

SOUTHEAST METRO STORMWATER AUTHORITY
Acting by and through
SEMSWA WATER ACTIVITY ENTERPRISE

RESOLUTION 13-35
Revision of Stormwater Fee Delinquency and Collection Policy

WHEREAS, on the 25th day of October, 2006, a Resolution of the Board of Directors of the Authority (Resolution No. 5, Series of 2006) concerning "Adoption of Level of Service and Fix Rates and Rate Structure" was adopted, assessing a fee on all real property within the boundaries of the Authority; and

WHEREAS, on the 24th day of September, 2008, a Resolution of the Board of Directors of SEMSWA (Resolution No. 08-36) concerning "Adoption of Stormwater Fee Delinquency and Collection Policy" was adopted setting forth a policy in regard to delinquent fees; and

WHEREAS, on the 26th day of August, 2009, a Resolution of the Board of Directors of SEMSWA (Resolution No. 09-35) concerning "Revision of Stormwater Fee Delinquency and Collection Policy" was adopted, amending the policy in regard to delinquent fees; and

WHEREAS, SEMSWA wishes to avail itself of the laws of the State of Colorado, pursuant to Section 29-1-204.2 (3) (j) (k) and (l) with regard to the collection of fees established in said Resolution No. 5, Series of 2006; and

WHEREAS, in accordance with Section 29-1-204.2 (3) (j) (k) and (l), C.R.S., until paid, SEMSWA's fee shall constitute a perpetual lien on and against the property served; and

WHEREAS, said lien may be collected and/or foreclosed in the manner provided by the laws of the State of Colorado.

NOW, THEREFORE, BE IT RESOLVED THAT:

The Board of Directors of the Southeast Metro Stormwater Authority acting by and through SEMSWA Water Activity Enterprise approves and adopts the following revisions to the stormwater fee delinquency and collection policy:

Section 1 – Stormwater Bill. A SEMSWA stormwater bill may be sent through the United States mail or by alternative means, notifying the customer of the amount of the bill, the date the payment is due, and the date when past due. The SEMSWA stormwater bill may be sent directly by SEMSWA, or billed and collected along with other charges, including but not limited to the Arapahoe County property tax bill, as deemed most effective and efficient.

Section 2 – Responsibility for Bill. Failure to receive a bill is not justification for non-payment. Regardless of the party to whom the bill is initially directed, the owner of each parcel of developed land shall be ultimately obligated to pay such charges and any associated fines or penalties, including but not limited to late charges.

Section 3 – Remedy for Unpaid Bill. Any stormwater fee or other fee or charge due to SEMSWA which is not paid when due may be recovered by SEMSWA by any action at law, in addition to any other remedy permitted by law.

Section 4 – Backbilling. If a customer is underbilled or if no bill is sent, SEMSWA may backbill for a period of up to one year, but shall not assess penalties for any delinquency during that backbilled period.

Section 5 – Late Charge. ~~For nonsingle family residential bills, a late charge of the greater of one and one half (1.5) percent of the unpaid balance of any stormwater bill or fifteen dollars (\$15.00) shall be charged when a bill becomes delinquent. Thereafter, an additional charge of one and one half (1.5) percent based on the unpaid bill shall be charged for each month the bill remains delinquent.~~ For both single family residential and nonsingle family residential bills, a one-time fee of \$23.00 shall be charged when a bill becomes delinquent. However, late charges shall not be applied to parcels owned by government organizations, homeowners associations (or similar organizations), or nonprofit organizations.

~~For single family residential bills, a late charge of fifteen dollars (\$15.00) shall be charged when a bill becomes delinquent. Thereafter, an additional charge of \$15.00 shall be charged for each year the bill remains delinquent.~~

Section 6 – Lien. At the time a stormwater bill becomes delinquent, SEMSWA may file a lien against the property served. Said lien shall be filed with the County Clerk of the applicable county where the property is located. Said lien shall be duly signed by either the Executive Director or the Director of Finance and Administration whose signature shall be acknowledged by a notary public licensed by the State of Colorado. The amount of the lien shall include (1) unpaid stormwater fees, and (2) accumulated delinquency late charges, and (3) an amount necessary to recover the actual cost to SEMSWA for the filing fee charged by the county clerk.

Section 7 – Certification to County Treasurer. Any delinquent amounts, including all amounts specified in Section 5 herein, may be enforced by assessment upon the property and premises served and certification to the county treasurer for collection under and pursuant to the authority and procedure provided in state statutes.

Section 8 – Effective Date. This policy shall become effective upon passage by the Board. However, Section 5 – Late Charge shall only be effective for fees billed on or after January 1, 2008.

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Date: _____

ATTEST:

Secretary

Chairperson

APPROVED AS TO FORM:
Attorney for
Southeast Metro Stormwater Authority

By _____
Edward J. Krisor