

Q: Below are policies adopted by the District relating to governing of operations and functions of its drainage utility. Is a revised version needed for the rules and regulations that accounts for formation and transfer of responsibilities to SEMSWA as well as Copperleaf Tap Purchase Agreement specifics?

ADOPTED 5/25/89

EAST CHERRY CREEK VALLEY WATER AND SANITATION DISTRICT

RULES AND REGULATIONS

DRAINAGE UTILITY

Arapahoe County

State of Colorado

April 1, 1989

These Rules and Regulations are subject to change,
at any time, without notice, by action of the
Board of Directors of the District

SECTION 1

GENERAL

- 1.1 **Scope.** This regulation shall be treated and considered as a new and comprehensive regulation governing the operations and functions of the East Cherry Creek Valley Water and Sanitation District relating to its drainage utility.
- 1.2 **Policy and Purpose.** It is hereby declared that the Rules and Regulations herinafter set forth will serve a public use, and are necessary to insure and protect the health, safety, prosperity, security and general welfare of the inhabitants of the East Cherry Creek Valley Water and Sanitation District.
- 1.2.1 The rules are further adopted to implement that certain Intergovernmental Agreement which provides for the orderly development of provision of storm drainage service within the boundaries of the District and Arapahoe County.
- 1.3 **Applicability.** These rules and regulations shall be applicable to all tenants and property owners within the District storm drainage service area as defined on the Master Drainage Plan Service Area Boundary Map as amended. No land shall be developed, nor no buildings or impervious surfaces shall be placed in the District without compliance with these rules and regulations.
- 1.3.1 Provided, however, that certain lands which have previously been developed or subdivided, and which do not receive water or sewer service from the District, and over which the District and County is unable to enforce compliance with the rules and regulations of the District, may be excepted in the discretion of the Board of the District.
- 1.4 **Definitions.** Unless the context specifically indicates otherwise, the meaning of terms used herein shall be as follows:
- 1.4.1 *“Actual Cost”* shall mean all direct costs applicable to the construction of a given drainage capital improvement, including construction, engineering, inspection, plan approval fees, easements, etc.
- 1.4.2 *“Board”* and *“Board of Directors”* as used herein shall mean the governing body of the East Cherry Creek Valley Water and Sanitation District.

- 1.4.2.a. *“Board of County Commissioners,” “Commissioners,”* shall mean the Board of Country Commissioners of Arapahoe County, Colorado.
- 1.4.3 *“Customer”* shall mean any person, company, corporation, or public entity, authority or agency owning or occupying land within the District storm drainage service area.
- 1.4.4 *“Developer”* shall mean any person, firm, partnership, joint venture, association, or corporation who shall participate as owner, promoter, developer, or sales agent in the planning, platting, development, promotion, sale, or lease of a residential or commercial subdivision within the District.
- 1.4.5 *“District”* shall mean the East Cherry Creek Valley Water and Sanitation District.
- 1.4.6 *“Drainage Basins.”* All of the lands within the storm drainage service area of the ECCV District have been segregated into three major drainage basins. The boundaries are as shown on the respective Master Plan documents.
- 1.4.6.a. The *“Piney Creek Basin.”* Includes land tributary to Piney Creek and land tributary directly to Cherry Creek.
- 1.4.6.b. The *“West Toll Gate Creek Basin.”* Includes all lands tributary to West Toll Gate Creek.
- 1.4.6.c. The *“No Name Creek Basin.”* Includes land tributary to No Name Creek, land tributary to East Toll Gate Creek, and land tributary to Murphy Creek.
- 1.4.7 *“Drainage Facilities.”* The term *“drainage facilities”* shall include all capital improvements related to the drainage utility, except that bridges and culverts for roadway or other access ways shall not be considered as a part of the District’s drainage system unless specifically so designated by the District. All drainage facilities shall be segregated into two categories as follows:
- 1.4.7.a. *“Local”* drainage facilities include: all collection storm sewers, inlets, catch basins, collection system discharge outlets, and other appurtenances. *“Local”* drainage facilities also include that part of storm water transmission pipelines as defined hereinafter to be constructed by the Developer.
- 1.4.7.b. *“Regional”* drainage facilities include all detention ponds and appurtenances as accepted by the District, all drainage ways (channels) serving tributary areas

greater than 100 acres, and oversize of storm water transmission lines as defined hereinafter.

1.4.7.c. *“Oversize Costs”* refer to the cost of oversizing local, regional, or collector storm sewers (those serving less than 100 acres) so that they may provide the extra capacity necessitated by simultaneously transmitting flows from upstream area (if such flows are over and above historic rates). No sewer 24" in diameter or smaller shall be considered as oversized; oversize costs are limited to the incremental cost between the installed conduit and a twenty-four inches (24") or larger pipe size if the historic flows would so dictate (based on five-year frequency event) as determined by the District. Design to be approved by the County and the District, and to be maintained by the County.

1.4.8 *“Engineer”* for the District is that person who qualifies as an engineer under the statutes of the State of Colorado, and has been selected to act in such capacity by the District.

1.4.9 *“Inspector”* shall mean the person or persons duly authorized by the District to act in its stead, and to enforce all requirements of the District.

1.4.10 *“Person”* shall refer either to the singular or plural, and shall include an individual, firm, partnership, or corporation.

1.5 **Severability.** If any section, subsection, paragraph, clause, or other provision of these Rules and Regulations shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause, or other provision, shall not affect any of the remaining provisions.

SECTION II

OPERATIONS AND USE

- 2.1 **Policy.** The District is responsible for operation and maintenance for all accepted Regional drainage facilities, except oversized storm sewers. The District has entered into an Intergovernmental Agreement with Arapahoe County for maintenance of all Local storm sewer and oversized pipe facilities.
- 2.2 **Ownership.** Regional drainage facilities shall be planned, constructed, and owned by the District and may include certain Regional oversize storm sewer facilities. All Local storm sewer facilities shall be owned by the County.
- 2.3 **Powers and Authority of Inspectors.** The Manager, Inspector, and other duly authorized employees of the District, bearing proper credentials and identification, shall be permitted to enter upon all properties, at reasonable times, for the purpose of inspection, observation, measurement, sampling, and testing, in accordance with the provisions of these Rules and Regulations.

2.4 **Protection from Damage.** No unauthorized person shall maliciously, willfully, or negligently, break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the storm drainage utility. Any person violating this provision shall be subject to legal process.

2.4.1 Any person violating any of the provisions of these Rules and Regulations shall become liable to the District for any expense, loss, or damage occasioned by reason of such violation.

2.5 **Prohibition.** No contaminated liquids shall be allowed to run to the storm sewer system. This prohibition precludes contaminated wastes from domestic, industrial, or commercial sites from entering the storm sewer system. Only the following waters will be allowed to use the storm sewer utility. Surface runoff from natural precipitation; runoff from use of potable water (quality protection measures may be required); uncontaminated groundwater from building foundation drains; uncontaminated cooling waters.

No person shall cause to be discharged to the storm sewer system any debris, trash, or other foreign matter which could cause contamination of the water or stoppage of inlets or pipes.

SECTION III

STORM DRAINAGE FACILITIES

- 3.1 **Scope.** The prescribed storm drainage facilities/system approved by the Board will be required to be in place and operable, or an acceptable agreement, prior to change in use (development) of any land within the District from its natural state or agricultural use.
- 3.2 **Purpose.** The purposes of the District's storm drainage system are: to convey runoff water through development within the District in a manner so as to minimize damage to life and property; to manage peak runoff rates in accordance with the adopted master plan; and to accommodate orderly development pursuant to County requirements.
- 3.3 **System Master Plan.** The District has adopted drainage system Master Plans, and will modify and/or update the Master Plans as the District deems prudent from time to time. Design of all facilities will be in essential conformance to the Master Plans.
- 3.4 **Land Dedication.** The Developer shall dedicate or deed to the District sufficient land to accommodate Regional storm drainage detention in addition to the dedication of sufficient land of the Developer for Local detention in an amount not less than the size of the facility measured by the District criteria of 4 to 1 slope and detention of the ten- (10) year and one hundred- (100) year flows.
- 3.4.1 Land required for Regional storm drainage detention located in a flood plain, open space dedication, right-of-way, or easement shall be deeded or dedicated without cost to the District; additional land for Regional storm sewer detention which may be required by the District in excess of land required to be dedicated by the Developer for its own use, may be acquired at its fair market value, or by mutual agreement between the District and the Developer.
- 3.5 **Local Storm Sewer Facilities.**
- 3.5.1 **Planning Responsibility.** Developers are responsible for the detailed planning of all Local drainage facilities. Preliminary and final designs shall be prepared by a qualified engineer registered in Colorado. Arapahoe County is the primary review and inspection agency for Local drainage facilities, and the District will only perform a perfunctory review for conformance to Master Plan concepts.

3.5.2 **Preliminary Design.** Conceptual and preliminary drainage designs shall be submitted through the County to the District (two copies) for review prior to land development. The preliminary drainage designs shall be complete enough to show:

- Drainage flow routing
- Design flow quantities
- Conformity with Master Plan

The District will review the Preliminary Design submitted within thirty (30) days of reception. Preliminary designs shall be revised if necessary and resubmitted until approved. All final design and construction shall be in accordance with the approved Preliminary Design submittal.

During the Preliminary Design review, if the District determines that any of the subject facilities are to be oversized in order to serve a Regional function, then the District will direct the Developer to design the oversize as a part of his responsibility. Cost sharing arrangements will be made in accordance with District Regulations.

3.5.3 **Final Design/Construction.** Final design plans and specifications (three copies) must be submitted to the District for review. These documents must be approved prior to construction. The District may elect to perform partial inspection at its option.

3.5.4 **Cost Responsibility.** The Developer shall pay the entire actual cost for all Local drainage facilities. If the project includes Oversize Costs that are related to Regional storm sewer facilities, the Developer will be credited on a proportionate basis.

3.6 **Regional Facilities.**

3.6.1 **Planning Responsibility.** The District will be responsible for preliminary and final design and construction of all Regional facilities except in site-specific cases at the discretion of the Board.

3.6.2 **Design Fee.** Prior to the design of Regional storm sewer facilities by the District, the Developer shall pay to the District the estimated costs of design as determined by the District Engineer, which estimated costs shall be adjusted when actual costs are determined; payment shall be made in such manner as approved by the District, or by the purchase in advance of System Development Fees.

- 3.6.3 **Bids.** Prior to the bid for construction, the Developer shall have deposited an amount sufficient to construct the Regional facility, or portion thereof, based upon District Engineer estimates to be adjusted when actual costs are determined. The Developer shall also deposit its share of the construction costs of the Regional storm drainage facility attributable as a Developer cost herein (the “Developer’s Contribution” or “Developer’s Cost”). The District may let the bid for construction to the most responsible bidder, or may reject all bids to the best advantage of the District.
- 3.6.4 **Developer Requested Design Revisions.** The District’s capital projections are generally based on location of detention ponds as shown on the Master Plan, and upon the use of open natural channels as Regional drainage ways. Where the Developer requires revisions to minimal cost designs (in order to enhance development potential or similar reasons), then the Developer shall pay the actual incremental costs increase for the required facilities.

SECTION IV

RATES AND CHARGES

- 4.1 **Plan Review Fees.** Plan Review Fees will be charged for review of preliminary concepts and design, and review of final designs for Local drainage facilities. Plan review fees will be charged administratively by the District Manager with the intent of covering only the actual direct District administrative and Engineering costs for this service. Before performing such service, the District may prepare an estimate of review costs and require the Developer to deposit funds in the estimated amount prior to review. At the completion of the review process, additional funds will be paid, or refund made, so as to adjust the amount to actual costs.
- 4.2 **Inspection Fees.** Where the District performs field construction inspection services for Local drainage facilities, construction inspection fees shall be paid to the District. Such fees shall be set administratively by the Manager so as to cover actual direct costs of inspection. (Note that the construction of all Local drainage facilities in the District shall be inspected by Arapahoe County or the District.)
- 4.3 **Single-Family Equivalent Schedule.** Drainage system development fees and service charges shall be made on a single-family equivalent (SFE) basis using the following schedule:

SFE Schedule For Drainage Utility

| <u>Customer Category</u> | <u>Single Family Equivalent (SFE)</u> |
|--|---------------------------------------|
| 1. Single-family residential detached, average density 3.5 DU/gross acre. Actual density 0.1 to 6 DU/acre. | 1.0 SFE/unit |
| 2. Multi-family town homes or single-family attached. Average density varies from 6 to 10 DU/acre. | 0.67 SFE/unit |
| 3. Multi-family high-density condominiums, apartments having a density of 10 to 16 DU/acre. | 0.5 SFE/unit |
| 4. Commercial area | 5.25 SFE/acre |
| 5. Schools, government-type buildings | 3.5 SFE/acre |
| 6. Open space | 0.0 SFE/acre |

4.4 **Service Charges.** Service charges for the drainage utility shall be determined by the Board from time to time, and applied in a uniform and non-discriminatory manner, payable from a portion of the levy, a separate periodic fee, or either one of a combination thereof.

4.5 **System Development Fees.** System Development Fees are designed to finance the capital construction program for Regional storm drainage facilities. For this purpose, the District has divided all District lands into three named drainage basins, i.e.:

- Piney Creek Basin
- West Toll Gate Creek Basin
- No Name Creek Basin

System Development Fees shall be made on a flat-rate basis (per SFE) using the unit charge given in the attached SDF schedules.

4.5.1 **Payment Schedule.** In order to construct Regional drainage facilities, the District and the County, as a condition to plat approval, require affected Developers to enter into agreements whereby Developers agree to pay a minimum number of System Development Fees (“SDF”) in accordance with a prescribed schedule at the rate in effect at the time of payment. System Development Fees shall be paid in accordance with the agreed schedule, but in any event, no later than the time of payment of the water meter.

4.5.1.a. In the event the Developer wishes to prepay System Development Fees and where such prepayment, in the opinion of the District, would not adversely affect the economic feasibility of District construction of Regional drainage facilities in the subject basin, then the District may establish a reduced System Development Fee.

4.5.2 **Uniformity.** SDFs shall be determined uniformly throughout each basin in a fair and equitable manner without discrimination to any Developer. Prepayments made herein shall not be subject to adjustments, and subsequent to determination of the SFE from time to time, shall not be sold for less than the last established purchase of SFEs. To the extent the District has surplus funds remaining subsequent to the final construction of its Regional storm drainage system, such surplus shall be expended for repair, maintenance, and betterment of the Regional system, and shall not be subject to refund, rebate, or credit.

Unless SFEs are prepurchased, the rates for each SFE may be adjusted upward from time to time to reflect an amount which will be calculated as the then SFE attributable to the total SDF of the basin.

- 4.5.3 **Partial District Responsibility.** In certain sub-basins within the District, some Regional-type drainage facilities have been constructed and financed by Developers, and complete or partial development has occurred prior to the District assuming responsibility for the planning and operations of Regional drainage facilities. This situation may result in cases where the Developer has invested in a Regional drainage facility that has capacity for additional development, or where the existing drainage facilities are inadequate for the existing development. In cases where previous investment in Regional drainage facilities is found to exceed the value of System Development Fees that would have been collected, the District will negotiate fee credits with the subject Developer. The credits will be designed at levels to result in an equitable position between previous and proposed development.