

ORDINANCE NO. 17 - 69

AN ORDINANCE AMENDING SECTIONS OF ARTICLE 8 (STORMWATER ENTERPRISE) OF CHAPTER 14 (MUNICIPAL ENTERPRISES) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO THE STORMWATER ENTERPRISE AND STORMWATER SERVICE FEES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Section 102 (Functions and Activities), Section 103 (Delegation of Authority), Section 105 (Stormwater Advisory Committee), Section 107 (Stormwater Service Fee), and Section 109 (Determination and Collection of Fees and Enforcement) of Article 8, (Stormwater Enterprise) of Chapter 14 (Municipal Enterprises) of the Code of the City of Colorado Springs 2001, as amended, are amended to read as follows:

14.8.102: FUNCTIONS AND ACTIVITIES:

The enterprise shall perform the following functions:

A. Provide funding **for administration** and enforcement of the City's National Pollutant Discharge Elimination System (NPDES) **municipal separate storm sewer (MS4)** ~~stormwater~~ permit.

\* \* \*

G. Cooperate with Federal and State agencies and Municipal, County and other local governments ~~as directed by City Council~~, **including but not limited to compliance with intergovernmental agreements.**

H. Collect and manage all enterprise stormwater **service** fees and charges ~~determined and set by City Council~~ **imposed pursuant to this Article.**

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14.8.103: DELEGATION OF AUTHORITY:

The City's ~~Stormwater~~ **Water Resources** Engineering Manager shall serve as the Stormwater Enterprise Manager ("SE Manager") and shall be responsible for the administration and management of the enterprise.

\* \* \*

14.8.105: STORMWATER ADVISORY COMMITTEE:

A. City Council shall appoint **the members of** ~~shall appoint~~ a Stormwater Advisory Committee to provide City Council ~~and the SE Manager~~ with:

1. Citizen ~~feedback~~ **input** regarding the stormwater system **and operation of the enterprise.**
2. Advice and recommendations, from time to time, on the ~~specific fee structure for the enterprise, including the appropriate distribution of fees among projects~~ **types to be undertaken by** and the amount of fees and revenue that should be collected to adequately support the enterprise.
3. ~~Citizen input into business process modifications that should be explored by the enterprise.~~

B. The Stormwater Advisory Committee shall comply with the provisions of City Charter, this Code and the rules and procedures of City Council. All members shall serve at City Council's pleasure and under any terms and conditions as City Council may determine.

C. The Stormwater Advisory Committee shall have ~~thirteen (13)~~ **seven (7)** members. The members of the Stormwater Advisory Committee shall be composed of:

1. ~~One district~~ **Two (2)** members appointed for each City Council district in the City, for a total of four (4) ~~six (6)~~ district members. Each district member **who** shall own and reside within a single-family home in the City limits and the boundaries of the City Council district from which the district member is appointed **with experience or training in civil engineering, water law or water resources planning, flood control or related fields;**
2. ~~Two (2)~~ **One (1)** members nominated by the Housing and Building Association of Colorado Springs to represent home builders and

developers **actively engaged in the business of property development or homebuilding;**

3. One **(1)** member who owns or represents a ~~large~~ commercial property or ~~large~~ business within the City limits;

4. ~~One member who owns or represents a small commercial property or small business or multiple family residence within the City limits;~~

~~Two (2) One (1) members at large who owns and resides in a single-family residences within the City limits, whether or not those members reside in the homes or within the City limits;~~

~~6.~~ 5. One **(1)** member who represents a public institution, school, **educational institution** ~~military base or post~~, or governmental entity that owns property within the City limits; **and**

~~7.~~ 6. One **(1)** member who represents a nonprofit organization located within the City limits; ~~and.~~

~~8. One member who represents a public educational institution located within the City limits.~~

\* \* \*

#### 14.8.107: STORMWATER SERVICE FEE:

A. A stormwater service fee, **calculated as provided in subsection (D) of this Section, or as increased as provided in Subsection (E) of this Section**, shall be imposed on each lot or parcel of real property within the City upon which any improvement **or development** creates an impervious surface or surfaces ~~covering more than three hundred fifty (350) square feet of the lot or parcel or real property~~, and upon the owners of the benefited real property. As used in this article, the term "impervious surface" means a surface on or in real property where the infiltration of stormwater into the earth has been reduced by manmade improvements such as, but not limited to, buildings or other structures, streets, parking lots, driveways, patio areas, roofs, sidewalks, paving and compacted surfaces. The stormwater service fee shall only be used to pay for the operation, maintenance, administration, capital improvements, **MS4 Permit administration and compliance**, and routine functions of the City

stormwater drainage system by the enterprise, and for the operation, maintenance, capital improvements and administration of future stormwater facilities which may be established within the City, **or to pay for stormwater program expenses and improvements which are required by the terms of any intergovernmental agreement entered into by the City prior to June 1, 2016**, and to pay for the design, right of way acquisition and construction or reconstruction of existing and future City stormwater facilities. ~~City Council intends this~~ **This** stormwater service fee **is intended** to constitute payment for use of the stormwater system by the benefited real property upon which the stormwater service fee is imposed and upon the owners of the benefited real property:

~~B. City Council may also establish by resolution any other temporary or permanent fees or charges, and stormwater service fee credits, as City Council deems necessary for the operations of the stormwater drainage system and the enterprise. These temporary or permanent fees or charges shall be subject to the same use limitations as the stormwater service fee.~~

~~CB. The fees and charges set by City Council resolution may be billed to the owner of a property, or to the lessee or other occupant of that property, as City Council may determine in the applicable City Council resolution. However, the legal responsibility for payment of fees under this article shall always be the obligation of the property owner. The owner's obligation to pay the stormwater service fees shall be deemed satisfied to the extent that the lessee or other occupant of the owner's property pays the fee due. Failure of a lessee or occupant to pay a stormwater service fee shall not relieve the owner of liability for and the duty to pay that fee to the enterprise on or before the date due. It is at all times the property owner's duty to ascertain, know and pay the fees due upon the owner's property. Any failure of the City to provide notice to the property owner of the stormwater service fees due upon the owner's property shall not relieve the owner of the duty and responsibility to pay those fees.~~

~~DC. \* \* \*~~

3. The contiguous lots or parcels are all classified in the same property category established ~~by City Council pursuant to City Code for stormwater enterprise purposes~~ **subsection (D) of this Section.**

**D. Effective July 1, 2018, Stormwater service fees are hereby imposed upon all improved or developed property within the City based upon the following classifications of property as set forth in the table below:**

<u>Class of Property</u>	<u>Fee Rate</u>
Residential property:	\$5.00 per dwelling unit/month
Non-Residential property:	\$30.00 per acre/month

**E. Stormwater service fees as established in subsection (D) of this Section may be increased by City Council by duly adopted City Council resolution only to the extent required to comply with a valid court order, federal or state permits, federal or state laws, or any intergovernmental agreement to which the City is a party which was entered into before June 1, 2016.**

**F. For individual parcels of improved or developed non-residential property larger than five (5) acres in size, in determining the size in acres or portion of an acre subject to the service fees, the SE Manager shall disregard contiguous areas of substantial size which either (1) have not been improved and remain in a natural state, or (2) which are improved only with previous grass or vegetative coverings, including park land, golf course playing areas, and grassed athletic fields; provided, however, that this provision shall under no circumstances be applied to exclude from the fees areas of grass and landscaping associated with improvements or developments.**

\* \* \*

**14.8.109: ~~DETERMINATION AND~~ COLLECTION OF FEES AND ENFORCEMENT:**

**A. The City is authorized to invoice, bill and collect stormwater service fees directly to the owners or occupants of property or to contract with Utilities to do so. In the event billing and collection of Stormwater service fees, or any component portion of such fees, is handled by Utilities, such charges shall be deemed to constitute "user charges" and be subject to the collection procedures and remedies provided in Sections 12.1.111 and 12.1.112 of this Code, in the same manner as for wastewater utility services. In such case, Utilities employees designated by the Executive Director shall have the same powers and authority granted herein to City employees designated by the SE Manager to take actions for collection of stormwater service fees and enforcement.**

**AB. \* \* \***

**BC. \* \* \***

**CD. \* \* \***

**DE. \* \* \***

**EF. \* \* \***

**FG. \* \* \***

GH. \* \* \*

Section 2. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter; provided, however, that this ordinance shall not be deemed finally adopted until and unless approved by a majority of the registered qualified electors of the City voting on such question at the special municipal election held on November 7, 2017.

Section 3. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Finally passed by City Council: \_\_\_\_\_

\_\_\_\_\_  
Council President

Upon consideration by the registered qualified electors of the City of Colorado Springs of the question of whether the ordinance should be approved at the special municipal election held on November 7, 2017, and the vote being:

Yes \_\_\_\_\_ votes

No \_\_\_\_\_ votes

the ordinance is deemed (finally passed and approved) (not passed).

ATTEST:

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Sarah B. Johnson, City Clerk