PUBLIC SERVICE BOARD MEETING
AGENDA ITEM
REGULAR MEETING

Wednesday, January 08, 2025

SUBJECT

Consider and adopt the Stormwater Annual Budget for Fiscal Year 2025-2026

BACKGROUND

The proposed Stormwater Annual Budget for Fiscal Year 2025-2026 includes a fee adjustment of 13 percent or a monthly increase of $1.02 for a typical residential customer.

PRIOR PSB ACTION:

On December 3, 2024, a Budget Workshop was held, and a presentation was provided to the Board to discuss the following items:

- Proposed FY 2025-2026 Stormwater Operating and Capital Improvement Budget.
- Proposed Rules and Regulations Changes, including Fee Adjustments.

UTILITY KPI ALIGNMENT

Customer Satisfaction

EVALUATION PROCESS

N/A

FINANCIAL IMPLICATIONS

The budget approval will set the fees for the Stormwater Utility services and set forth the Operating and Capital Budgets.

PROPOSED ACTION REQUESTED

Discussion and action on the Stormwater Annual Budget for Fiscal Year 2025-2026 and adoption of a resolution amending Rules and Regulations No. 3 with the proposed fee adjustments.

SUPPORTING DOCUMENTATION PROVIDED

- Rules and Regulations No. 3 with Proposed Changes

RULES AND REGULATIONS NO. 3

RULES AND REGULATIONS
ESTABLISHING ADJUSTED RATES FOR THE
FURNISHING OF STORMWATER SERVICE
BY THE EL PASO WATER UTILITIES

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD BY VIRTUE OF CHAPTER 552, SUBCHAPTER A OF THE TEXAS LOCAL GOVERNMENT CODE, AS AMENDED (THE ACT), AUTHORIZING THE CITY TO ESTABLISH A MUNICIPAL DRAINAGE UTILITY SYSTEM, AND ORDINANCE 16668, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS ON JUNE 19, 2007, DECLARING THE DRAINAGE SYSTEM OF THE CITY TO BE A PUBLIC UTILITY AND AUTHORIZING THE PUBLIC SERVICE BOARD TO HAVE COMPLETE AUTHORITY AND CONTROL OF THE MANAGEMENT AND OPERATION OF THE SYSTEM; NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, THAT THE FOLLOWING RULES FOR THE FURNISHING OF STORMWATER SERVICE WITHIN THE CITY OF EL PASO ARE HEREBY ESTABLISHED.

SECTION I GENERAL

A. TABLE OF CONTENTS

The following headings or captions are adopted as the Table of Contents for Public Service Board Rules and Regulations No. 3.

TABLE OF CONTENTS FOR RULES AND REGULATIONS NO. 3

SECTION I GENERAL 1
- A. TABLE OF CONTENTS 1
- B. DEFINITIONS 2

SECTION II ADJUSTED STORMWATER CHARGES 3
- A. STORMWATER CHARGE FOR RESIDENTIAL 3
- B. STORMWATER CHARGE FOR NON-RESIDENTIAL ..... 4~~3~~
- C. IMPERVIOUS AREA DETERMINATION 4
- D. STORMWATER-ONLY ACCOUNTS 4

SECTION III BILLING FOR STORMWATER 4
- A. MONTHLY BILLING 4
- B. RESPONSIBLE PARTY ..... 4~~5~~
- C. MULTIPLE METERS 5
- D. EXEMPTIONS 5
- E. CREDITS 6

SECTION IV DISCONTINUANCE OF SERVICE 6

SECTION V DELINQUENT ACCOUNTS 6

SECTION VI APPEALS 6

SECTION VII SEVERABILITY 6

SECTION VIII SAVINGS 6

SECTION IX EFFECTIVE DATE 7

B. DEFINITIONS

Benefited Property:
An improved lot or tract to which service is made available under the establishing Drainage Ordinance and in accordance with applicable Rules and Regulations.

Best Management Practices (BMPs):
Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to control, prevent, or reduce the discharge of pollutants. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Compacted Soil:
Any amount of compaction above the soil's natural state caused by any means. This includes but is not limited to soil that has been compressed by vehicles that have driven over it.

Delinquent Accounts:
A user of the Utility who has failed to pay the charges promptly when due.

Detention Pond:
Excavated area that protects against flooding by storing water for a pre-determined period of time. Detention Ponds have an outlet structure.

Drainage Ordinance:
Ordinance 016668 passed and approved by the City Council of the City of El Paso, Texas on June 19, 2007, authorizing the Public Service Board to have complete authority and control of the management and operation of the stormwater system.

EPWater:
See the definition of Utility below.

EPWU:
See the definition of Utility.

Equivalent Residential Unit ("ERU"):
A unit determined by dividing the impervious square footage of a property by 2,000 square feet.

Impervious Area:
Any area that has been disturbed from its natural condition in such a way as to reduce the ability of the surface to absorb and infiltrate water into the soil, by regrading~~,~~ placement of any material underlaid by plastic, placement of millings, or any other drivable material. Impervious Areas include, but are not limited to, Compacted Soils, buildings, pavement, parking lots, driveways, sidewalks, and any other man-made structure or surface that is built or laid on the natural surface of the land which has the effect of increasing, concentrating, or otherwise altering stormwater runoff so that flows are increased. Xeriscaped properties and turf are considered pervious.

Municipal Separate Storm Sewer System ("MS4"):
The system of conveyances (including roads with drainage systems, municipal streets, flood control dams, retention and detention basins, grate and/or curb inlets, curbs, gutters, ditches, man-made channels, arroyos, agriculture drains, storm drains or designated flow paths) owned, operated or controlled by the city and/or the Public Service Board and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage.

Non-Residential Property(ies):
Non-Residential Properties shall include all non-residential customer classes including apartments (quadplexes and higher), commercial and industrial customers, and any other class not designated as residential, but excluding those subjects to mandatory exemption under Section 552.053(c) of the Texas Local Government Code.

Probable Maximum Flood (PMF):

The largest flood that could occur at a particular location, usually estimated from the Probable Maximum Precipitation, and where applicable, snow melt, coupled with the worst flood producing conditions in the water shed.

Probable Maximum Precipitation (PMP):

Defined by the National Weather Service as "theoretically, the greatest depth of precipitation for a given duration that is physically possible over a given storm area at a particular geographical location at a certain time of the year".

Properly Maintained System:

A drainage system must be kept as originally designed and constructed. Examples of a Properly Maintained System include but are not limited to regularly inspected, cleared of debris, trash, silt accumulation and sediment build up; be cleaned and any visible signs of erosion must be repaired.

Retention Pond:

Excavated area that protects against flooding by storing water for an indefinite period of time. Retention ponds do not have an outlet structure. Release of water happens through infiltration and/or evaporation.

Residential Property(ies):

Residential Properties shall include single-~~-~~family, duplex, and triplex properties.

Undeveloped Land:

Property held and maintained in its natural state on which no improvements currently exist.

Utility:

EPWU, EPWater, El Paso Water as used herein, means El Paso Water Utilities, which provides stormwater services through the Municipal Drainage Utility System.

Wholly Sufficient: Land and dedicated engineered stormwater structures owned and operated for the purpose of retaining 100 percent of the volume, with no discharge, of the Probable Maximum Flood, which includes proper allowances for emergency storage and siltation.

SECTION II ADJUSTED STORMWATER CHARGES

A monthly stormwater fee shall be imposed on each improved parcel within the City of El Paso for services and facilities provided by the Utility, except as provided for by law or by these Rules and Regulations. The stormwater fee shall be based on the developed use of the Benefited Property and its estimated amount of Impervious Area. The adjusted stormwater rates are effective with the March Utility billing cycle. The following charges shall apply for stormwater service provided to property within the City of El Paso:

A. STORMWATER CHARGE FOR RESIDENTIAL

Residential Properties will be charged a fixed monthly charge, as shown in the following table:

Residential Category	Impervious Area (Square Feet)	Stormwater Monthly Charge
Small	0 – 1,200	$3.71~~20~~
Typical	1,201 – 3,000	$7.42~~6.40~~
Large	> 3,000	$14.81~~2.77~~

Residential Properties may be assigned to the Small, Typical, or Large category using data obtained from the Central Appraisal District, Utility's GIS database, or any other source deemed reasonable by the Utility.

B. STORMWATER CHARGE FOR NON-RESIDENTIAL

Non-Residential Properties shall include apartments, quadruplexes, commercial, industrial customers, and any other customer class not designated as residential, but excluding those subject to mandatory exemption. Non-Residential Properties shall be charged for their estimated impervious square footage on a per Equivalent Residential Unit ("ERU") basis. The ERUs are calculated by dividing the property's estimated impervious square footage by 2,000 square feet. The monthly charge per non-residential ERU is $7.55~~6.51~~

An example of the monthly stormwater bill for a Non-Residential Property is shown below:

Non-residential impervious square footage	20,000 sq. ft.
Equivalent Residential Unit value	2,000 sq. ft.
Equals calculated ERUs	10 ERUs
Monthly charge (10 ERUs x $7.55~~6.51~~/ERU/Mo.)	$75.50~~65.10~~

All social service entities, non-profit agencies, and churches will pay a fee equal to 10% of the approved non-residential fee. This rate will remain in effect until the account is closed. New account holders must apply in writing to EPWU Customer Service to request this reduced fee.

Apartment units with meters classified as residential will be billed individually based on the unit size per residential category (small, typical, or large). If the complex is two or more stories, the charge will be divided among the number of units sharing the same footprint.

The City of El Paso Housing Authority and independent school districts are exempt from stormwater fees in accordance with Section 552.053(e), Texas Local Government Code.

C. IMPERVIOUS AREA DETERMINATION

The Utility has the authority to establish the impervious square footage using the following approaches:

1. An analysis of El Paso Central Appraisal District data on the footprint of the main building and any structural additions such as garages or tennis courts that would increase the impervious footprint of the parcel.

2. A calculation of the impervious square footage using GIS and aerial photography.

3. Detailed and approved building plans provided.

4. Any other source deemed reasonable by the Utility.

The Impervious Area for a property may be updated at any time to reflect improvements made to the property that would either increase or decrease the estimated impervious square footage.

D. STORMWATER-ONLY ACCOUNTS

The Utility may establish stormwater-only accounts for properties that contribute stormwater as a result of their Impervious Area.

SECTION III BILLING FOR STORMWATER

A. MONTHLY BILLING

A stormwater charge shall be billed on the monthly Utility bill. The due date for payment and associated charges for Delinquent Accounts under Section V of Rules and Regulations No. 5 are hereby incorporated by reference as applying to stormwater charges. Discontinuance of service and Delinquent Accounts are addressed further in these Rules and Regulations.

B. RESPONSIBLE PARTY

The monthly charge for stormwater will be billed to the customer established as the responsible party for water service. If the Benefited Property does not receive a monthly Utility bill, the stormwater charge will be the responsibility of the property owner.

C. MULTIPLE METERS

If more than one meter serves a Benefited Property, the Utility will determine the allocation of the charge among the users using any reasonable method, including allocating the charge equally among the users of a Benefited Property.

D. EXEMPTIONS

The following entities or individuals shall be exempt from charges:

1. Any property to which a mandatory exemption under Section 552.053(c) of the Texas Local Government Code applies, including without limitation:

   a. Property with proper construction and maintenance of a Wholly Sufficient and privately owned drainage system including each of the following elements:

      (i) Land and dedicated engineered stormwater structures owned and operated for the purpose of retaining 100 percent of the volume, with no discharge, of the Probable Maximum Flood, which includes proper allowances for emergency storage and siltation.

      (ii) There shall be no discharge of the system into a street, alley, arroyo, creek, river, slough, culvert or other channel that is part of the municipal drainage system.

      (iii) A post-construction survey of the development must be completed to verify that the improvements were constructed per the approved grading plan and that all runoff is being retained within the development. The post-construction survey must be performed by a registered professional land surveyor, at the expense of the owner.

      (iv) The facility must have a written maintenance plan effectively documenting policies and procedures designed to ensure that the stormwater system will continue to safely contain the Probable Maximum Flood.

      (v) The owner must provide documentation required in (i) through (iv) of this Section in the form of engineering reports, surveys, maps, and supporting documentation signed and sealed by a Registered Professional Engineer.

      (vi) The stormwater Utility engineering staff will review the documentation submitted. If there is insufficient information, the owner will then be responsible to resubmit the required documentation.

      (vii) The stormwater Utility engineering staff will render a decision regarding the submitted documentation. The decision could include defining all or a portion of the parcel as Wholly Sufficient.

      (viii) The exemption shall be in effect as long as the owner complies with the requirements as described in (i) through (iv) of this Section.

      (ix) The stormwater Utility staff retains the right to enter the property to inspect the facilities at any time during normal business hours. If entry is denied, the Wholly Sufficient exemption will not be applicable to the property.

   b. Property held and maintained in its natural state, until such time that the property is developed and all of the public infrastructure constructed has been accepted by the

municipality in which the property is located for maintenance.

c. A subdivided lot, until a structure has been built on the lot and a certificate of occupancy has been issued by the municipality in which the property is located.

2. Any property to which a mandatory exemption under Section 552.053 of the Texas Local Government Code applies, or which is exempt under applicable federal law, including, but not limited to:

a. A federal or state agency; and

b. A public institution of higher education.

E. CREDITS

A credit on the stormwater charges billed may be granted for Non-Residential Properties that have properly implemented stormwater management measures that meet the minimum design standards established by the City of El Paso. A 25% credit will be given after the written application is submitted to the Utility and the Utility verifies that the stormwater pond is properly designed, built and maintained to the design conditions and capacity. At the time of application to receive a credit, the applicant must provide a post-construction survey of the development at the time of the application to verify improvements were constructed per the approved grading plan. The post-construction survey must be performed by a registered professional land surveyor (RPLS), at the expense of the property owner. The credit is not retroactive and will only apply to billing forward from the date of approval from the Utility. The Utility may revoke the credit if the pond is not maintained as designed. Residential Properties are not eligible for credits.

SECTION IV DISCONTINUANCE OF SERVICE

The Utility shall have the right, with notice to the customer, to discontinue water service for non-payment of stormwater charges, for violation of any provisions of the Utility's Rules and Regulations or any other lawful rule or regulation of the Utility or the City of El Paso, or for any other action which interferes with providing stormwater service or which creates a danger of contamination to the water system. Provided, however, the Utility shall have the authority to immediately discontinue the customer's service without notice should any violation of EPWater Rules and Regulations or any other applicable regulations under applicable laws cause an immediate threat to the public health or safety or the environment. Such service shall remain discontinued until all errors are rectified and/or violations have ceased.

SECTION V DELINQUENT ACCOUNTS

The Texas Local Government Code, Section 552.050, authorizes a utility to discontinue any utility services it currently provides for failure to pay stormwater charges when due by stating the following: *"…failure of a user of the municipal utilities within the service area to pay the charges promptly when due shall subject such user to discontinuance of any utility services provided by the municipality…"*. The schedule for payment and disconnection of water service and all associated charges and fees applicable to delinquent stormwater accounts are as stated in Rules and Regulations No. 5.

SECTION VI APPEALS

Customer may follow the processes of Rules and Regulations No. 8 to appeal certain administrative decisions, request an appeal to the Public Service Board, request a variance from the Rules and Regulations or to file complaints regarding service and billing issues and regarding the application of the Rules and Regulations.

SECTION VII SEVERABILITY

These Rules and Regulations are part of the other Rules and Regulations of the Public Service Board and persons accepting services agree to comply the appropriate provisions and conditions of all the Rules and Regulations. If any provision, paragraph, section, subsection, sentence, clause or phrase of these Rules and Regulations No. 3 or the application of same to any person or set of circumstances is for any reason invalidated by any court of competent jurisdiction, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of these Rules and Regulations No. 3. The remaining provisions, paragraphs, words or sections shall not be affected and shall continue in full force and effect.

SECTION VIII SAVINGS

These Rules and Regulations are a part of the other Rules and Regulations of the Public Service Board and, save and except as amended hereby, the remaining provisions of the Public Service Board's Rules and Regulations shall remain

in full force and effect.

SECTION IX EFFECTIVE DATE

These Rules and Regulations No.3 shall be and become effective from and after their adoption by the Board and shall remain in effect until amended or changed by the Public Service Board. Changes to any fees or rates resulting from approval of the budget are effective on the 1st day of March and shall remain in effect until amended or changed by the Public Service Board

PASSED, APPROVED and ADOPTED, AMENDED STORMWATER RATES at the special meeting of the Public Service Board of the City of El Paso, Texas, this 7th day of May, 2008, and AMENDED DEFINITION OF WHOLLY SUFFICIENT at a regular meeting of the Public Service Board of the City of El Paso, Texas, this the 23rd day of July, 2008, at which a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001 et. seq.

RULES AND REGULATIONS NO. 3, SECTION III(E), AMENDED, APPROVED and ADOPTED this 11th day of March, 2009.

RULES AND REGULATIONS NO. 3, SECTION II(B), AMENDED IN 2011 BY ACTION OF THE 81ST TEXAS LEGISLATURE.

No action necessary by the Public Service Board

RULES AND REGULATIONS NO. 3 SECTION II (A, B), AMENDED, APPROVED, and ADOPTED this 21st day of January 2015, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION II (A, B), SECTION III D(a)(vii) AMENDED, APPROVED, and ADOPTED this 13th day of January 2016, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION II (A, B), AMENDED, APPROVED, and ADOPTED this 11th day of January 2017, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION II (A, B), AMENDED, APPROVED, and ADOPTED this 10th day of January 2018, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION I (B), SECTION III (D) (1)(a), (b), (E), AMENDED, APPROVED, and ADOPTED this 9th day of January, 2019, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION II (A, B), AMENDED, APPROVED, and ADOPTED this 13th day of January, 2021, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION I (A, B), SECTION II (A, B, C, D), SECTION III (A, B, C, D, E), SECTION IV, SECTION V, SECTION VI, SECTION VII AMENDED, APPROVED, and ADOPTED this 12th day of January, 2022, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION I (A, B), SECTION II (A, B, E), SECTION III (D, E), SECTION IV, SECTION V, SECTION VI, SECTION VIII, SECTION IX AMENDED, APPROVED, and ADOPTED this 11th day of January, 2023, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION I (A, B), SECTION II (A, B), APPROVED, and ADOPTED this 14th day of February, 2024, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION I (B), SECTION II (A, B), APPROVED, and ADOPTED this 8th day of January 2025, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

PUBLIC SERVICE BOARD

~~**Dr. Ivonne Santiago**~~**Bryan Morris**~~,~~

Chair

ATTEST:

APPROVED AS TO FORM:

~~Charlie Intebi~~Stefanie Block Uribarri- Secretary-Treasurer ~~———~~Daniel Ortiz, General Counsel