

# Wolf v. City of Birmingham FAQ's

## 1. **What is the *Wolf v. the City of Birmingham* class action lawsuit about?**

The City of Birmingham, along with seven other communities to date, were served with class action lawsuits beginning in 2014 claiming a violation of the criteria for allocating storm water charges under the *Bolt v. City of Lansing* case.

## 2. **What was the *Bolt v. City of Lansing* case about?**

The City of Lansing imposed a storm water utility fee in addition to their storm water charge on virtually all properties in the city to pay for the city's storm water and sanitary sewer separation project. The Michigan Supreme Court ruled that the storm water utility fee imposed by Lansing was unconstitutional on the basis that it was a tax and not a valid use fee. The Court established three criteria for distinguishing between a fee and a tax: 1) the user fee must serve a regulatory purpose; 2) a user fee must be proportionate to the necessary cost of service; and 3) a user fee must be voluntary and property owners must be able to refuse or limit their use of the commodity or service.

## 3. **How does the *Bolt* case affect Birmingham?**

The City of Birmingham, like most communities throughout the state, attribute storm water charges based on the amount of water that is consumed based on a water meter. This methodology in determining storm water charges is fairly consistent among communities and has been administered this way for decades. This City does not add any additional utility fees to this charge. However, over time additional rulings from the Michigan Court of Appeals have helped further refine the ruling in the *Bolt* case as to the specifics of how storm water charges are allocated. Included in this was the issue of proportionally allocating storm water charges. The proportionality issue refined by the courts does not coincide with how many communities, including Birmingham, have historically allocated these charges. As a result Birmingham was sued alleging the last two years of storm water charges was unconstitutional.

## 4. **What other communities have been sued so far under this determination?**

The City of Jackson, City of Ferndale, City of Royal Oak, City of Oak Park, City of Dearborn, City of Detroit and Oakland Township.



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## 5. How much did the City of Birmingham get sued for?

The City of Birmingham is charged approximately \$2,250,000 annually by the Oakland County Water Resource Commission for storm water charges, which is then billed to Birmingham water users. The lawsuit is seeking two years of storm water charges of approximately \$4.5 million, however, the City reached a settlement of \$2,850,000.

## 6. Will this settlement increase my taxes?

No. The costs associated with this lawsuit will be paid from existing reserves.

## 7. Will this settlement increase my water bill?

No, the settlement itself will not increase your water bill. The settlement is being paid out of existing reserves. However, as part of the settlement, the City will need to change how costs associated with storm water disposal are billed to rate payers.

## 8. How will the City charge storm water to residents in the future?

The City will charge storm water costs to residents based on a proration of each property's contribution to storm water. Factors in determining each property's contribution include: lot size and percentage of pervious and impervious surfaces on the property. The City is consulting with an engineering firm to assist with the calculation and how to administer the calculation going forward. The amount will appear on your quarterly water/sewer bill as a separate itemized cost.

## 9. How will the new storm water charges effect my water bill?

Storm water costs will be removed from the sanitary sewer rate (which is charged based on water consumption) and charged separately on the water bill as an itemized cost. Individual residents will experience different results based on their property's proportional share of storm water costs. Some residents may see an increase in their quarterly water bill and others may see a decrease.

