

Stormwater Fee Implementation in Bath Borough

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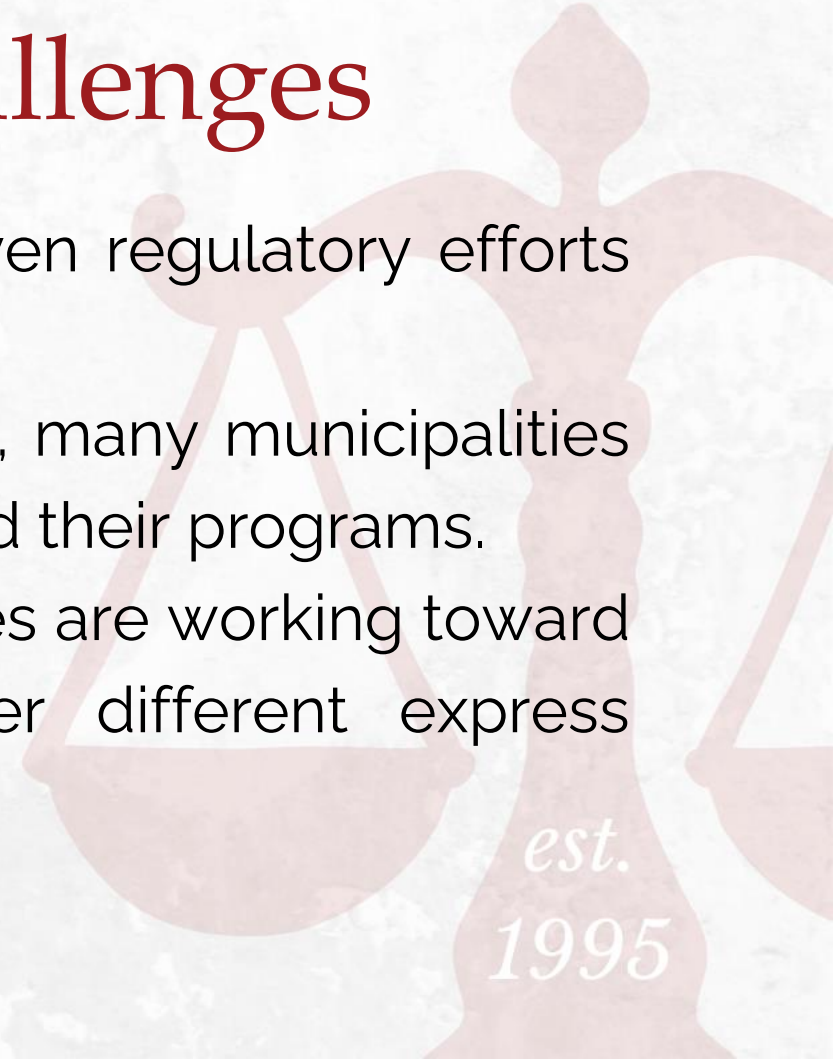
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Stormwater Management Challenges

- Heightened environmental consciousness has driven regulatory efforts at both federal and state levels.
- Complying with these requirements is costly, thus, many municipalities have implemented stormwater charges to help fund their programs.
- Although municipalities of different shapes and sizes are working toward the same goal, different municipal codes offer different express authorizations.



Stormwater Management (cont.)

- Traditionally tax-exempt entities have fought to classify the charges as taxes to which they would be exempt rather than fees that they must pay.
- The Commonwealth has taken the position *Borough of West Chester v. PASSHE* determined all stormwater charges are taxes in Pennsylvania.
- *Borough of West Chester v. PASSHE* has led to a growing importance in clarifying what facts weigh in favor of charges being fees.

Evolution of Stormwater Funding

- Until recently, SWM expenses have been funded by general fund revenue and taxes.
- Regulatory burdens, such as MS4 pollutant reduction projects, are making this approach infeasible.
- Challenges facing SWM similar to water/wastewater in the 1970s
 - Growing regulation, funding through general fund infeasible
- Stormwater fees: growing trend in the U.S. and PA.
 - Over 1,800 stormwater authorities and utilities established in the U.S.
 - Enabling legislation in PA passed in 2013; provided for consistent implementation throughout the Commonwealth.

Growing Use of Stormwater Fees

- Dedicates a source of funds to stormwater
 - More-predictable, steady stream of revenue for long term planning.
- Apportions costs fairly – based on property characteristics
 - Most fees are based on impervious area, not property value.
- Shares a financial burden with all who benefit from service
 - Tax-exempt institutions that benefit from SWM services - such as properties owned by the government or religious institutions – cannot be taxed; but can be assessed a fee.
 - End-result: fee is usually 40-75% less for residential property owners as compared to a tax.
- Provide credit considerations to account for level of service
 - Fee credits available for those who aid in water quality or other stormwater efforts.
- Provides incentive for property owners to collaborate.
 - Credits can be given for partnerships, community projects, etc.

Who Can Charge a Stormwater Fee?

- Municipal Authorities
 - **Recommended approach!**
 - Legal structure allows more flexibility for use of funds
 - Vast majority of Salzmann Hughes clients and PA municipalities have chosen this option
 - Formed under existing authority, or new authority formed by municipality
- Boroughs?
 - **Not recommended!**
 - Legal structure limits use of funds; case law unclear on limits

MAA's Express Authorization for Stormwater Management

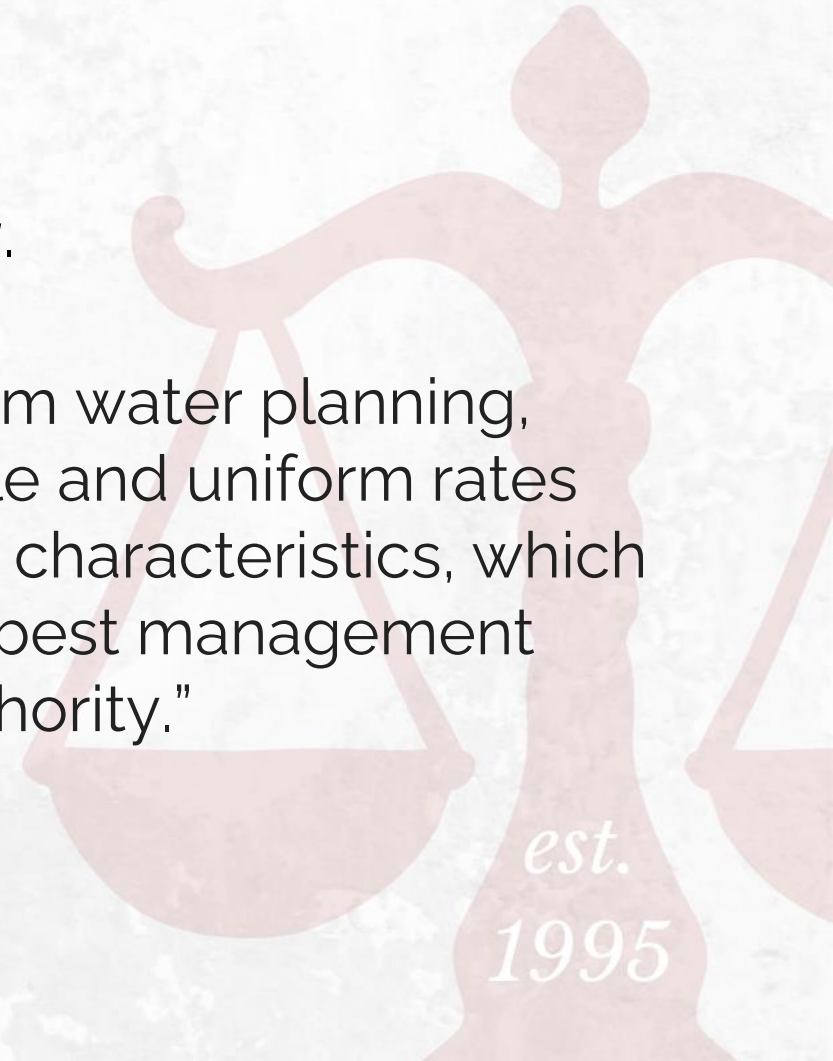
- Municipality Authorities Act, 53 Pa.C.S. § 5601, *et seq.*
 - § 5607(a)(18):
 - A municipal authority may be incorporated for “Storm water planning, management and implementation as defined in the articles of incorporation by the governing body. Authorities, existing as of the effective date of this paragraph, already operating storm water controls as part of a combined sewer system, sanitary sewer system or flood control project may continue to operate those projects.”

Stormwater Fee Authorization

- Municipality Authorities Act, 53 Pa.C.S. § 5601, *et seq.*
 - § 5607(d)(g):
 - Every authority may exercise all powers necessary or convenient for fixing, altering, charging and collecting rates and other charges in the area served by its facilities at ***reasonable and uniform rates*** to be determined exclusively by it for the purpose of providing for the payment of the expenses of the authority, the construction, improvement, repair, maintenance and operation of its facilities and properties.

Stormwater Fee Authorization – cont.

- Municipality Authorities Act, 53 Pa.C.S. § 5601, *et seq.*
 - § 5607(d)(34):
 - “In the case of an authority that performs storm water planning, management and implementation, reasonable and uniform rates may be based in whole or in part on property characteristics, which may include installation and maintenance of best management practices approved and inspected by the authority.”



Legal Stormwater Fees Checklist

To set appropriate stormwater fees, follow this checklist of legally defensible qualities.



- ✓ THE PURPOSE IS REGULATORY OR REVENUE RAISING
- ✓ THE CHARGE IS VOLUNTARY
- ✓ THE CHARGE IS IN RETURN FOR A SERVICE
- ✓ DIRECT BENEFIT IS CONFERRED
- ✓ THE CHARGE IS PART OF A COMPREHENSIVE SCHEME
- ✓ THE DERIVED FUNDS ARE STORED AND USED PROPERLY
- ✓ THE CHARGE IS REASONABLE AND UNIFORM

EXAMPLE: Four-Tiered Stepped Fee

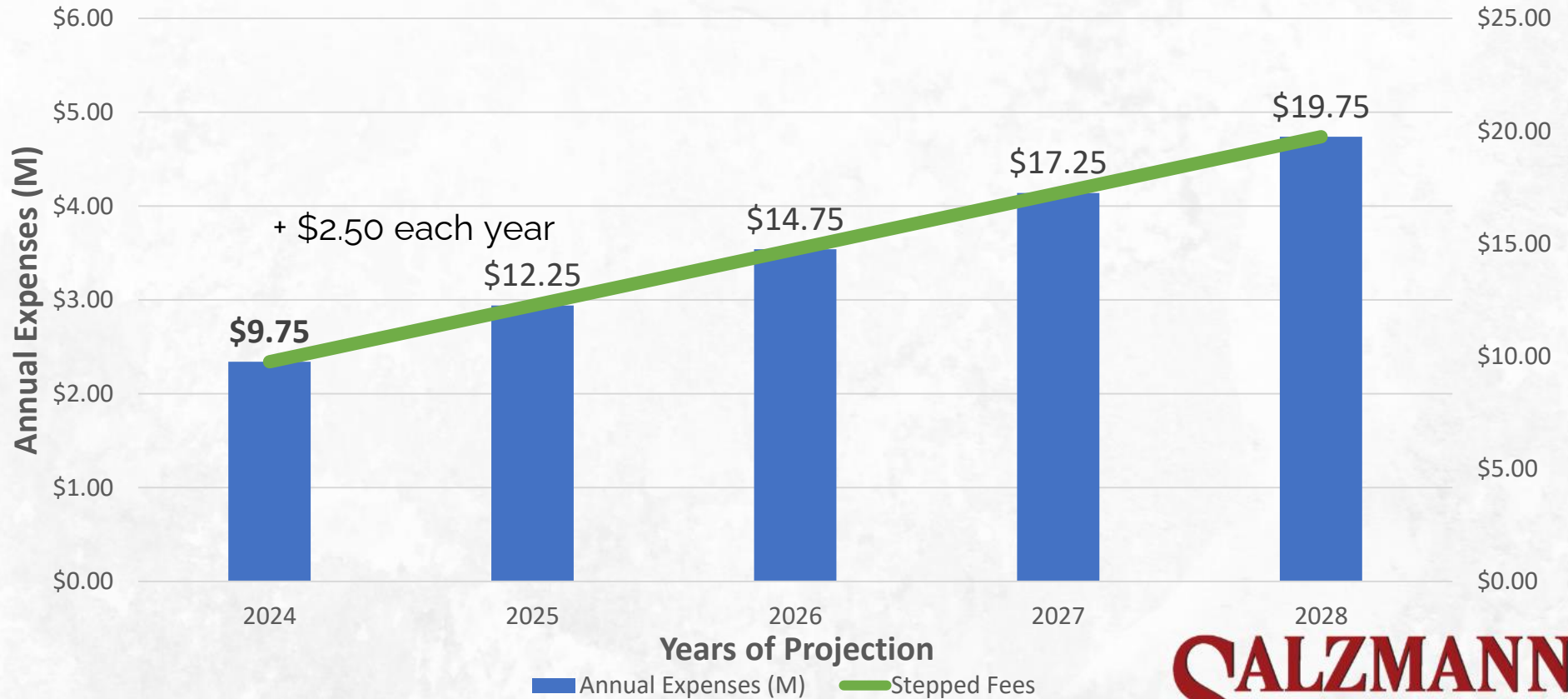
Monthly Fee for Each Tier in Year 1

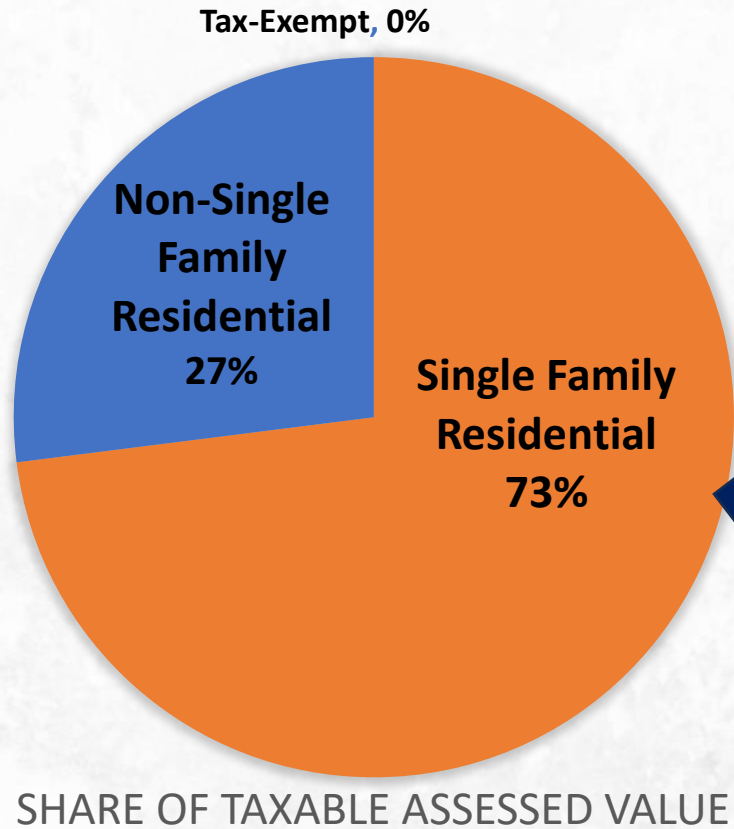
Billing Option	Monthly Fee
Tier Group 1	\$4.70
Tier Group 2	\$9.75
Tier Group 3	\$16.00
Tier Group 4	\$3.34/1000 SF

Rate for Average
Single Family
Residential

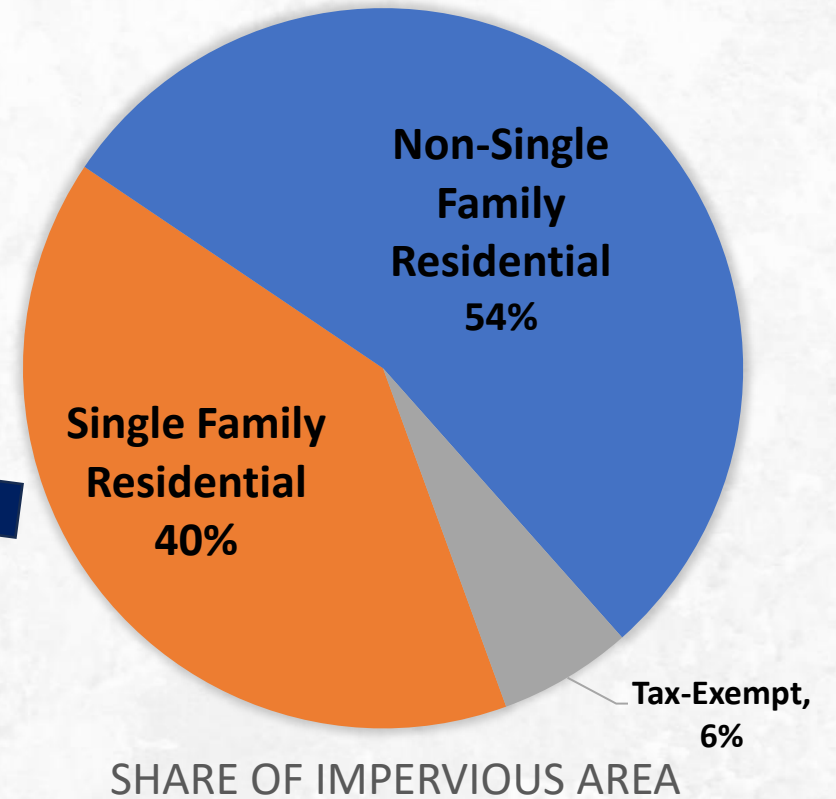
EXAMPLE: Tiered Stepped Fee

Projected Monthly Fee for Average Single-Family Residential Customer



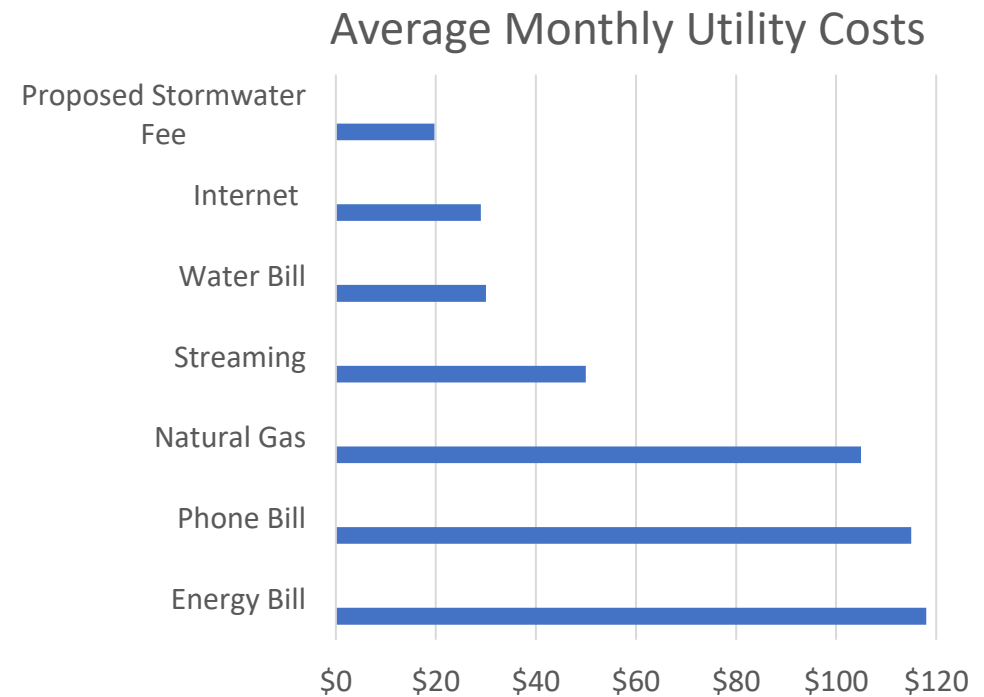


Residential can be 83% higher if by tax



EXAMPLE: Utility Costs

- Covering the stormwater costs from a property tax would cost the average single family residential property owner 83% more than from a stormwater fee that is based on impervious area.
- The amount of a stormwater fee is usually at the lower end of what other utilities charge



Municipalities Charging MS4 Stormwater Fees

Municipality/Entity	Avg SFR Monthly Fee
East Hanover Township	23.90
Borough of West Chester	18.43
Cheltenham Township	18.33
City of Philadelphia	16.86
City of Chester	15.60
Lycoming County Water and Sewer Authority - Duboistown	15.00
Hummelstown Borough	13.00
Fox Chapel Borough	12.50
Borough of Clarion	12.00
Susquehanna Township	11.60
Camp Hill Borough	10.00
Lycoming County Water and Sewer Authority - South Williamsport	10.00
Township of Ferguson	10.00
Borough of Halifax	10.00
Warminster Township	10.00
Monroeville	10.00
City of Allentown	10.00
Norristown	9.90
Hampton Township	9.58
Mechanicsburg Borough	9.33
Silver Spring Township	9.00
Lower Paxton Township	8.67
Bethlehem Township	8.60
Steelton Borough	8.10
Borough of Dormont	8.00

Municipality/Entity	Avg SFR Monthly Fee
Mount Lebanon Township	8.00
O'Hara Township	8.00
North Middleton Township	8.00
Ebensburg Borough	8.00
Baldwin Borough	8.00
Whitehall Borough	8.00
Pittsburgh Water & Sewer Authority	7.95
City of Bradford	7.90
Lemoyne Borough	7.70
Borough of Highspire	7.50
City of Meadville	7.50
Wrightsville Borough	7.50
Lower Swatara Township	7.00
Swatara Township	7.00
Coraopolis Borough	7.00
Carlisle Borough	7.00
Easton City	6.75
Jonestown Borough	6.67
City of Lancaster	6.50
Derry Township Municipal Authority	6.50
Derry Borough	6.50
Lower Allen Township	6.30
Borough of Greenville	6.25
City of Harrisburg	6.15
City of New Castle	6.00
Cranberry Township	6.00

Municipality/Entity	Avg SFR Monthly Fee
New Sewickley Township	6.00
Upper Leacock Township	6.00
West Hanover Township	5.58
Hanover Borough	5.54
Upper Allen Township	5.50
East Pennsboro Township	5.50
Moon Township	5.50
Brighton Township	5.50
East Lampeter Township	5.46
Bethlehem City	5.00
Chambersburg Borough	5.00
City of Lebanon	5.00
Plum Borough	5.00
North Cornwall	5.00
Township of Radnor	4.83
WVSA	4.80
West Hempfield Township	4.50
Hampden Township	4.41
Fountain Hill Borough	4.00
Findlay Township	3.50
North Fayette Township	3.50
North Lebanon Township	3.35
Annaville	2.50
South Lebanon	2.20
City of Erie	2.00
White Township	2.00
Waynesboro Borough	1.67

Range of Monthly Cost to Residents: \$1.67 to \$23.90
 Range of Annual Cost to Residents: \$20 to \$287

City of Allentown – Population 125,100

- Billing Unit = Total Impervious/500 sf
- **Stormwater Utility Fee = \$80.00/year**

City of Bethlehem – Population 77,600

- Billing Unit = Impervious Area / 2,101 sf
- **Stormwater Utility Fee = \$60/year**

City of Easton – Population 30,300

- Billing Unit (1,797 sf) (One ERU)
- **Stormwater Utility Fee - \$81.00/year**

Bethlehem Township – Population 24,000

- Stormwater Fee – Base Unit is 1000 sf IA – 2 Tiers - \$26 to \$103/year

Fountain Hill Borough – Population 4,800

- **Stormwater Fee = \$20/Base Unit/per year**
- Base Unit = 500 S.F. of Impervious Area (IA)

Palmer Township – Population 21,500

- Stormwater Fee – Base Unit is 1,000 sf IA – 3 Tiers - \$16 to \$392/year

Current PA DEP 5-Year MS4 Permit

- Effective Date 1/1/2023
- Expiration Date 12/31/2027
- Annual Maintenance and Reporting
- Complete Pollution Reduction Plan (PRP) Projects by 12/31/2027

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
INDIVIDUAL PERMIT TO DISCHARGE STORMWATER FROM
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)**

NPDES PERMIT NO. PAI132215

In compliance with the provisions of the Clean Water Act, 33 U.S.C. Section 1251 et seq. ("the Act") and Pennsylvania's Clean Streams Law, as amended, 35 P.S. Section 891.1 et seq.,

**Bath Borough
121 S. Walnut Street
Bath, PA 18014**

is authorized to discharge from a regulated small municipal separate storm sewer system (MS4) located in Bath Borough, Northampton County to Monocacy Creek (HQ-CWF, MF), Tributary 3410 to Monocacy Creek (HQ-CWF, MF), and East Branch Monocacy Creek (HQ-CWF, MF) in Watershed(s) 2-C in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.

THIS PERMIT SHALL BECOME EFFECTIVE ON JANUARY 1, 2023

THIS PERMIT SHALL EXPIRE AT MIDNIGHT ON DECEMBER 31, 2027

The authority granted by coverage under this Permit is subject to the following further qualifications:

1. The permittee shall comply with the effluent limitations and reporting requirements contained in this permit.
2. The application and its supporting documents are incorporated into this permit. If there is a conflict between the application, its supporting documents and/or amendments and the terms and conditions of this permit, the terms and conditions shall apply.
3. Failure to comply with the terms, conditions or effluent limitations of this permit is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. (40 CFR 122.41(a))
4. A complete application for renewal of this permit, or notice of intent to cease discharging by the expiration date, must be submitted to DEP at least 180 days prior to the above expiration date (unless permission has been granted by DEP for submission at a later date), using the appropriate NPDES permit application form (40 CFR 122.41(b), 122.21(d)). In the event that a timely and complete application for renewal has been submitted and DEP is unable, through no fault of the permittee, to reissue the permit before the above expiration date, the terms and conditions of this permit, including submission of the Annual MS4 Status Reports, will be automatically continued and will remain fully effective and enforceable against the discharger until DEP takes final action on the pending permit application. (25 Pa. Code §§ 92a.7(b), (c))
5. The permittee shall achieve pollutant loading reductions for sediment as specified in Appendix E by **December 31, 2027**.

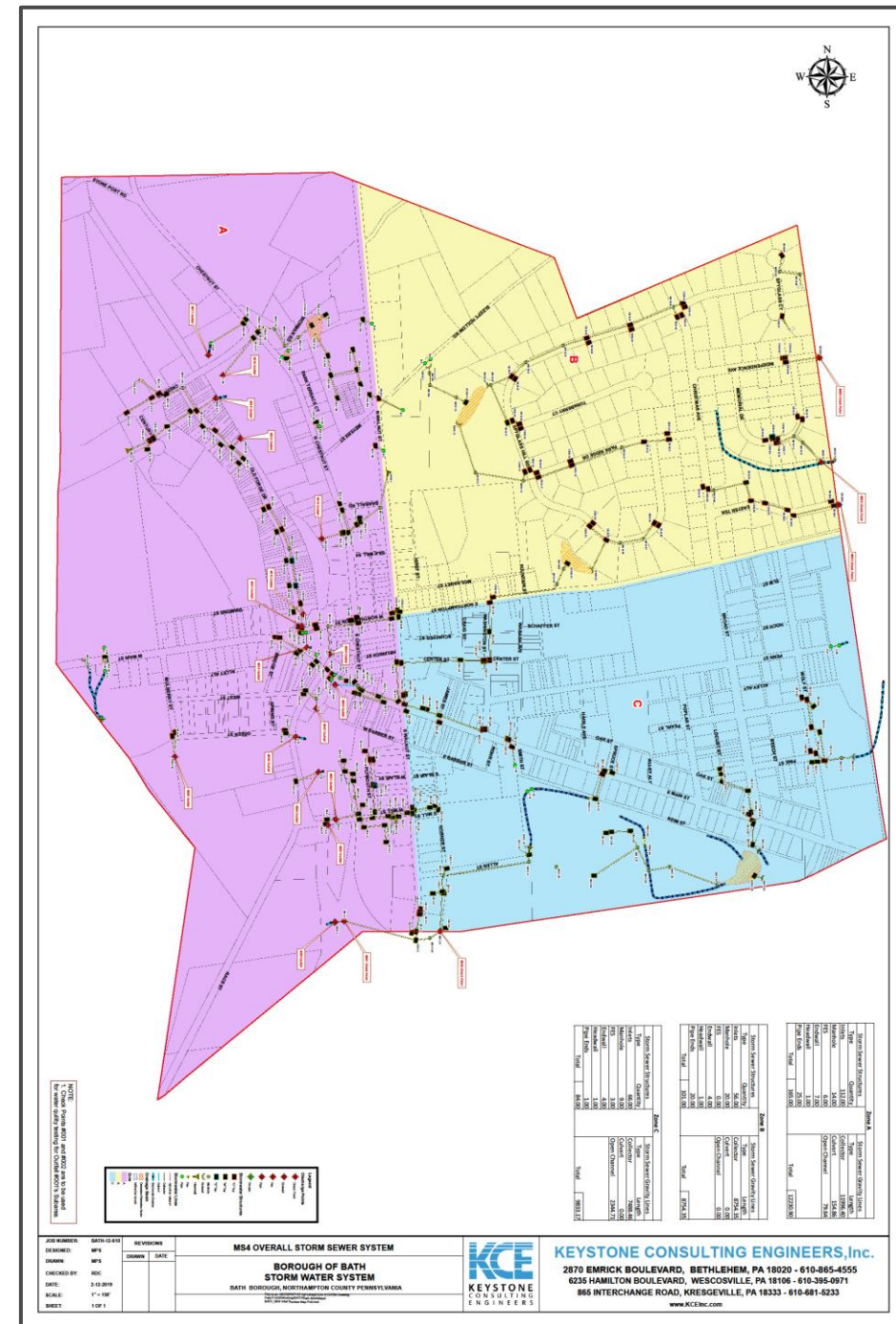
Date Permit Issued: December 7, 2022

Issued By: Amy M. Bellanca (signed)

Amy M. Bellanca, P.E.
Acting Program Manager
Department of Environmental Protection
Northeast Regional Office

Borough of Bath MS4 System Annual Maintenance Requirements

- Street Sweeping
- 234 Storm Inlets
- 43 Storm Manholes
- 17 Monitoring Outfalls
- 23,330 Linear Feet of Stormwater Collection Pipes, Culverts and Channels
- 1.5 Miles of Monacacy Creek High Quality Wild Trout Stream with Stream Bank Erosion



Pollution Reduction Plan Projects

Estimate of Probable: Per KCE PRP last Revised July 2022

- Dry Extended Detention Basin #1: Based on an estimated cost of \$60.00 per Square Yard for construction, design and permitting. The total construction cost for the basin conversion is approximately **\$200,000**.
- Dry Extended Detention Basin #2: Based on an estimated cost of \$60.00 per Square Yard for construction, design and permitting. The total construction cost for the basin conversion is approximately **\$200,000**.
- Street Sweeping: The Borough currently owns a regenerative air sweeper, so no new additional start-up costs are anticipated for this BMP.
- Rain Garden: (School Property) Based on an estimated cost of \$60.00 per Square Yard for construction, design and permitting. The total construction cost for the Construction of the Rain Garden is approximately **\$80,000**.

Borough of Bath MS4 Cost Summary

(Preliminary Estimates)

	2024	2025	2026	2027	2028
DPW Staff Labor and Billing Staff Labor/Software	\$30,000	\$40,000	\$42,000	\$44,000	\$48,000
PADEP Permit Fees	\$1,000	\$1,000	\$1,000	\$10,000	\$1,000
Legal Fees	\$30,000	\$20,000	\$15,000	\$20,000	\$15,000
Engineering Services	\$45,000	\$30,000	\$15,000	\$25,000	\$15,000
MS4 PRP Engineering	\$80,000	\$40,000	\$10,000	-	-
Capital Project/Finance	\$0	\$60,000	\$115,000	\$115,000	\$115,000
TOTAL Estimated Cost	\$186,000	\$191,000	\$198,000	\$214,000	\$194,000

- **PADEP MS4 Pollution Reduction Plan (PRP)** - 3 Projects total \$480,000 in 2022
- 2025 Estimated Cost \$800,000
- 10 year Loan at 7% = \$9,300/mo. = \$111,600 annually
- Goal to have Utility Fee generate approximately \$200,000 annually (initial target)

GIS Database Analysis

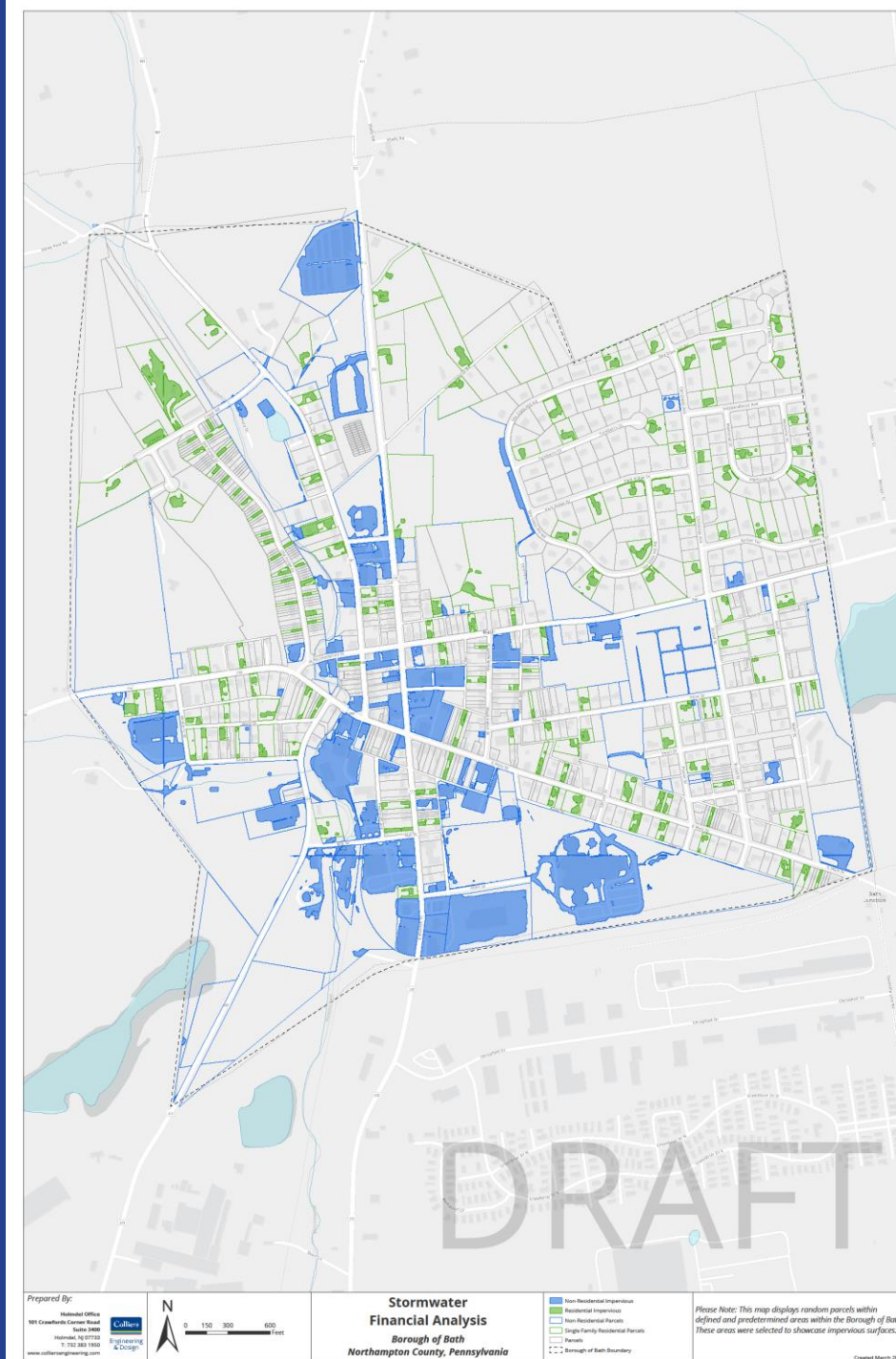
750 Total Single Family Residential Parcels (Approximately)
20% sampling of Single-Family Residential Parcels
150 parcels sampled – Mean = 3,618 sf IA

- Total Estimated Impervious Area = 2,713,000 sf
- 1 of 150 parcels less than 300 SF IA (assumed vacant land)

Non-Single Family and Non- Residential Parcels
109 parcels sampled – Mean = 19,231 sf IA

- Total Estimated Impervious Area = 2,096,000 sf
- 11 parcels less than 300 sf IA (assumed vacant land)

Estimated 4.8 Million Square Feet Imperious Area within Borough of Bath (Approximately).



Potential Bath Borough Authority Fee Schedule

Example 1: Uniform Rate

- Approximately 850 Tax Parcels
- $\$200,000 / 850$ Tax Parcels = \$236 per year per parcel

Example 2: Target \$25/Quarter/Base Unit

- 2,000 sf/parcel as base unit
- $\$100/\text{year} \times 750$ Residential Parcels = \$75,000
- $2.1 \text{ MSF} / 2,000 \text{ sf} = 1048$ Billing Units $\times \$100/\text{year} = \$104,800$ per year
- Total Revenue Amount \$179,000

Potential Bath Borough Authority Fee Schedule

Example 3: Tiered System

- Tier 0 - Parcels with <300 sf Impervious Area \$0.00/yr
- Tier 1 - 300 sf to 2000 sf at \$20/Quarter = \$80.00/yr
- Tier 2 - 2001 sf to 4000 sf at \$25/Quarter = \$100.00/yr
- Tier 3 - 4001+ sf at \$30/2000 sf Base Unit/Quarter = \$120/2000 sf Base Unit/year

- Assume 20 residential parcels Tier 0
- Tier 1- 125 residential parcels at \$20/Quarter = \$ 12,500
- Tier 2 - 500 residential parcels at \$25/Quarter = \$ 50,000
- Tier 3 - 105 residential parcels at \$30/Quarter = \$ 76,380
- Total Revenue Amount \$182,500

Future PA DEP MS4 Requirements

- Further Pollution Reduction and Enforcement
- Additional stormwater basin conversions
- Stream bank restoration
- Stormwater collection system rehabilitation and/or replacement
- Outfall oil/water separators

Questions & Answers

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