

Stormwater: Utilities Rules and Regulations and City Code Proposed Changes

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Background

- Issue 2A (“Stormwater Ordinance”) approved on November 7, 2017
- The Stormwater Ordinance:
 - Establishes Stormwater fees effective July 1, 2018; and
 - Authorizes contracting with Utilities to invoice, bill, and collect Stormwater service fees.
- Utilities and the City reached an agreement for Utilities to invoice, bill, and collect in-City residential Stormwater service fees.
- Utilities is proposing modifications to the Utilities Rules and Regulations (“URR”) and the City Code to create consistency with the Stormwater Ordinance.

Scope of Proposed Changes

- Changes eliminate ambiguity and confusion, and facilitate billing effective July 1, 2018
- Changes do not introduce any new concepts, but mirror the Stormwater Ordinance, by explicitly noting the authorization to bill, and provide clarity on Utilities' role in the billing process
- Changes vetted by both Utilities and the City

URR Changes

Four URR Sections are addressed in the proposed changes:

1. Fee Table
2. URR Section III(A)(1)(a) – Billing General
3. URR Section III(A)(1)(g) – Billing General (new provision)
4. URR Section V(I)(1) – Dispute Resolution

URR Sheet 12 (Fee Table)

- “Colorado Springs Utilities may charge and collect fees as described in the below table, **by contract, or as established by City Code Section 14.8.109 for residential Stormwater service fees**. For fees associated with the Development process, see Section C, Development.”
- Edit specifically includes Stormwater service fees as a component Utilities is authorized to bill

URR Section III(A)(1)(a) – Billing General

- “Utilities will bill and collect for utility services as provided for in these Tariffs, ~~or~~ by contract, or as established by City Code Section 14.8.109 for residential Stormwater service fees. Billing statements are due and payable by the date indicated in the billing statement. If the billing period is of a nonstandard length, the bills will be normalized to reflect the number of days in the billing period. If the billing period spans multiple effective rates, then the charges for the billing period will be prorated to reflect the number of days in each rate period.”
- Edit specifically includes Stormwater service fees as a component Utilities is authorized to bill

URR Section III(A)(1)(g) – Billing General

- “In invoicing, billing, and collecting (collectively “billing”) residential Stormwater service fees in accordance with City Code Section 14.8.109, Utilities will bill the established fee in each applicable Utilities bill period to each applicable customer through Utilities standard billing practices. Utilities’ applicable customers constitute owners or occupants of residential property as stated in the listed City Code Section. Utilities’ bill periods may not align with calendar months, but customers will be billed the appropriate Stormwater service fees over time. Residential Stormwater service fees are due in full upon billing in accordance with provision (a) of this section. Utilities may prorate residential Stormwater service fees when an applicable customer is billed for a partial bill period. Upon termination of utility service, no partial residential Stormwater service fee refunds will be granted, as the Stormwater service fee is incurred in full upon billing. Except for refunds processed through Utilities’ standard operating procedures, in the event of any refunds for residential Stormwater service fees paid over to the City, the City will be responsible for making such refunds.”

URR Section V(I)(1) – Dispute Resolution

- “Any disputes regarding the assessment and/or applicability of residential Stormwater service fees billed by Utilities will be directed to the City and addressed by the City in accordance with applicable City Code provisions and Stormwater Enterprise rules, regulations, and policies.”
- This is an additional paragraph added to the end of the existing dispute resolution provision. This clarifies that disputes related to Stormwater service fees will be directed to the City and the Stormwater Enterprise.

City Code Changes

- Changes matching those made in the URR will be proposed to Utilities Chapter 12 of the City Code.
- Changes reflect the Stormwater Ordinance (City Code, Chapter 14).
- Note: All proposed changes are now located in Chapter 12 (following governance changes) and only require a single ordinance.

12.1.102: LEGISLATIVE FINDINGS:

C. The City Charter directs that Utilities funds be kept separate from the Municipal General Fund of the City **and from other City enterprises**. It is intended that Utilities' revenues will come from the rates and prices it charges for goods and services rather than from taxes.

12.1.107: AUTHORITY, POWERS AND DUTIES OF UTILITIES CHIEF EXECUTIVE OFFICER:

In addition to any other powers or duties conferred by the City Charter, this Code, other statutes, Utilities Board policies, ordinances, rules or regulations, the Utilities Chief Executive Officer shall have the authority to:

* * *

E. Make and enforce rules and regulations as may be necessary for the regulation, collection, rebating and refunding of user charges for utility services **and/or for residential Stormwater service fees collected by Utilities as provided by Section 14.8.109 of this Code.**

12.1.112: USER CHARGES FOR UTILITY SERVICES:

B. The Chief Executive Officer shall make and enforce the rules and regulations as may be necessary for the regulation, collection, rebating and refunding of user charges for utility services **and/or for residential Stormwater service fees collected by Utilities as provided by Section 14.8.109 of this Code.**

12.1.120: STORMWATER SERVICE FEE BILLING: New Provision with Three (3) Paragraphs

Paragraph One:

Utilities has been authorized by the electors of the City to contract with the City, on behalf of its Stormwater Enterprise, to invoice, bill, and collect residential Stormwater service fees directly to the owners or occupants of property. In the context of this provision, “bill” includes invoice, bill, and collect. Upon such an agreement, for the billing of residential properties, Utilities will bill Utilities’ applicable customers and those customers will constitute the owners or occupants of residential properties as established in § 14.8.109 of this Code. Utilities will bill the established fee in each applicable Utilities bill period to each applicable customer through Utilities standard billing practices. Utilities’ bill periods may not align with calendar months, but customers will be billed the appropriate residential Stormwater service fees over time. Utilities may prorate residential Stormwater service fees when an applicable customer is billed for a partial bill period. Upon termination of utility service, no partial residential Stormwater service fee refunds will be granted, as the residential Stormwater service fee is incurred in full upon billing.

12.1.120: STORMWATER SERVICE FEE BILLING: New Provision with Three (3) Paragraphs

Paragraph Two:

Except for refunds processed through Utilities' standard operating procedures, in the event that any residential Stormwater service fees collected by Utilities and paid to the Stormwater Enterprise are required to be refunded, the Stormwater Enterprise will be responsible to make such refunds and to comply with any applicable requirements. In accordance with Colorado Springs City Charter 13-80, the City Attorney will defend any claim brought against Utilities related to residential Stormwater billing. Subject to recovery from other parties, the Stormwater Enterprise will be responsible for costs and legal expenses associated with such defense.

12.1.120: STORMWATER SERVICE FEE BILLING: New Provision with Three (3) Paragraphs

Paragraph Three:

In the event billing and collection of residential Stormwater service fees, or any component portion of such fees, is handled by Utilities, such charges will be deemed to constitute “user charges” and be subject to the collection procedures and remedies provided in Sections 12.1.112 and 12.1.113 of this Code, in the same manner as for utility service. In such case, Utilities employees designated by the Chief Executive Officer will have the same powers and authority granted herein to City employees designated by the Stormwater Enterprise Manager to take actions for collection of residential Stormwater service fees and enforcement.

Timeline and Procedural Compliance

- Procedure – Utilities proposes moving the URR changes forward by resolution (City Code Section 12.1.107(D)(2)). There is no adverse impact to Utilities' customers because the proposed changes reflect what was approved by the voters in the Stormwater Ordinance.
- March 27th – Finance Committee Presentation
- April 18th – Utilities Board Presentation
- May 8th – City Council Request for Approval of URRs/First Reading City Code Changes
- May 22nd – City Council Second Reading City Code Changes
- June 1st – Effective Date