



## Stormwater Excise Tax Assessment Update

This report provides an update on the expanded requirements in the most recent City of Phoenix Arizona Pollutant Discharge Elimination System (AZPDES) Municipal Separate Storm Sewer System permit from the Arizona Department of Environmental Quality and a proposed increase in Stormwater Excise Tax Assessments to ensure compliance with these legal requirements.

### **THIS ITEM IS FOR INFORMATION AND DISCUSSION.**

#### **Summary**

The City of Phoenix operates a Municipal Separate Storm Sewer System (MS4) via a permit issued under the federal Clean Water Act from the Arizona Department of Environmental Quality (ADEQ). Administration of the Stormwater Management Program (Program) requires a multi-departmental effort to manage citywide stormwater quality to comply with the city's MS4 permit. Generally, the MS4 permit authorizes discharges from the City's stormwater infrastructure into protected surface waters. The City's stormwater infrastructure includes catch basins, storm drains, and outfalls that collect and convey stormwater from streets and other public/private surfaces to retention/detention basins and surface water channels throughout the City. ADEQ issued the City a new MS4 Permit in July of 2021 that requires expansion of existing program elements and implements new requirements that necessitate an increased assessment to ensure compliance with these legal requirements.

New and expanded elements of the Program include: a new stormwater post-construction control program, retrofit feasibility study, expanded public outreach requirements, expanded inspection requirements, and expanded reporting and mapping requirements. Non-compliance by the City with the MS4 permit would result in notices of violation and fines from ADEQ and the Environmental Protection Agency. Other cities across the country who have failed to comply with their stormwater permit are operating under a consent decree, a significantly more stringent and inflexible process.

The Program is funded by a stormwater management program excise tax (Tax) that is assessed on water services bills in accordance with Phoenix City Code section 37-65

(B). The current Tax is not sufficient to cover the costs of the new and expanded permit requirements. An increase in the Tax is needed to fund the new requirements and keep the City in compliance with the MS4 permit. Staff evaluated multiple implementation methods to ensure compliance and ultimately one that adds minimal staff to ensure that private sector compliance requirements are met was chosen and the proposed increase reflects that model.

The Tax was originally approved by City Council during fiscal year 1993-94 to defray costs associated with the City's MS4 permit (then issued by the United States Environmental Protection Agency). Collection of the tax began in October 1993 and was set up as a graduated rate based on the water meter size on the account. Since Tax implementation, there have only been two increases (1997 and 2010) to accommodate expanded requirements of the city's previous MS4 permit. The current Tax is \$0.70/single family residential meter.

City staff are evaluating increasing the single-family residential rate from \$0.70 to \$0.95 per month. In accordance with the Tax structure, the proposed increase is scaled at a graduated rate by meter size using the equivalent dwelling unit methodology. Should the proposed increase become effective Oct. 1, 2023, staff projects that this increase will raise sufficient revenue to cover the costs of complying with the new MS4 permit for at least the next five years to October 2028.

City staff researched stormwater fees from similar cities that operate under a MS4 permit. Similar cities charge residential stormwater fees ranging from \$3.75 to \$18.06/month, except for Tucson, which charges \$0.13/month specifically to fund green stormwater infrastructure projects. Of the cities investigated, the closest equivalents to Phoenix for activities using the fee are San Jose, CA, San Antonio, TX, and Oklahoma City, OK. These cities have monthly residential stormwater fees ranging from \$3.75 to \$14.95/month. Oklahoma City rates increase by meter size and go up to \$658.92/month. City of Scottsdale, AZ has a flat stormwater fee of \$6.10 for all customers.

The City of Phoenix monthly charges currently assessed to water users and the proposed changes are shown below.

A. All single-family residential accounts

Current Monthly Charge: \$0.70

New Monthly Charge: \$0.95

B. All other water accounts based on water meter size as follows:

<b>Meter Size</b>	<b>Current Monthly Charge</b>	<b>New Monthly Charge</b>
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5/8" or 3/4"	\$0.70	\$0.95
1"	\$1.46	\$1.99
1.5"	\$3.50	\$4.77
2"	\$4.85	\$6.61
3"	\$12.80	\$17.44
4"	\$19.75	\$26.91
6" and Larger	\$30.00	\$40.88

The new Tax rate would provide funding for the following new and expanded programs and practices required by the city's MS4 permit, supplying a total of approximately \$2M in additional revenue annually.

### Stormwater Post-Construction Program

Under the new permit, the City is required to develop and implement a post-construction program, applicable for all private and public development and major redevelopment projects 1 acre in size or greater. The post-construction program is required to inventory, track, inspect, and confirm adequate maintenance of post-construction stormwater controls (e.g., retention/detention basins, stormwater pretreatment devices, drywells, etc.). This program is currently in development with public stakeholder meetings ongoing. This program will be managed out of the Planning and Development Department and the Tax will specifically support:

Staff positions (to be added as program needs require over the five-year time frame) to develop and implement the program, including:

- Stormwater Post-construction program manager - to lead development and management of program and supervise staff, complaint, and enforcement response.
- Two Principal Engineering Technicians (anticipated to be hired in the 1st and 3rd years of the program, respectively) - the primary staff evaluating functionality of post-construction controls, field verification as needed, initial complaint and enforcement investigation.
- Administrative Assistant I - to support the post-construction program, update database information, prepare communication and outreach to stakeholders, etc.
- GIS Technician or Engineering Tech - to focus on updating the GIS inventory of stormwater post-construction controls in a timely manner. Options are being evaluated to determine the most effective placement of this position.
- Database development/update, equipment and supplies, training development and educational outreach, and evaluation/outreach for continuous program improvement.

The post-construction program is currently in development with four stakeholder meetings complete and more planned in the future to get public input on the City's approach to the program. City staff have focused on creating a program that avoids unnecessary expense for implementation. A few examples of how staff have designed the post-construction program to avoid higher program costs include:

- Utilizing existing project closeout procedures to gather required inventory details;
- Placing the program in the Planning & Development Department to capitalize on existing expertise and plan review functions;
- Emphasizing property owner (or their designee) inspections of post-construction stormwater controls with a randomized subset selected for City staff inspections, which;
- Minimizes City staff needed for inspections, tracking, and enforcement actions;
- Encourages the property owner to identify post-construction control performance concerns early to reduce the private costs of repair;
- Incorporate the post-construction program database needs into the ongoing ShapePHX development process; and
- Utilize existing processes in the Street Transportation Department GIS and Central Records divisions for spatial data management.

#### Water Services Department

To implement expanded responsibilities under the Water Services Department purview, the Tax will support the following:

- Staff to undertake significantly increased permit requirements including annual public workshop and outreach, reporting, tracking, inspecting and facility requirements.
- Environmental Quality Specialist- to verify and update Industrial and Commercial facility inspection data, complete and submit Discharge Monitoring Reports, annual report generation and documentation for program modification, coordination of training and outreach requirements.
- Water Services Project Coordinator - to lead implementation and management of program and supervise staff, assess rules/regulations for impacts on the Department and City, report preparation, evaluate effectiveness of public outreach and enforcement response, serve as primary contact for stakeholder activities.
- Customization, technical support, integration, and interface with other city systems (such as ESRI GIS, WAM, and LIMS) and annual software license for Compliance Management Database.

#### Street Transportation Department

The Tax would support the following actions by the Street Transportation Department

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to proactively manage and maintain the storm drain system:

- Develop a storm drain asset management program to identify, monitor, and evaluate storm drains in an effort to inform better decision-making related to storm drain capital improvement projects. The increased tax would cover annual technical support and software license for a cloud-based asset management program and interface with other city systems (such as ESRI, GIS, SAP, etc.);
- Over time, perform a systematic citywide storm system assessment to proactively identify concerns; and
- Perform up to ten (10) site specific evaluations of the approximately 800 known local drainage problems. The evaluations would identify potential solutions to those problem areas which could include the addition and/or extension of storm drain lines, the addition of catch basins, and other flood mitigation efforts. As appropriate, funds may be used to construct small scale physical improvements identified during the site-specific evaluations to rectify drainage concerns.

These additions to the Program will keep the City in compliance with the new MS4 permit and will inform staff on the status of the storm drains to proactively, rather than reactively, identify and address concerns.

#### **Concurrence/Previous Council Action**

The City Council last approved an increase to the stormwater excise tax on April 6, 2010, in connection with the prior ADEQ stormwater permit requirements.

#### **Responsible Department**

This item is submitted by Deputy City Managers Karen Peters, Mario Paniagua and Alan Stephenson and the Water Services, Planning and Development and Street Transportation departments, and the Office of Environmental Programs and the City Engineer.