



TOWNSHIP OF FERGUSON

User Fees for Stormwater – General Background

Why consider a stormwater fee?

As the stormwater system has aged, the implementation of long-term maintenance strategies, system rehabilitation, and compliance with the MS4 Phase 2 permit have been limited as funding for stormwater has competed with other Township needs. In addition, services are often directly aligned with roadway improvements that may not address more critical stormwater infrastructure needs. The Township is evaluating an alternative approach to equitably distribute these costs across the user base (i.e., parcels) which benefit from the services provided. In this manner, the Township is better positioned to fund much-needed enhancements to the Township's current stormwater program which will allow improved levels of service to be offered Township-wide.

A stormwater user fee provides dedicated revenue that enables the Township to improve maintenance, coordinate planned system replacement of existing infrastructure, provide proper rehabilitation for aging pipes and inlets, and meet the requirements of more stringent federal and state regulations for stormwater management.

How is a stormwater fee different from a tax?

Taxes are collected from parcel owners, based on the assessed value of their property to cover costs for a number of general government services. Roadway improvements are separately funded in the Township by a Transportation Improvement Fund (TIF). Property taxes, for example, do not apply to tax-exempt properties who are also users of the stormwater system.

Fees are charged to support a specific service, such as gas, electric, or drinking water. A stormwater fee is based on a rational relationship between the need for public drainage services and the development/use of the land (typically categorized by the amount of impervious coverage). A stormwater fee would provide an equitable way to distribute the cost of the Stormwater Management Program by ensuring that every parcel owner is paying for these services.

What are impervious surfaces and how do they contribute to stormwater problems?

Impervious surfaces are hard surfaces that do not allow rain or snowmelt to infiltrate at the same rate as natural surfaces such as grass or dirt. They include rooftops, driveways, patios, parking lots, swimming pools and other man-made structures. Ferguson Township has many impervious surfaces; natural surfaces to absorb stormwater are limited, increasing the possibility of flooding and related runoff problems along with increased adverse impacts to water quality. The quality of stormwater runoff being infiltrated may impact groundwater conditions which is particularly crucial in Ferguson Township since the primary source of drinking water originates from groundwater and supply wells.

Who pays the stormwater fees?

Every property typically pays the stormwater fee, which is based on the most equitable method of distributing of the Township's stormwater program costs. Homeowners, commercial property owners, nonprofit entities, tax-exempt properties and public facilities, including municipal government and the school district, typically pay.

We are a tax-exempt property, why are we being charged this fee?

The stormwater fee is not a tax; it is a service-based user fee for operation and maintenance of a public drainage system. All developed properties in the Township contribute stormwater to the system, benefit from the improvements to the stormwater system, and/or receive stormwater related service under the Township's stormwater program. Since the early days of user-fee implementation (1972), community after community have implemented user fees, often citing this method as the fairest way of funding repairs and improvements.

Do public properties pay the fee as well?

Yes, typically public properties, including those owned by the Township, are subject to the fee. One typical exception is publicly owned roads, as the curb and gutter systems, inlets, road-side swales, etc. serve as a primary component of the Township's stormwater conveyance system. Another exception is the non-charge for railway ballast; however, rail-owned buildings, parking lots, and depots are charged the fee.

Can the fee be waived?

One principle that makes a user fee as equitable and fair as possible is that all properties that contribute to the need for a publicly owned stormwater system and/or benefit from the Township's stormwater related services share the costs. There is no statutory requirement in Pennsylvania to waive fees for specific land use categories.

What activities would be funded by a dedicated stormwater fee?

The revenue provided by the stormwater fee is to be used for related services, including:

- Maintenance of stormwater systems,
- Drainage improvement projects,
- Enhancements to the enforcement and compliance of new development,
- Necessary drainage studies,
- Public education / outreach efforts,
- MS4 Permit Compliance efforts.

Why base a fee on impervious surface?

Typically, the fee is linked to impervious area based on the rational nexus between the presence of development and the need for a publicly operated drainage system. In general, the development of property constructs impervious barriers to natural infiltration, creating a demand for the management of runoff and other stormwater services currently provided by the Township. Billing based on impervious surfaces links the need for publicly managed drainage and improvements for water quality to the primary driver – human use of the land for homes, business, community activities, farming, and other uses. Property values do not create the same relationship.

If impervious cover is the method of cost allocation, how is the impervious area calculated?

Typically, aerial photographs allow for the measurement of impervious surfaces. The Study will evaluate the methodology that would serve Ferguson Township most effectively for cost allocation.

How will billing be handled for business owners who lease space?

Typically the bill would be distributed to the property owner and then is left up to the property owner to decide how or if the tenants should share in the payment.

Will the fee change in the future?

Fee stability will be evaluated as part of the study. This is a policy decision that provides options to the Township based on programmatic need for various services for the next five to ten years. As needs and users change, the fee could also change.

Do properties that do not generate runoff have to pay the fee?

Even properties designed to infiltrate some runoff typically pay. Systems are designed to protect properties including transportation systems that all citizens benefit from and use each day. Large storms cause the most damage and are the reason the stormwater system must be maintained and repaired on a continual basis. Maintenance of the stormwater system helps to mitigate damage to all properties. In addition, drainage-based services address more than runoff flows – mandates of water quality permits go beyond collection and disposal of rainwater. The study will evaluate options for the Township to establish a basis for a user fee charge.

My property has stormwater management structures already. Will the fee still apply?

Yes. Property owners that submit a land development or grading permit application to the Township are required to conform to the Township's stormwater management standards that regulates runoff release rates, groundwater infiltration, and water quality. These regulations ensure that new land development and redevelopment do not increase stormwater impacts downstream through the design, installation, and perpetual function of these stormwater management structures. In addition to this role regulating land development, the Township also provides property owners with other stormwater management services, including:

- Compliance with federal water quality regulations,
- Storm event preparation and clean-up services,
- Operation and maintenance of downstream conveyance structures,
- Operation and maintenance of the Township's drainage system, typically including the rehabilitation and repair of storm sewer inlets, pipes, and outfalls.

Is there any way to lower a bill?

When there is a direct relationship between the amount of impervious coverage on a property and that property's fee, the most straightforward method of lowering a stormwater bill is to reduce the amount of impervious surface that exists. Once this reduction is recorded, the billing units associated with the property are re-calculated.

Non-residential property owners are often provided a method to receive "credits" for private investments that, in the long-term, are designed to reduce public costs. A signed or documented maintenance agreement between the owner and the Township is typically required for the granting of a credit – this ensures that the private investment continues to perform in a manner that supports the objectives of the Township. These details are developed as the fee structure is refined.

Is this stormwater fee legal?

Yes, it is legal. User fees for funding public drainage services have been used across North America for decades. Communities have faced and prevailed in legal challenges over issues such as whether the fee is a tax in disguise and whether non-taxable properties can be charged, such as charges to federal, state or other public agencies.