

**ABC WATER AND STORM WATER DISTRICT**  
**CODE OF REGULATIONS**

**Originally adopted November 16, 2018; Resolution No. 18-11-16-03**

**By**

**The ABC Water and Storm Water District, Board of Trustees**



**Amendments:**

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Amendment	Date of Amendment	Resolution	Change
1.	March 20, 2019		Amend. Adjustment and Credit Policy Appendix
2.			
3.			
4.			
5.			

**CODE OF REGULATIONS – APPENDIX 1  
ADJUSTMENT AND CREDIT POLICY  
ABC WATER AND STORM WATER DISTRICT**

**Table of Contents**

**SECTION 1 – INTRODUCTION ..... 2**

    1.1    DEFINITIONS..... 2

**SECTION 2 – STORM WATER UTILITY FEE ADJUSTMENT AND CREDITS ..... 2**

    2.1    ADJUSTMENTS AND CREDITS PROCEDURES ..... 2

    2.2    GENERAL APPLICATION AND EVALUATION PROCEDURES ..... 3

    2.3    STORM WATER UTILITY FEE ADJUSTMENTS ..... 3

    2.4    STORM WATER UTILITY FEE CREDITS ..... 4

    2.5    IN-KIND SERVICES ..... 9

**SECTION 3 - APPEALS ..... 11**

**EXHIBIT 1-A FORMS ..... 12**

    STORM WATER UTILITY FEE FORM NO. 1-A-1 ..... 13

    STORM WATER UTILITY FEE FORM NO. 1-A-2 ..... 14

    STORM WATER UTILITY FEE FORM NO. 1-A-3 ..... 15

    STORM WATER UTILITY FEE FORM NO. 1-A-4 ..... 16

    STORM WATER UTILITY FEE FORM NO. 1-A-5 ..... 17

## **Section 1 – Introduction**

The ABC Water and Storm Water District (the District or “the District”), formed by Austintown Township, Boardman Township, and Canfield Township under the auspices of Section 6119 of the Ohio Revised Code, established a Storm Water Utility Fee on \_\_\_\_\_, with the passage of Resolution No. \_\_\_\_\_. The Storm Water Utility Fee provides the District with the authorization to establish and collect just and equitable rates, fees, and charges for the services and facilities provided by the Storm Water Utility Fee system.

The District’s Storm Water Utility Fee establishes a mechanism for billing the costs of operating and maintaining the District’s storm water management system, and financing the necessary repairs, replacements, improvements, and extensions. The District’s resolution provides the mechanisms for billing and payment and establishing the Storm Water Utility Fee. This Adjustment and Credit Policy outlines the guidelines under which the District will grant adjustments and credits to Storm Water Utility Fees.

### **1.1 Definitions**

The definitions in CHAPTER 1 of the District’s Regulations shall be used in this Appendix, unless the definition is specifically changed herein.

## **Section 2 – Storm Water Utility Fee Adjustment and Credits**

### **2.1 Adjustments and Credits Procedures**

The following procedure addresses both adjustments and credits of Storm Water Utility Fees.

#### **Storm Water Utility Fee Adjustments**

The District will grant Storm Water Utility Fee adjustments when a customer identifies incorrect information relating to the customer’s property in the District’s billing database. Adjustments typically occur when the District has incorrectly delineated the impervious area within a non-residential property, or when a residential customer is assigned an incorrect storm water billing unit. Storm Water Utility Fee Adjustments are available to residential and non-residential property owners.

#### **Storm Water Utility Fee Credits**

Storm Water Utility Fee Credits are associated with the construction, operation, and maintenance of privately-owned storm water facilities that provide a benefit to the District in controlling storm water. Only non-residential property owners may have projects that qualify for Storm Water Utility Fee credits.

## **2.2 General Application and Evaluation Procedures**

**Exhibit 1-A** contains Storm Water Utility Fee Forms that are to be used to apply for an adjustment or credit. Adjustments or credits will only be granted following the submission and review of a completed application by an Owner. The District, or its designee, will review adjustment and credit applications within 90-days from the date of filing. Fee adjustments and credits shall not be made retroactively. Fee adjustments will be made to the account in the year of the application. A fee credit will be applied only after the project is completed in its entirety.

## **2.3 Storm Water Utility Fee Adjustments**

Applications for an adjustment to the Storm Water Utility Fee shall be submitted to the District, or its designee by an Owner. Review criteria for the adjustment of fees are established herein. A request for an adjustment shall be judged on the basis of the information provided by the Owner, with verification of such information as deemed necessary by the District.

Any Owner who believes that an incorrect number of Equivalent Residential Units (ERUs) is used to calculate the Owner's Storm Water Utility Fee may submit an adjustment request on the appropriate form. Storm Water Utility Fee Form No. 1 is for residential ERU adjustments and Storm Water Utility Fee Form No. 2 is for non-residential ERU adjustments.

Storm Water Utility Fee adjustments shall be granted when the Owner demonstrates that one or more of the following conditions exist:

- **FOR RESIDENTIAL PROPERTIES:** The property contains a different number of dwelling units than used to calculate the number of ERUs assigned. The ERU tier assigned to each residential property was developed using available county data and a regression analysis which estimates impervious area of each residential property from a representative sample. Each residential parcel's tier is determined based upon the building square footprint from the County Auditor's parcel data. Residential adjustments are only available for homes where the building square footprints have been incorrectly calculated. Impervious measurement of residential parcels will not be performed. The method, basis, and regression equation used to estimate total impervious area are supported by the CDM-Smith ERU determination and will not be changed. To request a residential property adjustment an Owner must submit a form 1-A-1
- **FOR NON-RESIDENTIAL PROPERTIES:** The property characteristics (impervious area) are not consistent with the ERU determination developed, or on-site gravel is not compacted, not used for vehicular traffic, and not impervious.

The District may grant adjustments for non-compacted gravel areas used for landscaping or other purposes. The District considers all compacted gravel areas (drives, storage areas, etc.) as impervious areas, and as such, no adjustment will be granted. The District will determine the intended purpose of gravel areas based on the information provided by the Owner. To request a residential property adjustment an Owner must submit a form 1-A-2.

The first step in the adjustment process will be a review of the number of dwelling units and/or the District's calculation of the impervious area. If resolution of the amount of impervious area cannot be made to the District's satisfaction, the District may request the Owner to provide supplemental information to the District including, but not limited to, survey data prepared by an Ohio registered Professional Surveyor (P.S.) and/or engineering reports prepared by an Ohio registered Professional Engineer (P.E.), that presents the amount of impervious area and compacted gravel area on a parcel. Failure to provide such information, if required by the District, may result in the denial of the adjustment request.

The District, or its designee, shall respond in writing to all adjustment requests. The response shall provide an explanation of adjustment approval or denial or may make a request for additional information required, before rendering any decision. Adjustment denials may be appealed to the District, or its designee, as set forth in Section 3.0.

## **2.4 Storm Water Utility Fee Credits**

Residential properties are not eligible for Storm Water Utility Fee credits. Non-residential property Owners may qualify for Storm Water Utility Fee credits when they can demonstrate that a facility provided and adequately maintained by the Owner provides the District with a cost savings that the District otherwise would incur as part of its efforts to manage storm water. This includes a credit for facilities that provide onsite storm water retention. The amount of Storm Water Utility Fee credit will be determined by the District on a case-by-case basis and will generally be applicable to facilities that are designed to exceed minimum District requirements and/or that receive drainage from upstream properties.

Applications for credit requests must be prepared in writing by the Owner using Storm Water Utility Fee Form No. 1-A-3 and submitted to the District. Plans should be submitted online at <http://www.abcwaterdistrict.com/>. To receive the credit, the property Owner shall supply to the District the following:

1. Site plan and as-built construction drawings (signed and sealed by a licensed surveyor or engineer) that are at an appropriate scale, showing the site, topographic details, overland flow paths, all storm water facilities, and surrounding area;
2. If water quality credits are requested, the licensed engineer's design calculations must be submitted for the existing or proposed storm water facilities. The calculations shall document whether the design criteria for the facilities meet or exceed District and/or Ohio EPA criteria for post-construction storm water

management. The maximum credit permitted by the District for water quality credits are listed below in Section 2.

3. If water quantity credits are requested, the licensed engineer's design calculations must be submitted for the proposed storm water facilities. Design calculations shall be based upon hydrologic and hydraulic methodologies approved by the District that accurately describe the runoff and conveyance through the site. The maximum credit permitted by the District for water quality credits are listed below in Section 2.
4. A topographic map must be submitted that outlines the size of the drainage area upstream of the facility/project, including any off-site area that contributes to and/or is controlled by the facility.
5. Detailed floodplain and floodway information of the site must be submitted if it exists.
6. The licensed engineer's detailed report must be submitted that clearly describes how the storm water facility/project functions for design storm events for the 1-, 2-, 5-, 10-, 25-, 50-, and 100-year frequency storm events.
7. A proposed maintenance schedule must be submitted by the property owner that describes in detail the maintenance activities for the storm water facility. In order to receive this credit annually, the applicant agrees to perform adequate and routine facility maintenance. See form 1-A-5 for maintenance certification. Certifications must be submitted online at <http://www.abcwaterdistrict.com/> by August 1<sup>st</sup> of each year.

In cases where the District or its designee determines that conditions exist to warrant a credit pursuant to Section 2.4 the above requirements may be waived or changed.

Credits will be awarded only for facilities that are designed to exceed minimum District requirements, that receive drainage from upstream properties, and/or that the District determines reduces the District's storm water management services. The maximum credit that may be granted for any combination or sum of improvements made to a single parcel is limited to 40% of the Storm Utility Fee for the property. If a project includes features managing stormwater from additional adjacent or upstream properties, the District may determine additional percent reduction on a case-by-case basis.

### **Water Quality Credits**

Non-residential property Owners may receive credits for structural best management practices (BMPs) that provide storm water quality enhancement. Non-residential property Owners provide the District with cost savings by constructing new or retrofitting existing storm water facilities to improve the quality of the storm water that goes into the District's receiving streams. Owners who apply for credits for BMPs that enhance storm water quality must provide supporting documentation that their existing or proposed facilities are properly designed to provide pollution reduction.

Customers requesting a water quality credit must submit documentation that their facilities receive drainage from upstream areas and/or exceed the design requirements outlined in the latest version of the Ohio Department of Natural Resources *Rainwater and Land Development Manual*.

Table 1-1 provides maximum credit percentage for Stormwater Quality enhancement, each project will be reviewed on a case-by-case basis and the credit percent reduction assigned may be less than the maximum credit percent reduction allowable. The application will be approved by the District based upon the information submitted by the Owner. To be eligible for a credit reduction, **any water quality practices that are implemented must at a minimum meet the water quality volume criteria set forth by the ODNR Rainwater and Land Development Manual.**

**Table 1-1  
Water Quality Stormwater Control Measures**

Max Credit Available for WQ SCMs	Stormwater Control Measure
5%	Bioretention
	Infiltration Basin*
	Constructed Wetland (above permanent pool)
	Subsurface Gravel Wetland
	Rainwater Harvesting**
	Sand or other Media Filtration
	Pervious Pavement
	Tree Filter and/or rain garden
	Infiltration Trench
	Wet Extended Detention
	Enhanced Water Quality Swale
	Vegetative Swale
	Dry Extended Detention Basin
	Manufactured Units***

\*Underground galleries that infiltrate the water quality volume shall fall under the infiltration basin credit.

\*\*In order to qualify for a Stormwater Quality Credit, the property Owner must demonstrate that the stored water quality volume will be drained through use in an industrial, commercial or agricultural practice within 3 days (72 hours) to permit capture of consecutive storm events. The actual credit percentage will be prorated based on the number of months the system is operational. Stormwater that is discharged to a



sanitary or combined sewer following industrial or commercial use may be subject to sewerage service charges.

\*\*\*Tested using the protocol in the Technology Acceptance Reciprocity Partnerships (TARP) Protocol for Stormwater Best management Practice Demonstrations, is shown to have a minimum total suspended solid removal efficiency of at least 80%, consistent with the Ohio EPA NPDES Construction General Permit, Part III.2.e: Alternative Post-Construction BMPs requirements.

### Water Quantity Credits & On-Site Retention

FOR NEW PROJECTS: The District's current design standards (Mahoning County Drainage Criteria) require, as a minimum, that storm water facilities manage the runoff generated from the property's developed area. To qualify for water quantity credits, non-residential Owners must demonstrate that their proposed facilities meet the District's minimum requirements and manage storm water generated from their immediate property and/or from additional upstream drainage areas. Structural best management practices (BMPs) that are eligible for credits include, but are not limited to, the following:

- Storm Water Detention Basins
- Storm Water Retention Basins
- Storm Water Channels
- Infiltration/bioretention practices
- Constructed Wetlands (with water quantity benefits)
- Underground storage facilities

Portions of the impervious area within a parcel may be deducted from the total impervious area of the parcel if the property Owner can demonstrate that the runoff meets the criteria set forth in the Mahoning County Drainage Criteria and ODNR Rainwater and Land Development Manual, specifically the Critical Storm Method as defined in Section 3. **To qualify for stormwater quantity fee credits, the following equation is used depending upon the Stormwater Control Measure (SCM) design calculations provided:**

$$\text{Adjusted Billing Units} = \text{Total Billing Units} - [(I_r / I_{ERU}) * D]$$

where:

Total Billing Units = Total billing units (ERUs) based on all impervious area on property

$I_r$  = Amount of impervious area with runoff retained on-site, sq. ft.

$I_{ERU}$  = amount of impervious area in 1 ERU = 4,764 sq. ft.

D = Detention factor, expressed as a decimal (i.e., 85% = 0.85), based either on the Design Storm Retention Control using the detention factors listed in **Table 1-2**.

**Table 1-2**  
**Standard Detention Factors**

<b>Design Retained</b>	<b>Storm</b>	<b>Detention Factor, D,</b>
100-year, 24-hour		40%
50-year, 24-hour		30%
25-year, 24-hour		20%
10-year, 24 hour		10%
< 10-year, 24 hour		0%

**Example 1:**

Non-residential property with 100 ERUs (476,400 sq. ft. of impervious area) with the entire impervious area contributing to the detention feature:

Adjusted Billing Units = 100 ERUs – [(476,400 sq. ft. / 4,764 sq. ft./ERU) \* 0.40] = 60 ERUs

**Example 2:**

Non-residential property with 100 ERUs (476,400 sq. ft. of impervious area) with half of impervious area contributing to the detention feature:

Adjusted Billing Units = 100 ERUs – [(238,200 sq. ft. / 4,764 sq. ft./ERU) \* 0.40] = 80 ERUs

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**2.5 In-Kind Services**

If a Storm Water Utility Fee customer provides in-kind services to the District, the monetary value of the in-kind contribution may be deducted from the customer's Storm Water Utility Fee charge. For example, a school that sponsors and organizes a water festival or implements storm water related curriculum for students could negotiate a credit with the District toward the Storm Water Utility Fee. A credit based on in-kind

services would require a signed agreement between the Owner and the District that expressly outlines the scope and monetary value of the services being provided.

## **Section 3 - Appeals**

When the District or its designee has rendered a written determination on an adjustment/credit application, the Owner shall be may within 60 calendar days (from the date of the transmission of the written determination to the Owner) within which to file an appeal, using Storm Water Utility Fee Form No. 1-A-4, with the District.

As part of the appeal submittal, the Owner shall submit the following:

- 1) The determination for which the Owner is submitting an appeal
- 2) The provisions of the Adjustment and Credit Policy that the Owner deems relevant to the appeal.
- 3) The Owner shall state, specifically how the determination is wrong either: (a) factually, based upon the information supplied by the Owner to the District in its application or supplemental submissions; or (b) how it fails comply with the specific provisions of the Adjustment and Credit Policy. .

The District shall complete the review of the appeal within 90 days of receipt of the appeal. The determination on the appeal shall be in writing and set forth, in detail, the reasons for the decision.