



## Town of Smyrna Storm Water Utility Frequently Asked Questions

### **Our storm water program focuses on:**

- **Replacing old pipe**
- **Reducing pollution carried off by rainwater**
- **Fulfilling EPA requirements**
- **Educating and involving the public on storm water issues**
- **Storm water construction and development practices**
- **Fund storm water activities in a fair and equitable way**

### **What is a storm water utility fee?**

A storm water utility fee is similar to a water or sewer utility fee. In essence, customers pay a fee to convey storm water from their properties. The Town of Smyrna's storm water user fee is the result of an unfunded mandate from the United States Environmental Protection Agency (USEPA) and Tennessee Department of Environmental and Conservation (TDEC) on storm water discharges. This fee is used to finance annual compliance with the mandate.

### **Is the storm water utility fee considered a tax?**

No, the storm water utility fee is not a tax. It is a utility fee generated to maintain the storm water utility system and fund the compliance with the federal mandate. It is user based, and the fee is based on contribution to the storm sewer system.

### **Is the storm water utility fee legal?**

Yes, storm water utility fees are legal. Although storm water utility fees have been challenged in the past, state and federal courts have ruled that storm water utility fees are necessary to maintain the public storm water system and represent an equitable way for the community to share the cost of a public service. They are becoming more and more common throughout the United States.

### **Why have cities implemented these programs?**

Federal and state regulations require the Town of Smyrna to address the amount of runoff and the pollution carried by the water that is deposited, untreated, into our creeks, streams, and rivers. Storm water quality management programs are responses to regulations from the Environmental Protection Agency (EPA) connected to the federal Clean Water Act. These regulations require cities with more than 100,000 (Phase I) people to obtain a permit under the National Pollution Discharge Elimination System and to create a comprehensive program to seek out and eliminate, to the maximum extent practical, pollutants carried by storm water.

## **History**

- It all started with the 1972 Clean Water Act (CWA) which prohibited the discharge of any pollutant to waters of the United States from a "point source" unless the discharge is authorized by a National Permit Discharge Elimination System (NPDES) permit. A "point source" is any place that you can say for sure is polluting streams and water supplies such as an industry, business or a sewer system.
- In 1987, the CWA was amended to require implementation of a national program for nonagricultural sources of storm water runoff, because the government said that water quality studies showed that sparse sources of water pollution were also significant causes of pollution. They called these sparse sources of pollutants, "nonpoint source." A "nonpoint source" pollution is water pollution that is difficult to trace to a specific discharge point because it comes from many diverse sources. Examples of common nonpoint source pollutants include fertilizers, pesticides, sediments, oils, salts, trace metals, and litter. They come from farms, yards, roofs, construction sites, automobiles, and streets.

Phase I of the U.S. Environmental Protection Agency's (EPA) storm water program was promulgated in 1990 under the CWA. Phase I relies on National Pollutant Discharge Elimination System (NPDES) permit coverage to address storm water runoff from: (1) "medium" and "large" municipal separate storm sewer systems (MS4s) generally serving populations of 100,000 or greater, (2) construction activity disturbing 5 acres of land or greater, and (3) ten categories of industrial activity.

Phase II rules for small municipalities and construction activity were finalized in December 1999 and were implemented in 2003. Phase II requires permit coverage for all small MS4s located within urbanized areas. An urbanized area is a land area comprising one or more places — central place(s) — and the adjacent densely settled surrounding area — urban fringe — that together have a residential population of at least 50,000 and an overall population density of at least 1,000 people per square mile. Smyrna is considered a small MS4 within an urbanized area and was permitted under Phase II.

## **What happens if the Town does nothing or refuses to comply with the mandate?**

Should the Town choose not to comply with the mandate, penalties for willful non-compliance can reach up to \$25,000 per day each day a separate offense or imprisonment, or both. Penalties assessed for violation of the mandate would inevitably be passed on to the citizens in the form of higher tax rates.

## **Why are the storm water and sewer systems separate?**

Unlike wastewater, which is treated before it is released back into the environment, storm water goes directly into a community's ponds, streams and lakes. Because storm water comes in large amounts at unpredictable times, treating it as wastewater would be very expensive.

## **I have a septic tank. Why should I pay this fee?**

Wastewater, such as is treated by the septic tank, is not the same as storm water. Septic tanks do not process and handle storm water. The storm water utility fee is used specifically to address town wide storm water issues. A septic tank is used to treat wastewater at a specific location. This wastewater is water that comes out of individual households or businesses. Properties that use septic tanks are not charged for sanitary sewer service; however, having a septic tank does not address the necessity of storm water management. It should be noted that properties that are connected to the sanitary sewer system do pay for the sanitary sewer service as well as the storm water utility fee.

## **Who else is paying a storm water utility fee?**

Every parcel owner in the Town is responsible for paying a storm water utility fee including City,

State and

Federal government parcels and public institutions, and commercial and industrial parcel owners. Only exempt properties, such as public roads, are not charged. Other municipalities across the United States and in Tennessee, including the cities of Murfreesboro, Franklin, LaVergne, Johnson City, Dyersburg, Maryville, Knoxville, Chattanooga, and Memphis, to name a few, have implemented a storm water utility fee. Metro Nashville/Davidson County is currently considering the implementation of a storm water utility fee.

### **Are there any properties in the Town that do not pay a storm water fee?**

All public rights of way, public streets and public roads, public alleys, public sidewalks and public greenways, public “park and ride” facilities and bus stops, and railroad right of way properties within the Town of Smyrna are considered exempt, and thus, no storm water user fee is assessed for those properties.

### **If I live on top of a hill, and I don't ever have any drainage problems, or live on the edge of the Town and water drains on my property away from streets and public drainage structure, or live at the bottom of a hill and not the cause of increased flooding from uphill, why would I have to pay for storm water management services?**

Providing for and addressing storm water is a public service provided for by the Town of Smyrna. All buildings contain impervious surfaces (a surface which prevents water from being infiltrated). Impervious surfaces on your parcel inevitably place a demand on the storm water system. Storm water runoff generated by any property must be controlled and conveyed once it leaves the property so that it does not create problems for others. Both the quantity of storm water and the quality of storm water, i.e. making sure pollutants are limited, impact the entire storm water system for the Town of Smyrna. While certain projects funded by the program would address drainage problems impacting private properties, all property owners would receive indirect benefits from a properly maintained and operated storm water management system for the entire Town.

Storm water management activities with broad benefits include keeping the public streets drained and cleared, making necessary storm water infrastructure upgrades, reducing erosion and other pollutants that enter streams and lakes, protecting and restoring streams and other aquatic habitat areas and collecting and conveying storm water safely through all parts of the Town. A portion of the fees also provides for compliance with federal, state, and local regulations for water quality improvements; administration of the Town's storm water management ordinance through development review; public involvement and educational programs; and responding to public health and safety issues that benefit all property owners.

### **Why should I pay for rain falling on my property?**

You are not paying a fee for rain falling on your property. You are being charged a utility service fee for the cost and privilege of discharging storm water into the public storm water system, which the Town is obligated under law to maintain. With a storm water rate, users are charged a fee for runoff discharged from their property to the Town's storm water management system, not by the amount of rain falling on their property. Property owners control the level of development on their properties, which directly impacts the runoff characteristics of the parcel.

### **I have made inquiries of the Town regarding drainage issues on or near my property for sometime and nothing is done. Will you fix the problem now?**

Some drainage complaints that the Town receives are for problems on private property that the Town has no authority to address. The existence of a Storm Water Utility will not change that. There are, however, historical problems located on public property or which impact private property

within public drainage easements, which problems can be addressed as a result of the Storm Water Utility.

**Paying for storm water management with fees instead of property taxes means I won't be able to deduct it from federal and state income taxes. Because of this, I'd rather pay a property tax.**

Storm water utilities and user charges offer a number of advantages over property taxes. Governments all over the country are relying on user fees that are often a more stable source of revenues.

- Revenues from storm water fees can only be used for storm water related expenditures. Funding from general revenue sources faces fierce competition each year among elected officials and department directors vying for their share of limited dollars.
- Under property tax systems, storm water managers often cannot count on budget allocations, do not have as much control over their budgets, and cannot plan as well.
- Perhaps the most important reason that the number of user charge systems is increasing is that property owners believe charges are fairer. Impervious area, the basis for most storm water charges, can be measured and is a reasonably objective measure. The idea that property owners pay in proportion to the measured amount of hard surface on their property seems fair. Property values, conversely, are unrelated to the problem of storm water runoff.
- Property taxes are not an equitable means of collecting funding from everyone who uses and benefits from the storm water system. Even though user fees are not tax deductible for individuals, businesses can deduct it as a business expense.

**Will the creation of a Storm Water Utility result in a reduction of my property taxes?**

No. Historically, only a small amount of general fund revenues have been allocated to storm water management activities. These limited dollars will simply be absorbed into other expanding programs such as our Fire and Police Departments.

**Are gravel driveways/roads being taxed?**

No. The storm water user fee is a utility fee and not a tax. For residential properties, driveways have been included as part of the impervious surface that has been averaged into the calculation to determine the storm water user fee. For non-residential properties, driveways will be included in determining the amount of impervious surface on which the storm water user fee is based. Public roads and rights-of-way are exempt from the storm water user fee.

**I have a detention pond on my property. Will the Utility become responsible for the maintenance of the pond?**

No. The Town of Smyrna has adopted a Dry Detention Basin Policy, and at this time, maintenance remains the responsibility of the property owner on which the detention pond is located.

**Do mosquitoes breed in the storm water ponds?**

Yes. If a detention pond is not properly maintained and holds water longer than seventy-two hours there is a possibility that the pond will cause mosquitoes to breed. These ponds are to be inspected regularly by the Town under federal and state laws.

**How does the Town currently pay for its storm water services?**

Money from the Town's General Fund, which is revenue derived from property and sales taxes collected by the Town, currently pays for the limited amount of storm water services the Town can currently afford. Storm water must compete for these funds with other Town services such as parks, roads, libraries, and police and fire protection. These funds are not always available, and we must develop a dedicated revenue stream. The storm water user fee provides a reliable and fair method

for collecting monies in order to allow the Town to provide increased and improved storm water management services.

### **Why do we need to spend more for storm water?**

Historically, the allocation of funds has not been sufficient to address all of the Town's storm water service needs. Although the Town has done a good job providing storm water services on a limited budget, the backlog of storm water projects has grown and additional maintenance activities are required. Local, state and federal laws also require that municipalities address the environmental impacts of storm water pollution, but do not provide the funds to do it. Consequently, the Town must investigate alternative means for raising revenue.

### **Why is this issue being addressed at this time?**

In addition to meeting the city's current storm water needs, Smyrna's new storm water revenue will provide the Town with the funding and tools necessary to meet the federal and state regulatory requirements.

### **Is this just another tax in disguise?**

While it is true that you are now paying a fee that you didn't have to pay in the past, the storm water user fee is a UTILITY fee, not a tax. The storm water user fee is not much different from sanitary sewer, water, or other utilities fees. Because the Town is being forced to spend more money on storm water management than we have in the past, the additional cost had to be passed along to citizens. This new cost is technically a user fee rather than a tax. Had the Town opted to simply pay the additional costs by raising property taxes, the increased cost to the average homeowner would have been more than what you're paying now through the new utility fee. This is because a user fee can be charged to tax-exempt properties, thereby spreading the cost out over a larger number of people and businesses.

### **What was the process for establishing the storm water user fee?**

The storm water user fee is based on a property's impervious surface area. Impervious areas include rooftops, driveways, parking lots, patios, sidewalks, out buildings and other surfaces which impede the infiltration of storm water. Using the Town's Geographic Information System (GIS) and aerial photography, all impervious surfaces in the Town were measured. Based on a study of the residential properties, the average square feet of impervious surface was determined to be 3,543, also referred to as the Equivalent Residential Unit (ERU).

### **How often will the fee be updated/changed?**

The fee will be set from time to time by ordinance in the fee schedule as adopted by the Town Council. The budget for the storm water utility fund, its revenues and expenditures, will be examined on a yearly basis in accordance with the budget process for the Town of Smyrna. The basis for the fee will be examined no less than every five years.

### **Does the Post Office pay a storm water fee?**

Yes.

### **Are there any possible credits available?**

The only credit available to residential properties is the Small Homes Credit. Other credits are available to non-residential properties. The Town of Smyrna has adopted a Storm Water Utility Credit and Adjustment Policy Manual to provide an avenue and process for determining and administering credits and necessary adjustments.

## **I live on a farm on a huge lot and the water never runs off my site. How can you justify billing me?**

It would be a rare situation for any property owner to be able to guarantee with 100% certainty that no water of any kind ever left property boundaries. As noted previously, providing for and addressing storm water is a public service provided for by the Town of Smyrna. All buildings, even farms, contain impervious surfaces (a surface which prevents water from being infiltrated). Impervious surfaces on your parcel inevitably place a demand on the storm water system. Storm water runoff generated by any property must be controlled and conveyed once it leaves the property so that it does not create problems for others. Both the quantity of storm water and the quality of storm water, i.e. making sure pollutants are limited, impact the entire storm water system for the Town of Smyrna. The Town of Smyrna has adopted a classification for agricultural properties. Please check the Storm Water Utility Fee Ordinance to see if your parcel fits in this classification.

## **How much money will this fee raise?**

It is anticipated that the fee will generate approximately 1.35 million dollars per year. An exact figure cannot yet be provided as there may be credits and adjustments made along the way.

## **How will you decide which storm water projects/improvements get done first?**

The Public Works Department, with the input of the Town Council, will prioritize storm water management projects based on need, recommendations, and the requirements for compliance with the mandate from the federal and state government. Storm water management projects will also have to be prioritized based on the ability of the Town to pay for the cost of the project.

## **How will the billing process work?**

Each parcel within the town limits shall be charged a storm water user fee based on the classifications in the ordinance. Residential properties will see a storm water user fee included on their regular water and/or sewer utility bill. If a property does not have either water or sewer provided by the Town of Smyrna or Consolidated Utility District, then the property owner will receive a separate storm water user fee bill from the Town of Smyrna. Non-residential properties will be billed in the same manner. Multi-tenant non-residential units may be billed individually if the unit is individually metered for water and/or sewer service. If the multi-tenant non-residential unit is part of a property that is master metered, then the customer of record for the master meter will receive a storm water user fee billing for the entire property.

## **I am renting an apartment or house. Do I have to pay this charge?**

Multi-tenant residential properties will be billed the minimum charge, the same as the single family residential fee, if the apartment unit is individually metered. If the apartment complex is master metered, then the customer of record for the master meter will be billed a storm water user fee for the entire property.

Individuals or businesses which rent property will receive billing for the storm water user fee if the water and/or sewer meter is in the renter's name. Property owners are obligated to pay storm water user fees. It will be up to the individual property owner and the renter to decide how to handle the assessed fee.

## **If I disagree with the amount I am being charged, what do I do?**

An appeal process is provided in the Storm Water Utility Ordinance under section 14-713. Although there is a fee to file the appeal, the appeal fee will be refunded as a credit to future storm water user fee billings if your appeal is successful.

## **Does the Town of Smyrna pay a storm water fee for Town owned property?**

Yes.

## **If I rent an apartment in the loft of a commercial building how will I be charged?**

Such units shall be charged as non-residential. Multi-tenant non-residential units may be billed individually if the unit is individually metered for water and/or sewer service. If the multi-tenant non-residential unit is part of a property that is master metered, then the customer of record for the master meter will receive a storm water user fee billing for the entire property the storm water user fee will be included. Again, property owners are obligated to pay storm water user fees. It will be up to the individual property owner and the renter to decide how to handle the assessed fee.

## **Why are churches and schools being billed?**

Churches and schools, just like government and other non-profit agency buildings, impact storm water utility systems just like commercial and industrial sites. Providing for and addressing storm water is a public service provided for by the Town of Smyrna. All buildings contain impervious surfaces (a surface which prevents water from being infiltrated). Impervious surfaces on the parcels of churches and schools also place a demand on the storm water system. Storm water runoff generated by any property must be controlled and conveyed once it leaves the property so that it does not create problems for others. Both the quantity of storm water and the quality of storm water, i.e. making sure pollutants are limited, impact the entire storm water system for the Town of Smyrna. The storm water user fee is a utility fee, similar to water and sewer. Schools and churches have water, sewer and other utility fees; the storm water fee should be handled similarly.

## **What is the storm water drainage system?**

The storm water drainage system is the system that collects, conveys, stores or otherwise treats or affects storm water or surface water. It can include a network of underground pipes and open channels designed for flood or drainage control which discharge straight to a receiving water body.