

STORMWATER UTILITY CREDITS AND INCENTIVES



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I. INTRODUCTION

Thanks to New Jersey's 2019 state enabling legislation, the Clean Stormwater and Flood Reduction Act (Act)¹, communities may count implementation of stormwater utilities as the most effective tool in their continued struggle with stormwater. Throughout the United States, stormwater utilities are considered to be the most equitable, stable, and dedicated funding mechanisms employed to help communities address their flooding and water quality issues. For communities that decide to implement a stormwater utility, the Act requires localities to issue credits to property owners that reduce their contribution of stormwater to the overall system. Understanding the issues, opportunities, and challenges in developing a credit program is extremely important, and this paper will assist officials in learning more about how to implement a stormwater utility in their community.

In this paper, we will discuss:

- Background on the Act's legal requirement for credits
- Definition of terms
- Goals for a credit policy
- Key factors for development of a credit policy
- Required documentation for award of credits by the utility
- Incentives and the attributes of an incentive program
- Structure of a credit policy document & sample calculation
- Example of adopted credit policies
 - Small communities
 - Large communities

II. BACKGROUND

A stormwater utility is a dedicated funding mechanism to pay for a community's stormwater management program. Much like an electric, gas, drinking water, or sewer utility, the stormwater utility assesses a user fee based upon the property owner's usage of the system (i.e. how much stormwater a property generates). This fee is typically based on how much hard surface, such as rooftops or pavement, is on a property. The revenue generated from the fee supports stormwater-related services and improvements. The ultimate goal of the stormwater utility is not simply to raise revenue but to properly manage stormwater.

Statutorily-mandated, **partial fee credits** may incentivize property owners to take action, particularly through the implementation of stormwater best management practices (BMPs) such as green infrastructure, which reduce the quantity of stormwater discharged from the site and thus protect water quality and reduce flooding. The Act does not set a value for credits, but leaves that to the local utility agency. The credit program, including incentives for managing the quantity and/or quality of stormwater, should

¹ NJ Statutes 40A:26B-8c

reflect community goals and also a rational relationship or “nexus” to the stormwater management services provided by the property owner. Specifically, the Act states:

“c. In establishing fees and other charges pursuant to this section, a county, municipality, or authority shall provide for:

(1) a partial fee reduction in the form of a credit for any property that maintains and operates a stormwater management system that complies with the State and local stormwater management standards that were in place at the time the system was approved and that effectively reduces, retains, or treats stormwater onsite;

(2) an additional partial fee reduction in the form of a credit for any property which has installed and is operating and maintaining current stormwater best management practices that reduce, retain, or treat stormwater onsite and which are approved by the county, municipality, or authority;

(3) an additional partial fee reduction in the form of a credit for any property which has installed and is operating and maintaining green infrastructure that reduces, retains, or treats stormwater onsite and which exceeds any requirements for green infrastructure that may be applicable to that property under any rule or regulation adopted by the Department of Environmental Protection or the local stormwater control ordinance; and

The Act establishes three levels of credit that may be earned by a property owner, which are **additive**:

1. There is a baseline credit for a previously-approved **stormwater management system that reduces, retains, or treats stormwater onsite**.
2. In addition, the same site could increase the credit award by meeting the current **BMP standards**, which are approved by the county, municipality, or authority **for reduction, retainage, or treatment of stormwater onsite**.
3. Further, a third level of award is granted if the site is using green infrastructure that **exceeds** any requirement for green infrastructure established by the New Jersey Department of Environmental Protection (NJDEP) or a local stormwater ordinance.

That said, the local stormwater utility will be governed by the following factors:

- the value of each level of the credit
- the methodology used for demonstrating compliance.

It is important to note that the Act refers to a “partial” reduction of the charges—not a total reduction—which recognizes that there are costs to manage the public infrastructure that cannot be avoided or reduced to zero.

III. DEFINITIONS

In general, a **credit** is a reduction in the stormwater utility fee to a specific property owner that implements stormwater stewardship practices such as Green Stormwater Infrastructure (GSI). It is a way to recognize that the ongoing private operation and maintenance of stormwater management systems and best practices can ultimately reduce the cost of publicly-delivered stormwater services.

An ***incentive***, by contrast, is typically a one-time payment or fee reduction for a private property owner to invest in a stormwater management practice that improves water quality and local aquatic habitats and/or reduces flooding. The Act does not mandate an incentive program, but some stormwater utilities offer them. An incentive program may include a partnership between the stormwater utility and the property owner to achieve a positive benefit to each party. For example, a property owner may offer a perpetual easement on a portion of their property for placement of a public stormwater treatment facility, allowing for access and ongoing maintenance. This incentive is a one-time payment to the property owner for the easement. *Incentive programs are described in greater detail in section VIII below.*

Rational nexus is a critical concept in the credit policy. Because the stormwater utility fee is a charge for service, a rational nexus or “relationship” must exist between the credit or incentive and the benefit to the local government’s stormwater management program. Evaluation of the cost of services provides a foundation for determining the fiscal connection between a credit or incentive value and the local stormwater program investments.

IV. GOALS OF CREDIT POLICY

The following goals are often identified in the development of a credit policy. Each stormwater utility will tailor these for their program based on community priorities. What may be important in one community could be totally different or inappropriate in another. This is not a matter of adopting generic concepts but creating a clear linkage and understanding of the purpose for granting credits.

- Encourage residents, businesses, and institutions to voluntarily manage the quality and quantity of stormwater runoff from their properties, particularly through the use of green infrastructure, which has a multitude of additional benefits including reducing heat island effect.
- Encourage property owners to redevelop existing uncontrolled impervious areas to reduce flooding and improve the overall health of the natural systems such as streams, bays, ocean, lakes and ponds.
- Address the most pressing needs first.
- Ensure that the utility stormwater program meets the community’s core regulatory obligations, such as municipal separate storm sewer (MS4) requirements, in a cost-effective and efficient manner.
- Target stormwater management efforts where short-term investments will achieve long-term cost savings for the stormwater management program.
- Ensure that credits and incentives do not place an unreasonable administrative burden on the utility and that practices can be easily verified and enforced.
- Keep the program simple and easy to understand for the public.
- Make GSI part of the program’s brand. Link the investment in GSI to enhanced quality of life and use it to promote the community to future residents and investors.

V. KEY FACTORS FOR CREDIT POLICY DEVELOPMENT

Credit programs are developed as a key part of the stormwater utility in its entirety, with input from local property owners who can provide broad representation of the community (e.g., homeowners, developers, engineers, employers, commercial owners). Public input starts by educating the representatives on what a credit program's purpose is, and receiving input on their collective insight into community goals and priorities. Credits are earned, not "gifts," so education is a critical component of developing the credit policy.

As a community works through the development of the program to be funded, identification of attributes for the credit policy can be initiated simultaneously. It could take multiple iterations before the final credit policy is ready for adoption. Consideration of the following factors will ensure that the policy is adequately structured to meet expectations:

- Clarification of goals for the policy
- Eligibility criteria
- Voluntary versus mandatory private onsite investments
- Degree of differentiation by the measurable impacts of best practices
- Options to combine incentives and credits, including fee reductions and financial assistance with GI installations
- Limits in credit awarded (in total for the annual program budget or on one parcel)
- Eligibility components (technical, long-term maintenance, verification of functionality)
- Permitted site eligibility (discharge, industrial National Pollutant Discharge Elimination System (NPDES), MS4)
- Process for administration and award
- Period of the Award (e.g., renewal requirements, time limits of eligibility)

VII. REQUIRED DOCUMENTATION TO RECEIVE AN AWARD (CREDIT)

The documentation routinely required by utilities across the US for a property owner to qualify for a stormwater utility credit includes application forms, reference data on the practices to be utilized, and commitments to continuing operation and maintenance of the qualifying practice. This documentation may include:

- Form submitted by property owner providing key details to meet eligibility requirements
- Drainage area map for the parcels and immediate surrounding area as appropriate
- Qualifying BMP description
- As-built drawing and specs
- History of maintenance and repairs

- Photos
- Maintenance agreement
- Inspection form (existing and new facility)

To receive a continuing credit, the property owner would likely be required to demonstrate that the practice is functioning through a photo or other documentation, such as an inspection report. This could be done online, prompted through an annual email. Failure to maintain the practice would result in the property owner having to pay back a prorated amount of the cost-share or reimbursement.

VIII. INCENTIVE PROGRAMS

Incentive programs are typically one-time payments or fee reductions used to encourage voluntary actions by property owners to make changes on their parcel to improve the management of stormwater. Not every community adopts an incentive program. Incentives are often established within the stormwater utility to achieve a public objective in managing runoff that would otherwise not occur. For example, if a community is facing acute water quality issues and does not have sufficient public land to place appropriate runoff controls, an incentive program may be effective. In another case, the private landowner comes forward and offers to “size up” a proposed stormwater facility that they must build to expand impervious area for an addition to development on their land. The public agency could partner to purchase the increased capacity by paying the private landowner or could allow for increased development density while expanding treatment for offsite flows.

Historically, incentive programs have included two parts, a Strategic Opportunities Fund and a Community Engagement Fund.

Strategic Opportunities Fund: The primary focus of this incentive program is often on larger, strategic projects designed to meet the local government’s permit-driven pollutant reduction requirements or flood mitigation planning goals. The “best bang for the buck” approach is the underlying concept, while potentially giving added weight to projects with demonstrated community support. Local government staff would be responsible for identifying and managing these projects. Eligible projects would be those with accepted design standards and flow reduction/control or pollutant reduction efficiencies. These programs may be referred to as “partnership” programs, in which the utility and the private landowner agree to make an investment on private property that may not occur otherwise.

Community Engagement Fund: The concept of reserving at least some funding to encourage smaller, less technically complex projects is a way of fostering community engagement and focusing on smaller sites such as residential parcels. Small site improvements such as a rain garden on a residential lot may not bring significant runoff control to the public system but could encourage more personal ownership in mitigating a single lot impact. The administration of such programs could be a burden to the local government, but a third-party non-governmental organization (e.g., a watershed-based non-profit) could be tasked with working one-on-one with a homeowner, while the stormwater utility provides the seed money.

Community engagement activities include specific projects eligible for cost-share or reimbursement. The specific dollar amounts would be developed depending on who will implement the program and the level of funding available. Typically, these best practices include the following types of activities:

- Rain barrels
- Rain gardens
- Tree planting
- Conservation landscaping
- Pavement removal
- Permeable pavers
- Flow through planters
- Pet waste Stations

While voluntary, best practices implemented using public funds must still be verifiable and enforceable. Design specifications are typically approved by the utility to ensure that the awarded practice is constructed properly and will function as needed.

For larger projects that are designed to meet permit requirements or specific flood-mitigation strategies, the policy should address an enforceable period for a maintenance agreement, which is typically the life expectancy of a stormwater management facility. These would be subject to the same maintenance and inspection requirements as regulated facilities. For smaller projects, a simplified maintenance agreement, depending on the practice, may be appropriate and linked to the reimbursement of the investment, which occurs through a reduction or suspension of utility charges for a specific period. Refinement of the incentive policy will address various administrative practices for program oversight, to ensure equity in the incentive award as well as set forth the processes necessary to document and track the financial management of the program. These program oversight refinements include topics such as:

- Property eligibility for both a credit and an incentive award for costshare.
- Limits on cost share (either by percentage or dollar value).
- Process for incentive program management and documentation.
- Transfer of rights if property is sold for continued utility charge suspension or reduction.

It is very important that the incentive policy complements the overall credits program. One locality that has done this particularly well is the City of Philadelphia. You can learn more about Philadelphia's credit program [here](#).

IX. STRUCTURE OF A CREDIT POLICY DOCUMENT

A credit policy document should outline the three additive levels of credit required by the Clean Stormwater and Flood Reduction Act, and should provide all the details necessary for a property owner to successfully apply to the program. A complete application does not guarantee an award, but it will make the process go more smoothly and provide solid

documentation for the files for review and determination. It is important to keep records on each application and the process of review and decision-making.

Outline of Credit Policy Documentation:

1. Define the purpose of the credit policy and goals.
2. Provide a clear definition of terms used in the policy.
3. Describe criteria for eligibility.
4. Identify the credit application process.
5. Provide the process for renewals, expiration, and/or termination of a credit.
6. Identify procedures—including forms needed—for application, review, and renewal, including inspection requirements.
7. Identify the credits that are available, how they are calculated, the documentation needed for each type, and the policy limits on the amount of credit available.

Example calculations can assist in helping a property owner understand the methods used in evaluating the complexity of the credit award, demonstrating limits, drainage area calculations, and final credit award values. The figure below demonstrates how a credit calculation example informs the process. In this example, the property is treating runoff from an adjacent parcel and is capped at 60% of the fee as a credit maximum. Using examples in the policy document can clarify the steps of the evaluation.

Credit Parameters		Credit Calculation	
<ul style="list-style-type: none"> • 20,000 SF total IA. • 15,000 SF on-site IA treated. • 10,000 off-site IA treated. • No public incentive or cost-share funding. 	<p>(A) Total Impervious Area on the Property (SF)</p> <p>(B) Impervious Area Treated by the Structure (SF)</p> <p>(C) Proportion of Impervious Area Eligible for Credit Reduction = (B)/(A) <i>If Proportion is >100% Due to Offsite Treatment, (C) Reduces to 100%</i></p> <p>(D) Percent Credit for Structure =</p> <p>(E) Percent Reduction on Total Fee = (C)*(D)</p> <p>(F) Original Fee</p> <p>(G) New Reduced Fee = (F)*(1-E)</p> <p>(H) Percent Funding Provided by the City for Facility Installation (Cost-Share)</p> <p>(I) Adjusted New Reduced Fee = F-((F-G)*(1-H))</p>	<p>20,000</p> <p>25,000</p> <p>100%</p> <p>60%</p> <p>60%</p> <p>\$ 600.00</p> <p>\$ 240.00</p> <p>0%</p> <p>\$ 240.00</p>	

X. EXAMPLES OF CREDIT POLICIES—SMALL TO MEDIUM POPULATION COMMUNITIES

The following two examples (Meadville and Derry Township, Pennsylvania) represent strategies for small to medium population communities (population of 12,900 and 25,200, respectively), and illustrate approaches to credit policies, while not specifically addressing all of the requirements of New Jersey law. The drivers for the stormwater programs are unique, with one focused heavily on flood mitigation and the other focused on water quality improvements. In addition, Meadville funds credits based on an annual municipal budget limit for awards while Derry places a limit on the amount that can be reduced for individual parcel fees. This speaks to the flexibility that localities have in designing their credit program to match their stormwater program goals.

Meadville, PA

This example demonstrates the cumulative effect for a property that may address multiple goals. It includes a maximum value of the award, as well as specific performance criteria for peak flow control. The community goals were focused on flood reduction as well as water quality protection. In addition, the policy established a total dollar amount of the stormwater utility budget that would be granted in any fiscal year for credits, as well as a limit for each parcel credit. The credit policy refers to the agency's local ordinance that sets forth performance standards for stormwater management in the community. An online link to the credit policy is: <https://www.cityofmeadville.org/stormwater>

1. The maximum amount of the fee on any parcel that will be eligible for credit will be 40%. Credits may be applied cumulatively based upon credit type and will only be applied to the impervious area on-site which drains to an eligible BMP facility.
2. For Stormwater BMPs which manage water quality in accordance with the City's Stormwater Management Ordinance, the maximum credit will be 10%.
3. For Stormwater BMPs which manage the volume of runoff in accordance with the City's Stormwater Management Ordinance, the maximum credit will be 15%.
4. For Stormwater BMPs which manage peak flow in accordance with the City's Stormwater Management Ordinance, the maximum credit will be 40%. Credit will be granted in relation to the design storm managed by the BMP on the following basis:
 - Up to 10% for management of the 10-year event
 - Up to 20% for management of the 25-year event
 - Up to 30% for management of the 50-year event
 - Up to 40% for management of the 100-year event

Derry, PA

In Derry, PA, the credit program provides significant details on the best practices that are eligible for credit award as well as computational information with a maximum value set at 45% of the fee charge for a property. This example is provided to demonstrate the breadth of practices that may be valued within a credit program and to emphasize that credit programs are not identical but should be structured in a manner that reflects the goals and values of the community. For Derry, water quality improvements were at the fore.

A link to the online credit policy document is: <http://www.dtma.com/credits/>

Credit Details:

1. Owners may apply for one or more credits, and the credits will be cumulative up to a maximum credit of 45% of that property's Stormwater Management Program (SMP) Fee. In no circumstance may a credit or group of credits reduce the applicable SMP Fee to an amount that is less than 55% of the SMP Fee for that property.
2. The SMP Fee for properties with approved credits will be calculated as follows:
Billable Equivalent Residential Units (ERUs) = Total ERUs - Credit ERUs
Monthly SMP Fee = Billable ERUs x SMP Rate (\$/ERU/Month)

Where:

Billable ERUs: The number of ERUs billed to the Derry Township Municipal Authority (DTMP) stormwater program customer.

Total ERUs: The number of ERUs on a parcel before any Credits have been granted.

Credit ERUs: The total number of ERUs granted as Credit for the parcel.

SMP Rate: The current per ERU rate as defined in the DTMA SMP Fee Resolution.

3. Eligible Practices:

- a. Structural BMPs
- b. Low impact developed parcel
- c. Public participation activities
- d. Adopt an inlet
- e. Rain barrels and downspout disconnection
- f. Turf and landscape management
- g. Riparian buffers
- h. Stream restoration
- i. BMP easements
- j. Urban tree canopy expansion
- k. Pervious pavement
- l. Green roofs
- m. Innovation
- n. NPDES industrial permit
- o. Education

Not all practices are equal in value and not all practices are available to all property classes. The policy document provides details on all the eligibility criteria, with definitions of each type of practice and details on calculations.

XI. EXAMPLE OF CREDIT POLICIES – LARGE POPULATION COMMUNITIES

This example illustrates an approach to a credit policy, while not specifically addressing all of the requirements of New Jersey law.

Greensboro, NC

The City of Greensboro, NC is a Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System permittee with a population of 291,300. Their Credit Policy is defined by targeted goals mainly focusing on water quality improvements, and includes:

A. Non Point Source (NPS) Pollution Controls

To receive a 5% reduction in the service fee, a property owner must demonstrate compliance with the following criteria. Each criteria has specific standards that must be met to receive the 5% reduction.

1. Education program activities
2. Onsite refuse management program
3. Onsite stormwater system maintenance and cleaning program
4. Paved area sweeping program
5. Used motor oil recycling program

B. Stormwater Quality and Runoff Control Credit Policy

A maximum reduction of 50% of the service fee can be achieved by demonstrating compliance with the standards of the policy for:

1. Stormwater quality controls: 15% maximum
2. Stormwater runoff rate controls: 20% maximum
3. Stormwater offsite quality controls: 15% maximum

The three criteria are additive, equaling a 50% reduction if all three can be demonstrated by documentation requested.

The policy document describes in greater detail the approach and qualifications that must be met and includes a requirement for renewal and appeals of the application decision. In addition, examples of facilities that may meet the eligibility criteria are included in the policy document as an appendix.

The policy document provides the forms to be submitted, as well as a glossary of terms used in the document. This is important so that any property owner is informed on the approach, technical documentation, process for approval, and appeals. The city program and link to the credit policy can be found online: <https://www.greensboro-nc.gov/departments/water-resources/customer-service-for-residents-and-businesses/frequently-asked-questions/stormwater-billing>

Learn more about this issue and connect with stormwater advocates in your town:



The resource center, created by New Jersey Future, is a one-stop resource for housing technical legal and financial information, case studies and helpful guidance on stormwater solutions, community process and public engagement. [Sign up](#) to receive regular stormwater utility updates.

New Jersey Stormwater Utility Peer Learning Exchange

The peer learning exchange is a network of local government officials and staff interested in sharing resources and learning more about stormwater management and stormwater utilities. Request to participate [here](#).

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