



Legislation Text

File #: 19-565, **Version:** 2

Ordinance No. 19-81 certifying delinquent stormwater fees and charges to the El Paso County Treasurer for collection

Presenter:

Richard Mulledy, Stormwater Enterprise Manager

Summary:

The voter-approved stormwater service fees went into effect July 1, 2018. The Stormwater Enterprise has been billing property owners by sending monthly notices of current and past due fees for approximately one year. Of those property owners billed through the City, 92% of property owners have paid their fees. For those property owners who have not paid their fees, the Stormwater Enterprise will pursue the collection of unpaid fees per City Code Section 14.8.109 (D) and in accordance with the Stormwater Enterprise Billing Rules and Customer Procedures.

City Code Section 14.8.109 (D) states that nonpayment of stormwater fees creates a priority lien upon the property to which the fee is associated. The Stormwater Enterprise will initiate lien proceedings for any customer having past due invoices totaling more than \$200 and which are 90 days or more past due. The Stormwater Enterprise is requesting City Council pass the proposed ordinance to certify the delinquent fees to the El Paso County Treasurer for collection.

Background:

The City of Colorado Springs, Colorado Springs Utilities (CSU), and Pueblo County signed an Inter-Governmental Agreement on April 28, 2016, committing spending for stormwater infrastructure, operations, maintenance, and MS4 compliance programs in the amount of \$460 million over 20 years to improve the City's stormwater system.

On November 7, 2017, the citizens of Colorado Springs passed Ballot Initiative 2A, approving the implementation of a stormwater service fee per Ordinance 17-19 beginning July 1, 2018. The fees were established as follows:

Residential property: \$5 per dwelling unit/month

Non-residential property: \$30 per acre/month

The stormwater service fee benefits all the citizens of Colorado Springs and provides sustainable funding to address capital infrastructure needs, maintenance of the public stormwater system, and regulatory compliance of the City's MS4 Permit and the Federal Clean Water Act.

To implement the billing of the fees, the City partnered with CSU to administer the residential fee. The \$5 per unit monthly fee was added to the utility bill if there was an active residential water service agreement. These fees fall under the CSU business rules and collection process to include

disconnection of service.

The City Stormwater Enterprise has billed the remaining property owners directly by sending monthly notices of current and past due fees through a third-party biller. For those property owners who have not paid their fees, the Stormwater Enterprise has mailed delinquent notices to property owners notifying them they are subject to collection and lien.

Starting September 1, 2019, the Stormwater Enterprise will initiate lien proceedings on invoices that are 90 days or more past due and the dollar amount exceeds \$200. No liens will be processed for customers that notified the Stormwater Enterprise of an active bankruptcy, those that are under an informal review, or those who have an active appeal.

A Notice of Intent to Lien letter will be sent to customers with past due invoices that fall within the appropriate lien guidelines. This letter will be sent certified mail and indicate that the Stormwater Enterprise will perfect a lien on the property if the account is not brought current within 30 days. If payment is not received within 30 days, customers will be subject to lien and their accounts will be sent to the El Paso County Treasurer for collection. There are currently 117 accounts that total \$86,747 that fall within the current guidelines.

A processing fee of \$30 will be added to each customer account. This fee will cover the out of pocket expenses to record and later release the liens with the County Clerk and Recorder. Once certified, the County Treasurer will add a 10 percent administrative fee to all customer accounts received. Letters will be sent from the County Treasurer to each customer indicating that the lien has been filed. This letter will indicate that payment must be made to the County Treasurer's Office within 30 days. If payment is not received within 30 days, the total amount due will be added to the property owner's tax statement in January 2020. If the property tax bill is not paid in full, all unpaid balances fall into the provisions for tax lien sale by the Treasurer.

Once the lien is filed, the Stormwater Enterprise will no longer attempt to collect the past due amount. However, ongoing billing to these customers will continue for future stormwater fees.

Previous Council Action:

On August 22, 2017, City Council approved Resolution 89-17 submitting the 2A ballot language to the registered qualified electors of the City of Colorado Springs regarding approval of Ordinance 17-19 authorizing the collection of stormwater service fees to be assessed on all developed and improved real property within the City of Colorado Springs.

Financial Implications:

Pursuing the collection of unpaid stormwater fees per City Code Section 14.8.109 (D) supports the City's commitment to fund the stormwater program to meet capital project needs, operations and maintenance, MS4 permit compliance and Inter-Governmental Agreements. If the Stormwater Enterprise is not able to collect unpaid fees, the decrease in revenue will impact the City's ability to meet these financial obligations.

City Council Appointed Board/Commission/Committee Recommendation:

The Stormwater Advisory Committee was briefed on the proposed lien process, as described above, on August 15, 2019. The committee unanimously voted to recommend initiating the lien proceedings

in accordance with the recommendations as described above.

Stakeholder Process:

On September 10, 2019, the City Council Budget Committee reviewed the Ordinance to certify the delinquent stormwater fees to the County Treasurer for collection.

Alternatives:

The Stormwater Enterprise could hire a collection agency to pursue the collection of unpaid fees. However, paying fees to a collection agency would reduce the anticipated revenues that are needed to fund both the financial obligations, and the improvements that the citizens voted to support.

Proposed Motion:

Move approval of the Ordinance to certify the delinquent stormwater fees and charges to the County Treasurer for collection.

An Ordinance certifying delinquent stormwater fees and charges to the El Paso County Treasurer for Collection