



# How to Form a Stormwater Utility to Pay for NPDES Phase II Requirements

## Why Form a Stormwater Utility?

Few would argue that stormwater management is not an essential and necessary activity, but there is considerably less consensus on who pays for it and how. Communities without stormwater utilities often fund stormwater operations, including needed system maintenance on a piecemeal, or crisis response, basis out of the street fund, wastewater fund, and/or general fund. Unfortunately, such an approach does not provide the **dedicated, reliable source** of stormwater program funding needed to sustain a reasonable service level – and meet National Pollutant Discharge Elimination System (NPDES) requirements for Phase II jurisdictions.

In addition, when the general fund is used as the resource to meet stormwater service funding demands, valid questions arise regarding the practicality of re-prioritizing City spending between these and other essential City services every year, and/or regarding the equity of funding stormwater services with property taxes – essentially based on property value.

Creating a stormwater utility and establishing the fees to fund applicable stormwater activities ensures that those who create the demand for service pay for it **proportionate to their use**. From a system health perspective, forming a utility also helps to support the ongoing viability of the program by establishing a source of **reliable, dedicated funding for that specific function, and which meets NPDES rules**.

### Four Reasons to Form a Utility

- Relieve pressure on the general fund and / or other resources
- Recover costs equitably from those who require service
- Meet regulatory requirements and pay for NPDES Phase II program elements
- Establish a reliable, dedicated source of funding for an important function

## What NPDES Program Elements Can Be Funded by a Stormwater Utility?

NPDES rules require that Phase II jurisdictions with stormwater systems develop and implement a stormwater management program that achieves the following:

- Reduces the discharge from pollutants to the “maximum extent practicable.”
- Protects water quality
- Satisfies appropriate requirements of the Clean Water Act

In addressing these requirements, a Phase II stormwater program must provide, and fund, the following water quality-related services:

- Public Education and Outreach
- Public Participation/Involvement
- Illicit Discharge Detection and Elimination
- Construction Site Runoff Control
- Post-Construction Runoff Control
- Pollution Prevention/Good Housekeeping

A stormwater utility can provide jurisdictions with a ready source of (rate) funding for all of the required program elements as well as for ongoing operations and capital construction.

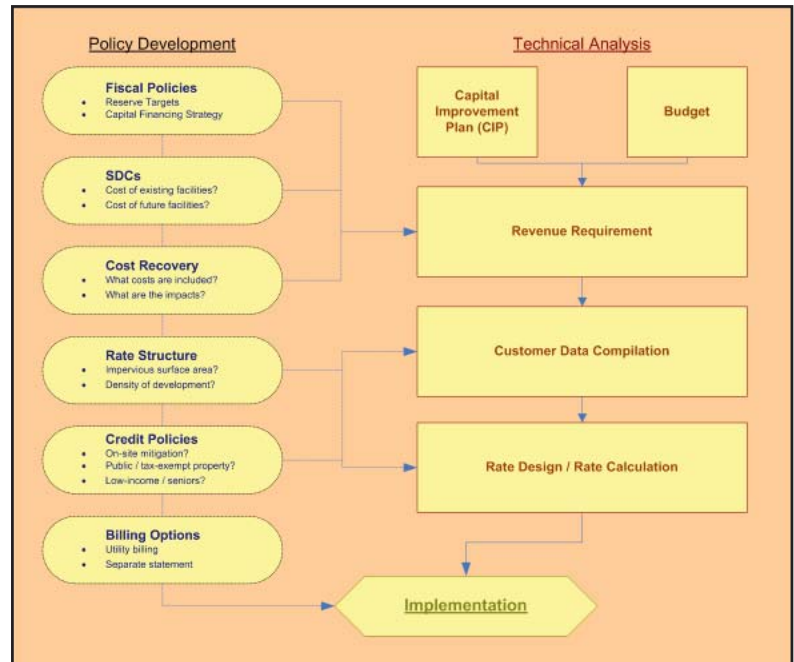
...Our combined experience provides us with a thorough understanding of the policy, legal, technical, and political issues involved in utility formations.

## Simplifying the Formation Process

Forming a utility typically can be accomplished in three steps. First, there are a number of policy questions that must be resolved. Second, there is the technical analysis that results in defensible rates and charges. Finally, there are the implementation tasks – development of a billing database, ordinance drafting, etc.

The following key policy questions are often addressed in the development of the policy framework for a new utility.

- Which costs shall we recover in an ongoing user fee? [e.g., operations, capital, maintenance only?]
- How shall the rate (and the connection charges, if applicable) be structured to equitably recover costs? [e.g., impervious surface area, density of development?]
- Under what circumstances can rate credits be granted? [e.g., senior low-income discounts, on-site mitigation?]
- What fiscal policies will ensure the ongoing health of the utility into the future [e.g., reserve targets, capital funding strategies]
- How do we bill the fee?



The answers to key policy questions, often first addressed with a citizens committee, provide a framework for calculating rates and fees. Policy recommendations also determine the type of customer data to be compiled. For example, measurement of impervious surface area is often required.

Once the policy framework has been established, and the rates and charges have been calculated, an adopting ordinance must be prepared, and the rate is ready for billing. The fee and the information necessary to calculate individual bills must be incorporated into the billing mechanism – usually an existing utility billing system.

A stormwater utility can provide that dedicated, reliable source of program funding. This has been proven. Stormwater rates are set to recover the cost of providing established levels of service – no more, no less. Customers are generally charged based on their runoff contribution, so cost recovery can be accomplished more equitably. And the street, wastewater, and/or general funds can devote their respective resources to meeting local transportation, wastewater, and general service needs.