



## TOWNSHIP OF FERGUSON

### Policies and Issues for Discussion March 21, 2018

Evaluation of the feasibility of implementation of a user fee must take into consideration community values and conditions that impact levels of service and how to allocate costs fairly. Consideration of these issues lead to establishment of policies to address a perceived equity focused on who is responsible for contributing resources to fund the stormwater program.

It is important in all cases to ensure that no policy or user-fee structure creates a discriminatory situation that violates the law. Flexibility is provided in user-fee rate development so long as the rate structure does not take into consideration age, race, ethnicity, gender and other legally protected user fee payer attributes. User-fee rates typically do not take into consideration ability to pay but can address financial hardships outside of the rate model as often seen in community programs to assist in payment of power, water, sewer, and health care for those at or below the poverty income for a family.

Rate structures can address varying levels of service often recognized between urban and rural boundaries or in cases where multiple entities must address mandates in water quality of stormwater runoff (e.g., permitted properties in compliance with federal and state water quality permit). Ferguson Township has these issues that should be taken into consideration if the Board of Supervisors decide to proceed with a second phase of work on the development of user-fee funding.

**Properties owned and operated under MS4 water quality permits**, such as Penn State University, are the responsibility of the permittee and the owner must adhere to the same operational standards as the Township. Compliance by Penn State for example would be duplicated by the Township if the presence of two MS4 permittees was not recognized by the regulators. This situation is not unique and has been addressed by credits for properties permitting separately within the boundary of the community. Maintaining the integrity of the rate structure by calculating the user-fee for such properties is important as well. Applying a credit allows the community to analyze the avoided cost and credit the payee. Establishment of Memorandums of Understanding between two jurisdictions (e.g., a County operation may be located within a Township, both permitted agencies) has also been used where terms and conditions of services provided are clearly defined and the fee charges are documented. There are solutions that can be developed in these cases that maintain the rate policies and acknowledge the contribution and costs for all parties.

**Varying levels of service** may be addressed within the rate structure through the use of a baseline cost shared by all properties and allocated at a fixed unit with a varying cost based on the services provided. For example, if a community has a resource protection area that mandates down-zoning (large lots greater than 5 acres with developed area within of less than 10% of lot size), the services provided in such an area can be isolated within the cost model and assigned in the rate specifically for those properties within the resource protection area. Similar strategies have been used to address urban/rural development within a jurisdiction.

For this study, it is important to identify the issues and provide guidance to the Board of Supervisors on various policies solutions that may be considered if a user-fee implementation analysis is pursued. The SAC will discuss other potential issues that may require unique consideration in rate development.