



# Legal Issues in Stormwater Funding

Kara A. Millonzi  
Robert W. Bradshaw Distinguished Professor of Public law  
and Government  
UNC- Chapel Hill School of Government  
[millonzi@sog.unc.edu](mailto:millonzi@sog.unc.edu)  
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Stormwater Costs?

# Stormwater Sources of Revenue

- General Fund
- NPDES Permit Regulatory Financial Assurance
- Stormwater Utility Fee
- Special Taxing Districts
- Special Assessments





# Stormwater Control Ordinance 160D-925(d)

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A local government that holds an NPDES permit issued pursuant to G.S. 143-214.7 **may adopt a regulation, applicable within its planning and development regulation jurisdiction, to establish the stormwater control program** necessary for the local government to comply with the permit. A local government may adopt a regulation that bans illicit discharges within its planning and development regulation jurisdiction. A local government may adopt a regulation, applicable within its planning and development regulation jurisdiction, that requires (i) deed restrictions and protective covenants to ensure that each project, including the stormwater management system, will be maintained so as to protect water quality and control water quantity and (ii) **financial arrangements to ensure that adequate funds are available for the maintenance and replacement costs of the project.**

Financial Assurance?

## Other Regulatory Fees

- MAY charge reasonable fees to review building plans for stormwater management
- MAY charge fees for inspecting stormwater requirements
- MAY NOT earn profit



# Stormwater Runoff



## User Fee / Stormwater Utility

- Cover costs of “stormwater management programs and structural and natural stormwater and drainage systems”
- Fees schedules may vary by “factors that affect the stormwater drainage system.”
- Schedule of fees must be made applicable throughout the area of the local government
- No authority to charge fees outside local government boundaries



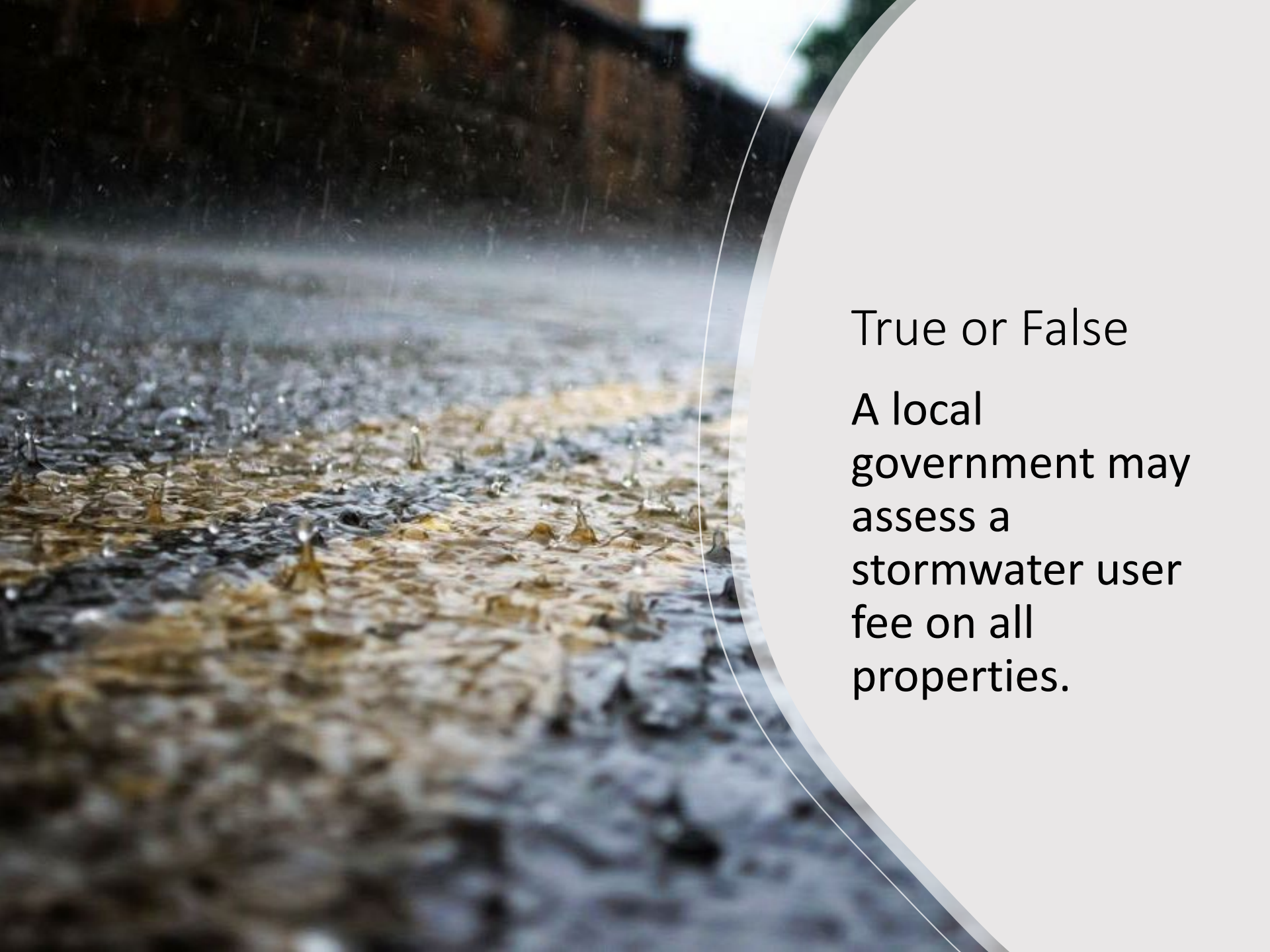
# True or False

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G.S. 160A-314

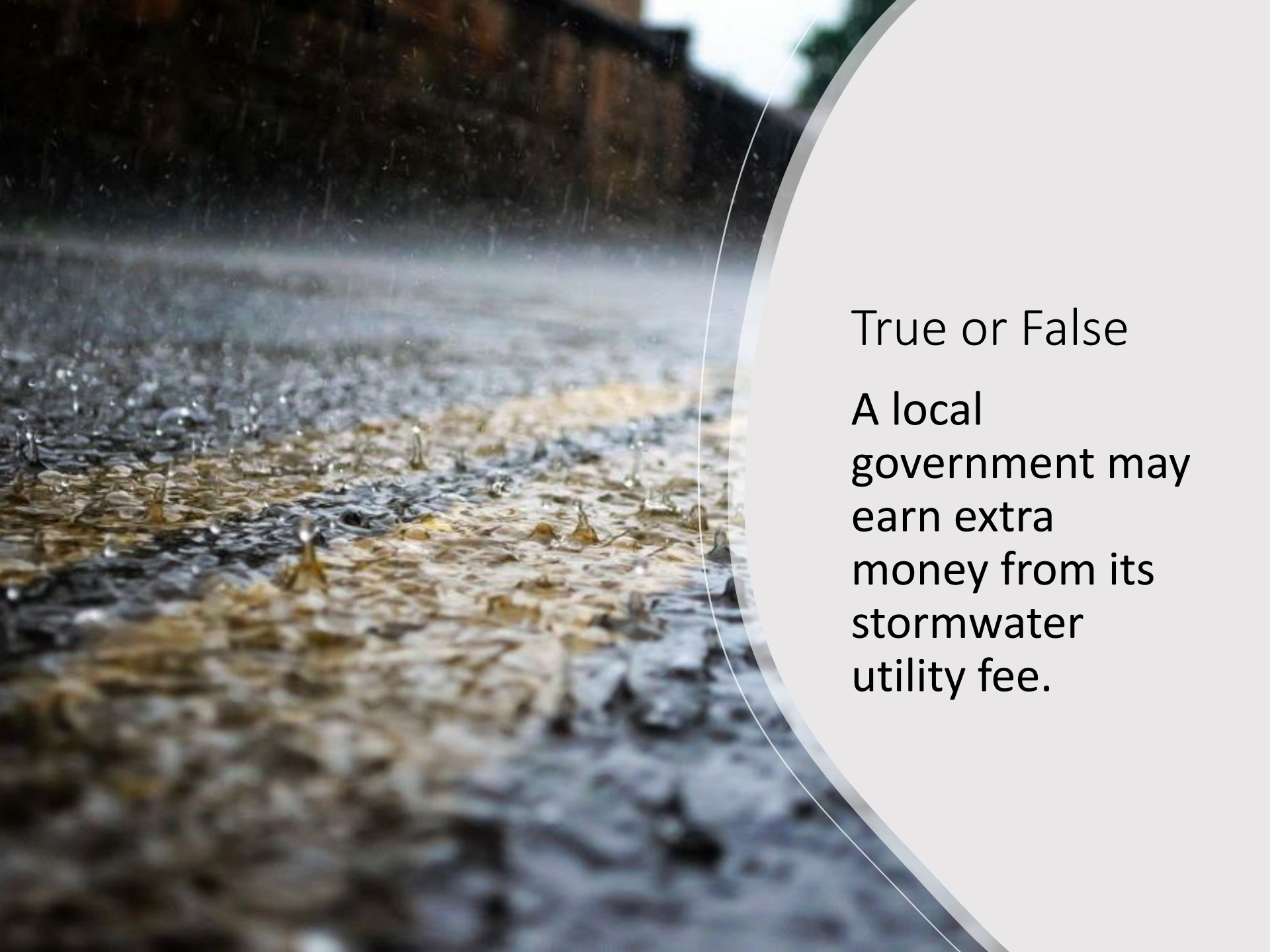
G.S. 153A-277





True or False

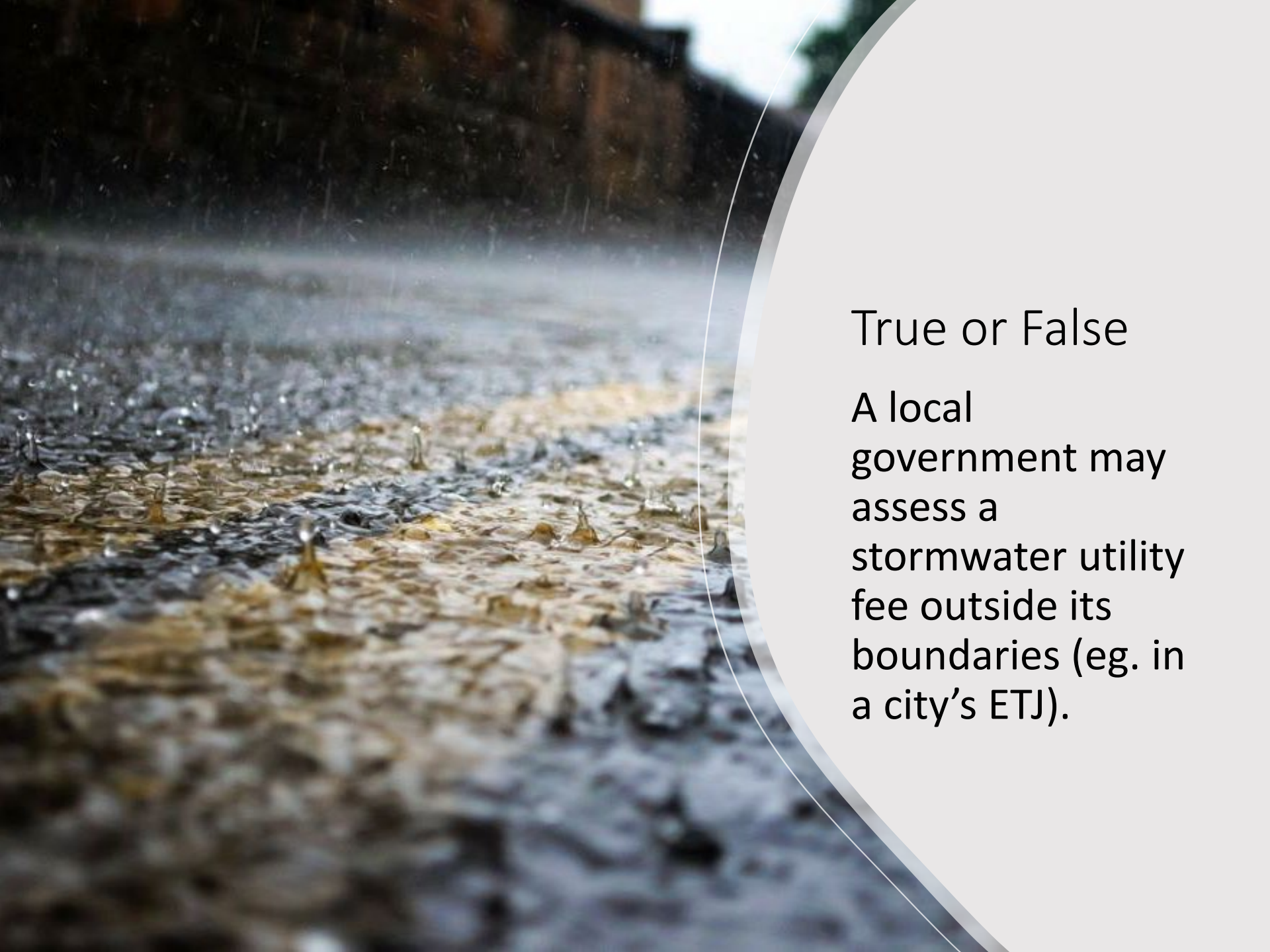
A local  
government may  
assess a  
stormwater user  
fee on all  
properties.



True or False

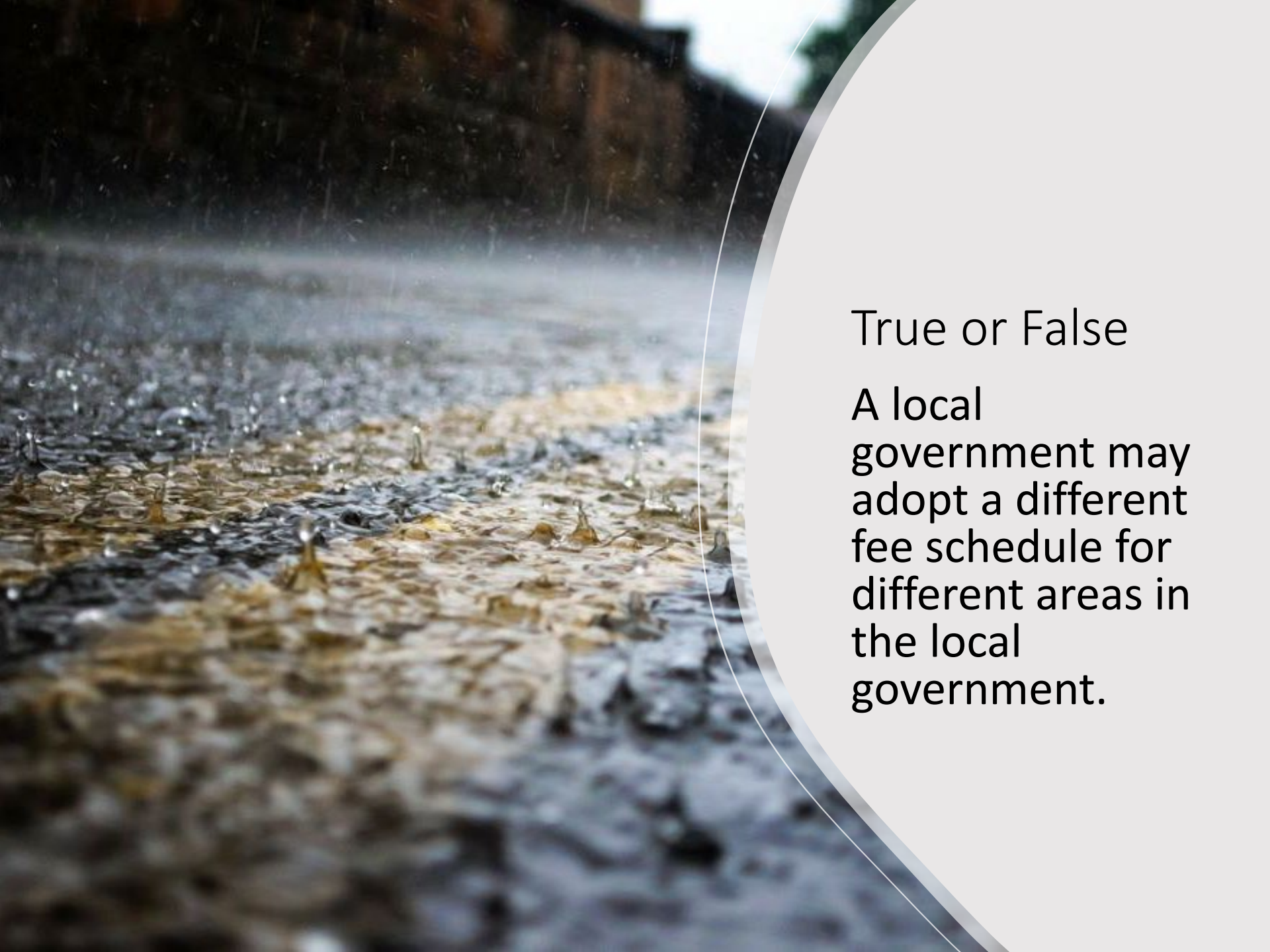
A local  
government may  
earn extra  
money from its  
stormwater  
utility fee.





## True or False

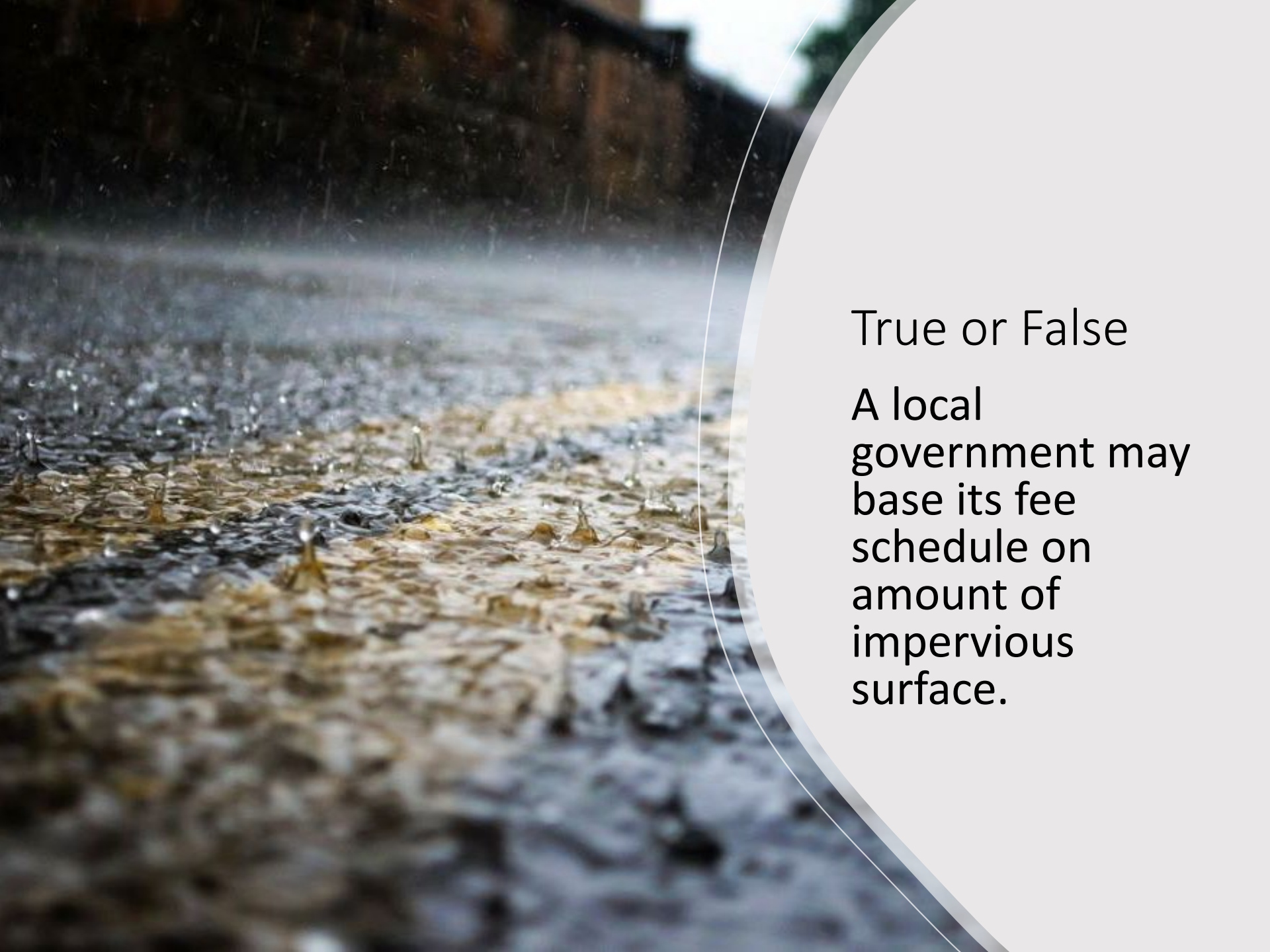
A local government may assess a stormwater utility fee outside its boundaries (eg. in a city's ETJ).



True or False

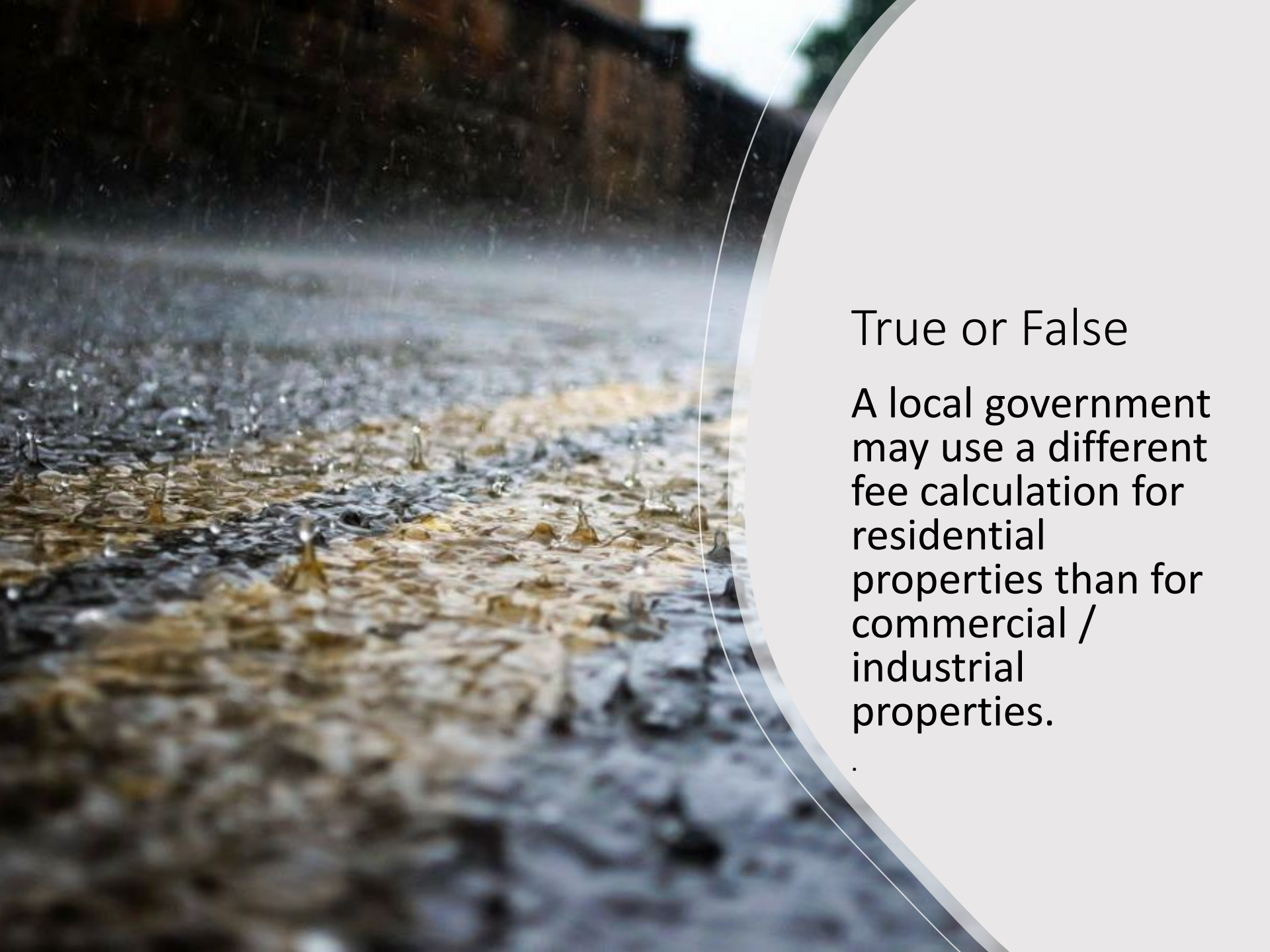
A local government may adopt a different fee schedule for different areas in the local government.





True or False

A local government may base its fee schedule on amount of impervious surface.

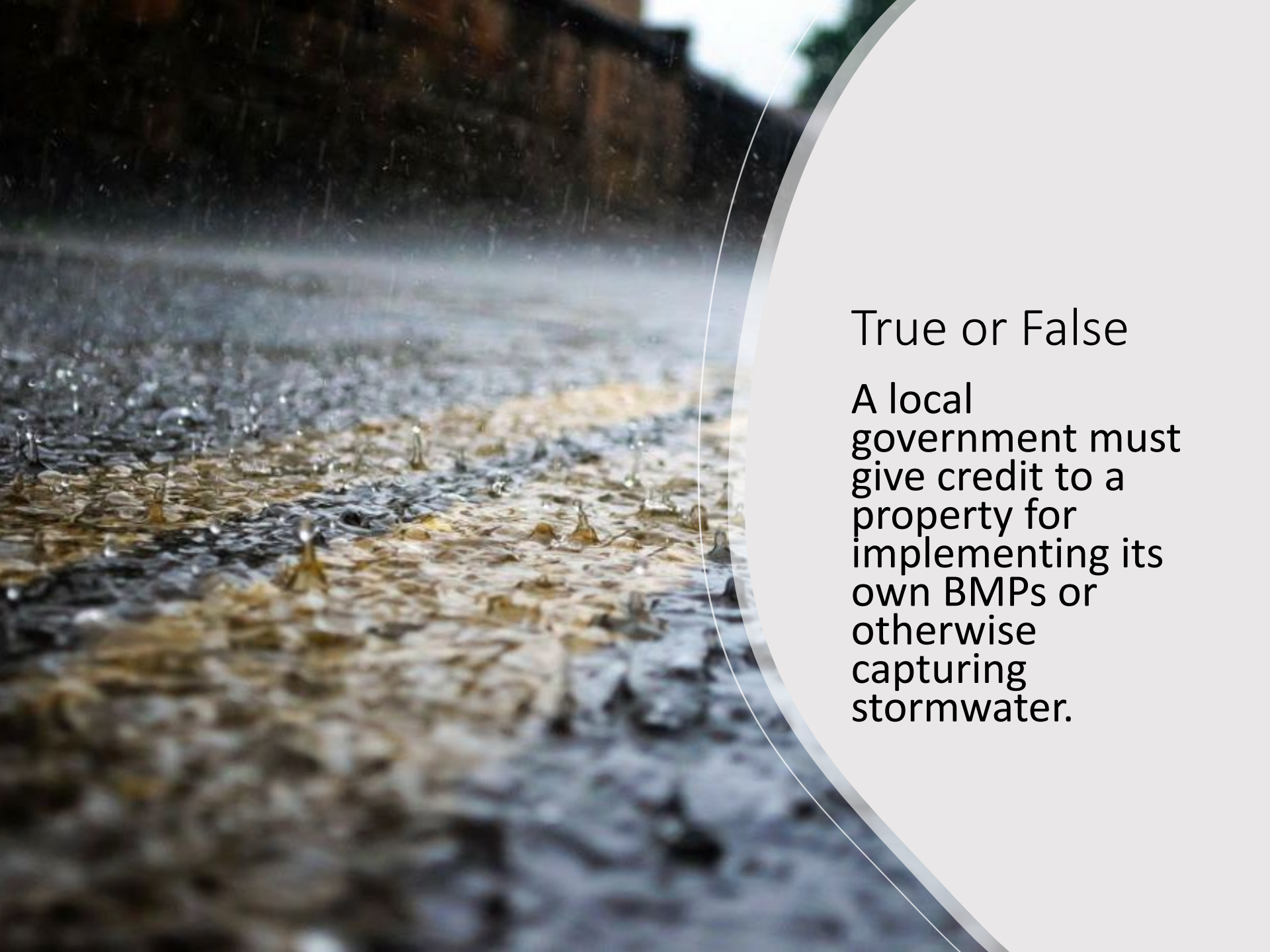


## True or False

A local government may use a different fee calculation for residential properties than for commercial / industrial properties.

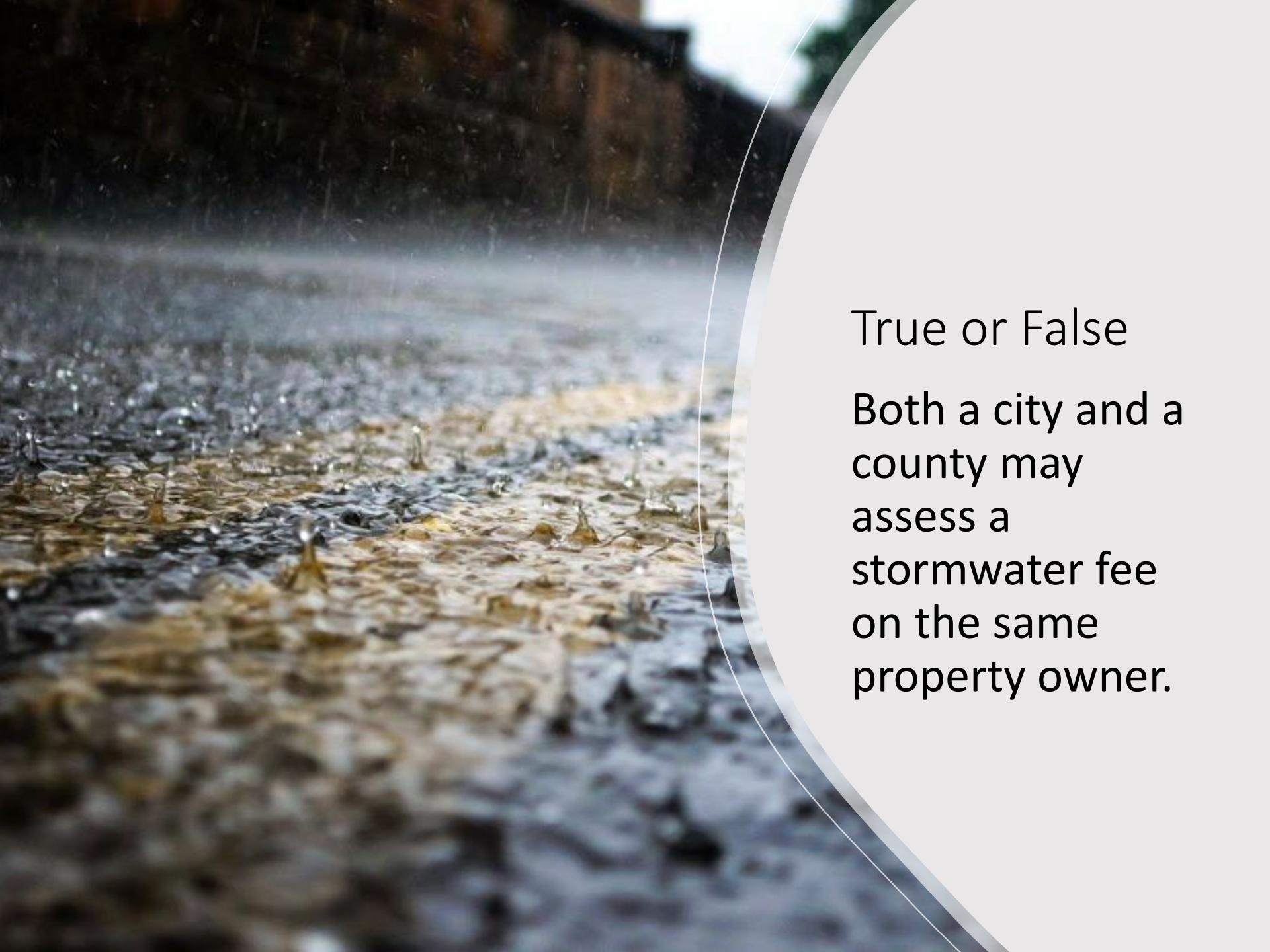
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## True or False

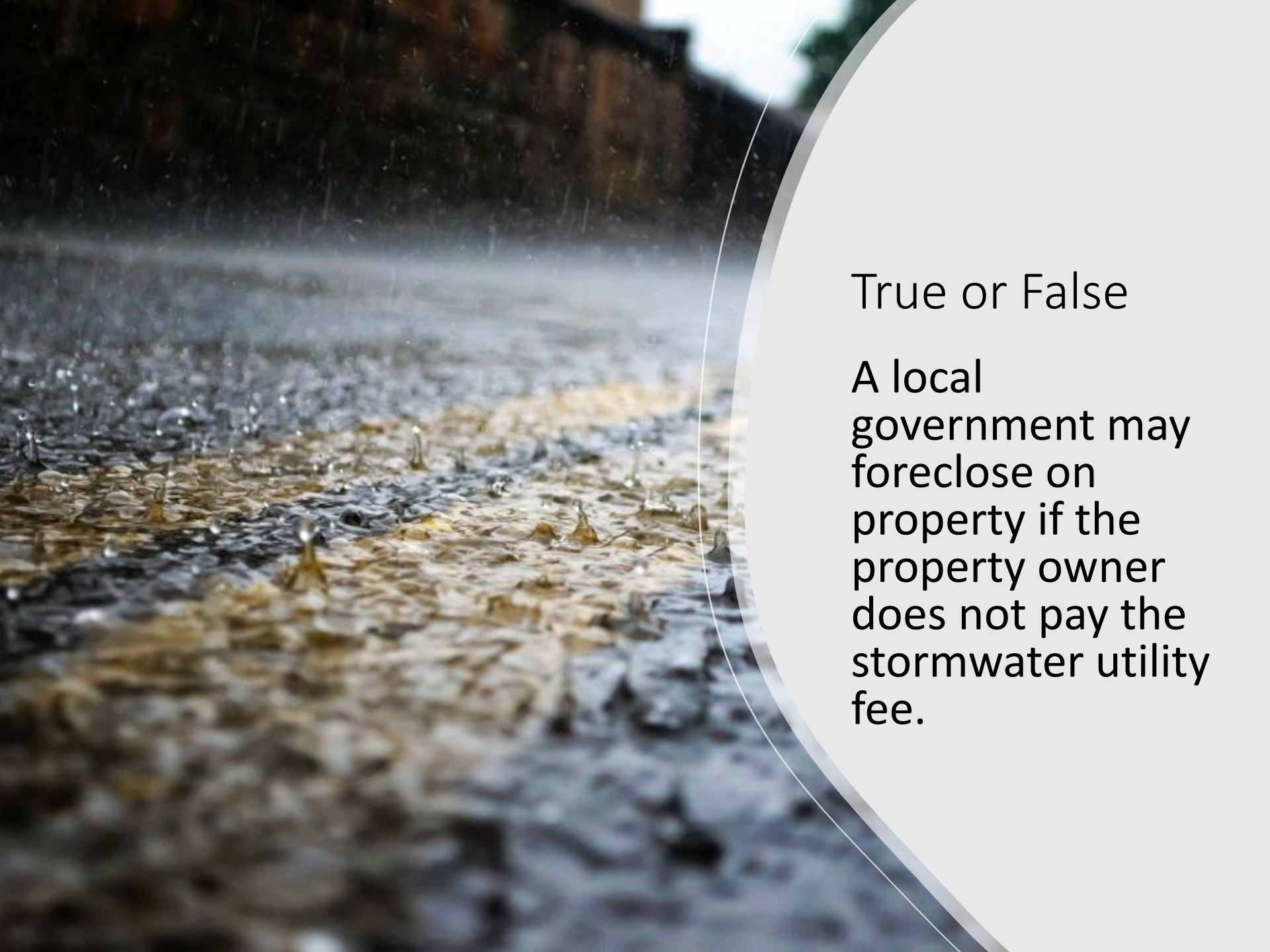
A local government must give credit to a property for implementing its own BMPs or otherwise capturing stormwater.



True or False

Both a city and a county may assess a stormwater fee on the same property owner.





True or False

A local government may foreclose on property if the property owner does not pay the stormwater utility fee.



# Collection Issues

# Collection Remedies

Creedmoor  
Durham  
Winston-Salem  
Bolton  
Butner  
Fairmont  
Garner  
Kernersville  
Knightdale  
La Grange  
Morrisville  
Pembroke  
Proctorville  
Rowland  
St. Pauls  
Stem  
Wendell  
Zebulon  
Clemmons

MAY adopt an ordinance providing that fee may be billed with property taxes, payable in the same manner as property taxes, and, in the case of nonpayment, collected in any manner by which delinquent personal or real property taxes can be collected.

Fee is lien on real property

# Collection Remedies

	MAY list on property tax bill
Everyone Else	MAY NOT use property tax collection remedies (ie foreclosure, attachment)
	MAY list on other public enterprise utility bill and order partial payments



An aerial photograph of a large, modern building complex. The main building has a white, multi-tiered roof and a central courtyard with a circular paved area. In the background, a tall, dark tower stands out against the sky. The foreground shows a paved walkway with some potted plants and a small tree. The text "Collecting \$ from State Property" is overlaid on the left side of the image.

# Collecting \$ from State Property

# Special Taxing Districts

**Additional property tax assessed in defined area within municipality or county, to fund specific projects and/or services that benefit the properties in the defined area**

*Tax*



## **Municipal Service Districts (MSDs)**

- Beach erosion control
- Downtown revitalization
- Urban-area revitalization
- Transit oriented development
- Drainage projects
- Sewage collection and disposal systems (including septic systems)
- Off-street parking facilities
- Watershed improvement projects

## **County Service Districts (CSDs)**

- Beach erosion control
- Fire protection
- Recreation
- Sewage collection and disposal systems (including septic systems)
- Solid waste collection and disposal systems
- Water supply and distribution systems
- Ambulance and rescue
- Watershed improvement projects
- Cemeteries



# Special Assessments



Charges levied against property to pay for a specific public capital project that benefits the properties



Treated like property taxes for collection purposes

# Special Assessment Projects

## Counties

- Water systems
- Wastewater/septic systems
- Beach erosion and flood and hurricane protection
- Watershed improvement, drainage, water resources development
- Subdivision streets\*
- Subdivision street lights and lighting

## Municipalities

- Streets
- Sidewalks in any public street
- Water systems
- Wastewater/septic systems
- Stormwater and drainage systems
- Beach erosion and flood and hurricane protection