

March 28, 2011

City of South Jordan

Storm Drain Utility Customer

RE: STORM DRAIN RATE INCREASE

Dear Storm Drain Utility Customer:

The City of South Jordan has recently adopted a new Storm Drain User Rate Fee. Mandates from the State Division of Water Quality and Environmental Protection Agency (EPA) have required implementation of new programs and projects. Effective July 1, 2011, an increase will be assessed to your utility bill as the City continues to establish a self-sustainable public utility Storm Water system. This utility can no longer depend on funds from the City's already strained municipal budget. The Storm Drain Utility must sustain itself; this increase will begin to take us in that direction.

This new Storm Drain rate will be effective July 1, 2011 and will appear on your August 2011 utility bill(s). The new rate structure is as follows:

The rates are as follows for the first year with an increase of two percent annually beginning year two, 2011-2012.

Residential Rates (monthly)	All residential properties excepting those in Kennecott Master Subdivision ("KMS") development	All residential properties in KMS development
Operation & Maintenance	\$6.50	\$6.50
Capital Improvement	\$2.00	\$0.00
Total residential storm drain fee = 1 ERU*	\$8.50	\$6.50

*ERU is equivalent residential unit equal 4,752 square feet of impervious surface

Non-Residential Rates (Monthly)	All non-residential properties excepting those in Kennecott Master Subdivision ("KMS") development	All non-residential properties in KMS development
Operation & Maintenance	\$6.50	\$6.50
Capital Improvement	\$2.00	\$0.00
Total monthly non-residential rate storm drain fee per ERU*	\$8.50	\$6.50

Non-residential fees will be calculated based on the following formula:

square feet of impervious surface/1 ERU= monthly fee

(example: a non-residential property within the City proper with 26,136 square feet of impervious surface
26,136 sq. ft. /4,752 sq. ft. = 5.5 ERU's = 5.5 x \$8.50= 46.75)

If you have any questions please contact Public Works, Storm Drain Manager Glen Kennedy at (801)253-5230 ext. #1722.

Sincerely,

Aaron Sainsbury

Associate Director of Public Works

FAQ

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- 17. None of my water goes into the City stormdrain system. Why do I have to pay a Stormwater Utility Fee?**
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1. What is stormwater?

Stormwater is the runoff that results from precipitation (rain, snow, etc.). Sediment, nutrients, bacteria, metals, pesticides, and other pollutants are picked up as water flows over construction sites, farm fields, lawns, driveways, parking lots, and streets. Unlike sanitary sewers that go to a treatment plant, most stormwater is discharged directly into local creeks, rivers, and streams. Increasing amounts of impervious surfaces in urban areas, such as roof tops, driveways, sidewalks, patios, parking lots, and streets decrease the ability of the water to soak into the ground. Flooding risk is increased from greater volumes of stormwater entering the City's storm drainage system at a faster rate.

2. Why does stormwater have to be managed?

Stormwater is managed to protect homes, properties, streams, rivers, and the environment from damage due to flooding, pooling, erosion, and harmful pollutants. Stormwater runoff must be channeled through a system of pipes, culverts, ditches, swales, catch basins, and storm drains before being safely discharged into local streams and rivers. Even if your property has never flooded, the stormwater that flows off your property must be managed so that it does not contribute to flooding in areas downstream. The more asphalt, rooftops, and other hard surfaces that stormwater falls upon, the more runoff the City must manage.

3. What is the Stormwater Utility?

South Jordan City created its Stormwater Utility in 2005. This utility functions on its own and is self-sustaining solely on fees generated for the utility. No other funding is available to the utility for its operations, capital improvement projects, or for its adherence to environmental mandates.

There are two major focus points concerning South Jordan City's Stormwater Utility. First, flood mitigation. The Stormwater division is responsible for the maintenance, cleaning, and inspection of the stormwater infrastructure within the City. This ensures that the system is working properly and is ready for storm events to prevent flooding and any subsequent damage. Street sweeping is included in the maintenance tasks to prevent debris and sediments from entering and obstructing the stormdrain system from functioning properly.

The second major focus is pollution control and prevention of our community's water bodies from pollutants that are picked up and carried with stormwater. The Stormwater Utility has an obligation to the residents of South Jordan in protecting the waterways of the State, and must also follow unfunded requirements and mandates set forth by the State and the EPA in mitigating pollution from stormwater runoff.

4. Why is the Stormwater Utility fee needed?

The stormwater that leaves a private property as runoff ultimately drains into a City maintained drainage facility. A fee is assessed to pay for the operation and maintenance costs associated with the stormwater management system. Some of the services tied to the stormwater program include:

- State and Federal regulatory compliance
- Flood protection through capital improvement projects
- Improved water quality by reducing pollutants
- Stormdrain cleaning and repair
- Street sweeping
- Shoulder and ditch maintenance within the publicly owned right-of-way
- Public education and outreach
- Construction inspection
- Project design and management
- Post construction management

The City of South Jordan has implemented a stormwater fee rather than increasing property taxes or cutting services in order to meet new federally mandated regulations for discharging stormwater, and to pay for the associated stormwater infrastructure needs.

5. Who pays the Stormwater Utility fee? Why should churches and other non-profit organizations be charged a stormwater fee?

The Stormwater Utility fee is a user-fee much like the fee that one pays for water, gas, electricity, and sewer service. All property owners that receive drainage services, and are within the drainage service area, must share in the cost of the stormwater program. This includes residential homeowners, non-profit entities such as churches, and commercial and industrial properties. The charge is not imposed on undeveloped property because the property does not contain impervious surfaces that have replaced natural ground cover causing or increasing excessive runoff into the City's stormwater facilities. Even if a property does not drain into the public drainage system, runoff from a property contributes to the level of pollutants in stormwater runoff and thus affects State water bodies.

6. How is the current Stormwater Utility charge calculated?

Current Rate Structure

The existing rate structure for stormdrain services is based on a monthly fixed fee of \$5.00 per residential unit and a variable rate for commercial property based on the number of employees as shown below.

Storm Drain Fee	Subcategory	Rate	Description
Residential		\$5.00	per month per household
Commercial	0-20 Employees	\$17.15	per month

	20-40		
	Employees	\$19.15	per month
	40 +		
	Employees	\$22.15	per month
TV Video Inspection		\$110	plus \$1.75 per linear foot
Fee		base	of pipe
Storm Drain Cleaning		\$200	
Fee		base	plus \$200 per hour

7. How do the proposed Stormwater Utility rates differ from the current?

Currently, the apportionment of stormdrain revenues between residential and non-residential properties is approximately 90% residential to 10% commercial. The actual apportionment of impervious area in the City is estimated at 70% residential to 30% non-residential. The proposed fee structure allocates the revenues proportionately between residential and non-residential based on impervious area. A property's impervious area is the most significant factor affecting both stormwater quality and quantity because stormwater cannot be absorbed by these surfaces, and must be managed through some sort of stormwater system.

A unit of impervious surface area on an average single family, residential property, or "equivalent residential unit" (ERU), is the base unit for assessing the new stormwater charges. The size of one ERU was determined by averaging the impervious surface areas existing on a representative sample of single-family properties within the City. One ERU in the City of South Jordan is 4,752 square feet.

Stormwater charges for all commercial, high-density, industrial and multi-family properties are based on the measured amount of impervious area on the property. The total impervious area within the property is measured in square feet and divided by one ERU (4,752). The resulting number is then multiplied by the fees associated with one ERU to provide the fee amount for the non-residential property. Public roadways and highways are considered part of the stormwater conveyance system and do not pay stormwater fees.

Example of the fee formula for a non-residential property having 15,000 square feet of impervious surface:

$$15,000 / 4,752 = 3.16 * \$8.50 = \mathbf{\$26.86}$$

8. Under the new stormwater rate structure, how are properties with multiple renters handled?

For properties with multiple renters or businesses, the property owner will be charged a stormwater fee based on the measured amount of impervious area. The property owner may pass the fee onto renters in a manner of their choosing.

9. How much will my rates increase?

The resulting stormwater rate impact for a residential customer will increase by \$3.50 per month, which will result in a total of \$8.50 per month. This increase is separated into two portions; \$1.50 of the increase is a user fee and the additional \$2.00 is a capital improvement rate fee. Based on agreements between the Kennecott Master Subdivision (KMS) development and the City, which stipulate that KMS will provide and construct all necessary capital improvements related to storm drain facilities; residents living within the KMS development will not be assessed the \$2.00 capital rate fee but will be assessed the \$1.50 user fee increase.

10. Why is a rate increase required?

The current fees are insufficient to meet the demands of the Stormwater Utility. The City's Capital Facilities Plan has identified several necessary projects that cannot be funded under the current rate structure, nor does it capture necessary treatment costs or UPDES program costs mandated by State discharge permits. Additionally, operation and maintenance costs will continue to increase, further exceeding the current rate structures income.

In addition, the greater increase to non-residential properties is to make the apportionment of fees equitable among users. Currently, the apportionment of storm drain revenues between residential and non-residential properties is approximately 90% residential to 10% commercial. The actual apportionment of impervious area in the City is estimated at 70% residential to 30% non-residential

11. Can we delay the rate increase?

The City has performed numerous studies on its current rate structure and has needed to implement an increase for several years. The City has postponed the rate increase as long as possible. Many of the capital improvements are required to replace infrastructure that has reached the end of its useful life. Mandates from the State and EPA have required a major portion of the current Stormwater Utility budget.

12. Can we implement a smaller rate increase or phase in the proposed rate increase?

If the City adopts a rate below the \$8.50 per ERU or phases the rate increase over the five-year planning horizon, the remaining fund balance available for capital improvements will be further reduced, exacerbating the fund deficiency.

13. Why are the new capital improvements required? What are the State and EPA mandates?

The Stormwater Utility improvements are required for many reasons, including:

- Improvements due to deterioration of ravine structures caused by erosion.
- Dredging is required to improve flow paths in ditches and ponding areas.
- Repair or replacement of collapsing and/or aging culverts, piping, inlets, detention / retention facilities, and control structures.

In addition to capital improvement impacts, the City also needs to be compliant with newly mandated and unfunded Federal and State regulations regarding the amount and quality of stormwater allowed to discharge to waters of the State. The States Environmental Protection Agency's (USEPA) Phase II program of the National Pollutant Discharge Elimination System (NPDES), requires cities to develop, implement, and enforce a stormwater program. The intent of the program is to reduce the discharge of pollutants from the storm system, protect all tributaries, and improve water quality. Under this program the City must be permitted by the State to discharge stormwater from its system. This permit is known as a UPDES permit.

Utah Pollutant Discharge Elimination System (UPDES) Permit

South Jordan City's stormdrain system, as defined by the State of Utah and the EPA is classified as a "Small Municipal Separate Storm Sewer System" (MS4) and must be permitted by the State to discharge from this stormdrain system into waters of the State. Currently the City is covered under UPDES Permit No. UTS000001 which is set to expire May 31, 2011. Beginning June 1, 2011, the City will have 90 days to be compliant with the requirements of UPDES Permit No. UTR090000.

Stormwater Management Plan (SWMP)

Under section 4.0 in UPDES Permit No. UTR090000 it states "All Permittees must develop, implement, and enforce a SWMP designed to reduce the discharge of pollutants from the MS4, protect water quality, and satisfy the appropriate water quality requirements of the *Utah Water Quality Act*. The SWMP must include the six minimum control measures described in Part 4.2 of this Permit"

The City will need to have this SWMP compiled with all of the necessary components to comply with the permit and the State

Six Minimum Control Measures

1. Public Education and Outreach
2. Public Involvement/Participation
3. Illicit Discharge Detection and Elimination
4. Construction Site Storm Water Runoff Control
5. Long-Term Storm Water Management in New Development and Redevelopment (Post-Construction Storm Water Management)
6. Pollution Prevention and Good Housekeeping for City Operations

Please refer to Section 4.2 in the permit which can be found at this link for a detailed description of the requirements set forth in the minimum control measures.

<http://www.waterquality.utah.gov/permits/2010SmallMS4GPfinal7-26-2010.pdf>

Whereas the City currently has been implementing programs and carrying out activities that are included in the minimum control measures, it currently does not meet the requirements that will be mandated in the new permit. City staff estimated that in 2009, 40% of the Stormwater Utility's budget was used towards complying with current UPDES mandates. These costs will only increase with the new permit, and to the ever-changing and newly created and unfunded mandates by the EPA.

Potential Enforcement Consequences

The EPA has three types of enforcement: administrative orders, civil actions and criminal prosecutions.

With the administrative orders, the EPA can impose fines and penalties without court action. Maximum fines of \$11,000 per day up to \$27,500 can be inflicted based on nature of violation, circumstances and prior history.

Under the civil penalties, the EPA may bring a civil suit without an administrative order and can impose a maximum penalty of \$27,500 per violation per day. The court must consider numerous components including the seriousness and history of the violations.

The criminal penalties necessitate that the EPA may refer any cases to the Department of Justice for criminal prosecution. With violations including failure to maintain proper records, best management practices, etc., penalties from \$27,500 per day to \$1 million can be imposed, along with imprisonment.

In addition, lawsuit threats exist concerning citizens and environmental groups and the State may also impose fines and enforcement for violations.

14. How do nearby municipalities handle stormwater charges?

The City of Draper calculates rates for residential based on one (1) ERU= 3,000 sq ft of impervious surface. All commercial properties are based on impervious area.

Riverton and Sandy also use an "ERU" system. In Riverton one (1) ERU= 2,744 and Sandy one (1) ERU= 2,816 sq ft of impervious surface.

15. How do South Jordan's proposed rates compare to other local municipalities?

The City compared rates to three of its neighboring cities being Sandy, Draper, and Riverton.

South Jordan's proposed rate is 30% less than the rates of Riverton City, 34% higher than rates in Draper, and 6% less than rates in Sandy.

The comparison of rates were based on the same parcel size and equal amount of impervious surface. South Jordan falls in the middle of the comparison. The proposed rate structure is industry standard.

16. Who is exempt from the stormdrain fee?

South Jordan City Municipal Code 9.10.070 states, “...*the city will impose storm sewer drainage fee rates and charges on each parcel of real property within the city, except governmentally owned properties and facilities operated and maintained by, or for the city, the county or the state.....*” . The reason for this exemption is that taxes would be used to fund the fees imposed on those entities.

17. None of my water goes into the City stormdrain system. Why do I have to pay a Stormwater Utility Fee?

Everyone in the city benefits from the stormwater management program. Although your property does not drain to the City drainage system, your property does receive direct benefits including the protection of your property from upstream runoff.

Beneficial stormwater management activities include keeping the public streets drained and cleared so random flooding does not occur and travel is safe, making necessary stormwater infrastructure upgrades, reducing erosion and other pollutants that enter streams and rivers, and collecting and conveying stormwater safely through all parts of the city.

A portion of the revenue also assists in compliance with federal, state, and local regulations for water quality improvements.

18. What can non-residential customers do if they think their bill may be calculated incorrectly?

If a property owner believes that the area of impervious surface has been calculated incorrectly or has changed since the aerial photography was produced, the owner can arrange for a survey company to measure the impervious surfaces at the expense of the property owner. The survey information should be given to the City to review and determine if an inaccuracy in the billing has occurred and if so, to adjust the bill accordingly.