall state that on a date certain (not less than 3 days before the publication of the notice), articles of incorporation for the proposed municipal authority shall have been filed with the state.
- 5.) On (or before) the date specified in the notice described in (4) above, the municipality shall file with the Secretary of the Commonwealth the municipality authority's articles of incorporation, together with proof of publication of the required notice described in (4) above. 53 Pa.C.S.A. § 5603(c). Articles of incorporation must include: (a) name of the municipal authority; (b) statement that the municipal authority is formed under Section 5603 of the Municipality Authorities Act; (c) statement about other existing municipal authorities formed by and in the municipality; (d) name of incorporating municipality(ies) together with names and addresses of its municipal authorities; and; (4) names, addresses, and terms of office for first members of the municipal authority' board.
- 6.) Articles of incorporation must be executed by each incorporating municipality. 53 Pa.C.S.A. § 5603(d).
- 7.) Secretary of the Commonwealth will endorse his/her approval of the articles of incorporation and issue a certificate of incorporation. 53 Pa.C.S.A. § 5603(e). 8.) Once officers of the municipal authority are elected, the municipal authority's secretary must certify to the Secretary of the Commonwealth the names and addresses of the officers. 53 Pa.C.S.A. § 5603(f).

TIPS

Before taking formal action to form a municipal authority, the municipality should review the enabling authority (the Municipality Authorities Act) and consult with legal counsel as to (i) the requirements for formation of a municipal authority and (2) the powers of a municipal authority.

Before taking formal action to form a municipal authority, the municipality should clearly state at a public meeting its intent to form a municipal authority and purpose for forming the municipal authority, and determine the resources to be made available for initial staffing and operations, including any shared staffing (e.g. administrative staff).

Education is important. Successful communities engage all stakeholders early in the planning process to address concerns and misconceptions about stormwater utilities.

IMPORTANCE OF YOUR LOCAL STORMWATER ORDINANCE

Permits are required for MS4 communities, construction activities, and industrial facilities, but the last line of defense in stormwater management can be found in the local ordinances established by individual municipalities, whether they are an MS4 or not. Land development activities which alter the character of landscape are subject to state and federal laws and permit requirements, but it is the local zoning and ordinances that ultimately make the difference in minimizing the adverse effects of stormwater runoff.

Western Kentucky University Stormwater Utility Survey 2020

At least 36 municipalities in Pennsylvania have adopted stormwater utilities according to the 2020 survey by Western Kentucky University.

Fee/ERU



Community	State	Fee Type	ERU (ft2)	Monthly Fee	Year Created	Population
Allentown	PA	E	500	\$10.00	2018	120,207
Borough of Carlisle	PA	E	2,410	\$7.00	2017	19,259
Borough of Dormont	PA	E		\$9.00	2015	8,593
Borough of Greenville	PA	E	3,122.83		2016	5,860
Chambersburg	PA	V		\$4.00	2015	20,508
Chester	PA	E	1,139	\$8.25	2017	33,972
Clarion Borough	PA	T		\$9.00	2019	5,305
Cranberry Township	PA	F		\$3.00	2019	31,560
Derry Township	PA	E	3,800	\$6.50	2016	25,074
Easton	PA	E	1,797	\$6.75	2018	27,109
Ebensburg	PA	E		\$8.00	2014	3,269
Greencastle Borough	PA			\$14.33	2019	4,026
Hampden Township	PA	E	3,534	\$4.42	2015	28,044
Hanover Borough	PA	E	2,250	\$5.54	2019	15,607
Harrisburg	PA	T		\$6.15	2019	49,192
Highspire Borough	PA	D		\$7.00	2016	2,399
Jonestown	PA	E	3,100	\$6.67	2012	1,931
Lancaster	PA	E	1,000	\$7.74	2014	59,325
Lower Allen Township	PA	E		\$6.33	2019	19,338
Lower Paxton Township	PA	E	3,400	\$10.67	2019	49,050
Lower Swatara Township	PA	E	3,750	\$7.00	2019	8,268
Meadville	PA	E	2,660	\$7.50	2012	13,616
Monroeville	PA	E	2,385	\$10.00	2018	28,445
Mount Lebanon	PA	E	2,400	\$8.00	2011	33,137
New Castle	PA	E	2,500	\$6.00		22,142
North Fayette Township	PA	E		\$3.50	2018	13,934
North Lebanon Township	PA	E	3,755	\$3.35	2018	11,429
Philadelphia	PA	F		\$13.48		1,536,471
Radnor Township	PA	T		\$4.83		31,531
Silver Spring Township	PA	E	4,000	\$9.00	2019	13,657
Susquehanna Township	PA	T		\$11.60	2020	25,107
Upper Allen Township	PA	E	3,800	\$5.00	2018	19,857
Waynesborough	PA	E	1,600	\$3.42	2015	10,877
West Chester	PA	T		\$11.73	2016	18,461
White Township	PA	E	3,700	\$2.00	2015	15,821
Wyoming Valley	PA	E	1,000	\$5.10	2018	68,900

Fee Type:

E = ERU

V = Existence of SWU/Fee verified

T = Tier System

F = Fixed Rate

D = Two Level System (Residential/Commercial)

ERU = Equivalent Residential Unit (usually the average impervious area on a single-family residential parcel)