

**EXPLANATORY COVER SHEET**

COUNCILMAN'S BILL NO. CB-1534

SPONSOR: COUNCILMEMBER LINDSEY

TITLE: A BILL FOR AN ORDINANCE REPEALING AND REENACTING ARTICLE  
21 OF CHAPTER 16 OF THE NORTHGLENN MUNICIPAL CODE  
REGARDING WATERSHED PROTECTION.

PURPOSE: THIS ORDINANCE AMENDS AND UPDATES THE CITY'S EXISTING  
WATERSHED PROTECTION ORDINANCE.

ADDITIONAL EXPLANATORY REMARKS:

SPONSORED BY: COUNCILMAN LINDSE

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1534  
Series of 2005

\_\_\_\_\_  
Series of 2005

A BILL FOR AN ORDINANCE REPEALING AND REENACTING ARTICLE 21 OF CHAPTER 16 OF THE NORTHGLENN MUNICIPAL CODE REGARDING WATERSHED PROTECTION

NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Article 21 of Chapter 16 of the Northglenn Municipal Code is hereby repealed and reenacted to read as follows:

Article 21. WATERSHED PROTECTION

Section 16-21-1. Definitions.

- (a) **Municipal Water Supplies** means all surface and underground water rights, whether absolutely or conditionally decreed, of the City of Northglenn, which are used or are capable of being used for any beneficial purpose, including, without limitation, municipal commercial, aesthetic, irrigation, minimum stream flow, fish and game propagation, recreation, domestic, industrial uses, and augmentation and exchange. **MUNICIPAL** Water Supplies may include, without limitation, any ~~water intake, carrier ditch,~~ stream, **LAKE, RESERVOIR,** spring, aquifer, ~~reservoir or creek~~—**TRIBUTARIES THERETO.**
- (b) **WATERWORKS MEANS, WITHOUT LIMITATION, ANY DITCH, CANAL, PIPES, OR WELLS REGARDLESS OF WHETHER OR NOT SUCH WATERWORKS ARE CARRYING WATER, SO LONG AS THEY CONSTITUTE PART OF THE CITY'S MUNICIPAL WATER SUPPLY SYSTEM, AS DETERMINED BY THE CITY.**
- (c) **MUNICIPAL WATER SUPPLY SYSTEM MEANS THE WHOLE OF THE CITY OF NORTHGLENN MUNICIPAL WATER SUPPLIES, WATERWORKS AND WATER INTAKES.**
- (d) **Injunctive Relief** shall include temporary, preliminary and permanent injunctive relief.
- (e) **Person** means an individual, corporation, partnership, association,

municipality, district, federal or state agency, commission or other state or federal body or political subdivision thereof.

- (f) **Pollutant** means dredged ~~soil~~, **SPOIL, DIRT, SLURRY**, solid waste, incinerator residue, sewage, garbage, sewage sludge, **TRASH**, chemical waste, **BIOLOGICAL NUTRIENT**, biological materials, mulch, yard clippings, radioactive materials, heat, wrecked or discarded **EQUIPMENT OR** materials, rock, sand, cellar dirt and industrial, municipal and agricultural waste ~~dirt and slurry~~.
- (g) **POLLUTION MEANS MAN-MADE OR MAN-INDUCED, OR NATURAL ALTERATION OF THE PHYSICAL, CHEMICAL, BIOLOGICAL, AND RADIOLOGICAL INTEGRITY OF WATER.**
- (h) **BEST MANAGEMENT PRACTICES (BMP) MEANS ACTIVITIES OR STRUCTURAL IMPROVEMENTS THAT HELP REDUCE THE QUANTITY AND IMPROVE THE QUALITY OF STORMWATER RUNOFF. BMP'S INCLUDE TREATMENT REQUIREMENTS, OPERATING PROCEDURES, AND PRACTICES TO CONTROL SITE RUNOFF, SPILLAGE OR LEAKS, SLUDGE OR WASTE DISPOSAL, OR DRAINAGE FROM RAW MATERIAL STORAGE.**
- (i) **Water Intake** means any point ~~which contributes to~~ **ALONG THE CITY OF NORTHGLENN'S WATERWORKS THAT COLLECTS** municipal water supply ~~IES~~.
- (j) **WATER QUALITY IMPACTS MEANS THE EFFECT OF A DISCHARGE UPON STATE WATERS, INCLUDING, BUT NOT LIMITED TO THE EXCEEDANCE OF PERMIT LIMITATIONS AND/OR STREAM STANDARDS OR GROUND WATER STANDARDS; THE OCCURRENCE OF FISH OR OTHER AQUATIC ORGANISM KILLS; EXCESSIVE GROWTH OF ORGANISMS THAT AFFECTS THE TASTE AND ODOR OF A POTABLE WATER SUPPLY SOURCE AND/OR AESTHETIC QUALITY OF A RECREATIONAL AREA; AND/OR THE OCCURRENCE OF CONDITIONS RESULTING IN DETRIMENTAL PUBLIC HEALTH AFFECTS.**
- (k) **Water Quality Standards.** ~~Within the jurisdictional areas set forth in Section 16-21-3.~~ **MEANS** the standards for water quality ~~shall be those standards~~ adopted from time to time by the water quality control commission pursuant to Section 25-8-201, *et seq.*, C.R.S., as amended, and as applicable to the waters located within the jurisdiction of this watershed. Said standards are incorporated herein by reference.

- (l) **STATE WATERS MEANS ANY AND ALL SURFACE AND SUBSURFACE WATERS WHICH ARE CONTAINED IN OR FLOW THROUGH THIS STATE, BUT DOES NOT INCLUDE WATERS IN SEWAGE SYSTEMS, WATERS IN TREATMENT WORKS OF DISPOSAL SYSTEMS, WATERS IN POTABLE WATER DISTRIBUTION SYSTEMS, AND ALL WATER WITHDRAWN FOR USE UNTIL USE AND TREATMENT HAVE BEEN COMPLETED. MOST SURFACE WATER IS CONSIDERED STATE WATERS, INCLUDING CANALS, DITCHES AND MAN-MADE CONVEYANCES.**

Section 16-21-2. Jurisdiction for Watershed Protection, Permit Required.

- (a) Pursuant to Section 31-15-707(1)(b), as amended, and for purposes of maintaining and protecting its Municipal Water Supply System from injury and pollution, the City shall exercise regulatory, supervisory and enforcement jurisdiction within the incorporated limits of the City of Northglenn and over ~~all streams and sources contributing municipal water supplies~~ **THE MUNICIPAL WATER SUPPLY SYSTEM** for a distance of five (5) miles above the points from any ~~municipal water intake~~ **WATER INTAKE**, as well as for a distance of one thousand feet (1000') from the banks of any such ~~water intake and water supply~~ **MUNICIPAL WATER SUPPLY OR ANY WATERWORKS. THE CITY STAFF SHALL PREPARE A MAP DEPICTING THE GEOGRAPHIC AREA INCLUDED WITHIN THE JURISDICTIONAL AREA OF THIS ARTICLE.**
- (b) **A WATERSHED PERMIT SHALL BE REQUIRED FOR ANY EXCAVATION, FILLING, SURFACING OR GRADING OF ANY AREA WITHIN THE JURISDICTION OF THE WATERSHED AS DEFINED IN SUBSECTION (A) HEREOF.**

Section 16-21-3. Discharges Unlawful. Within the jurisdictional area defined in Section 16-21-32, it shall be unlawful for any person to:

- (a) Dump, deposit or discharge into any **MUNICIPAL** water supply **OR WATERWORKS, OR DUMP, DEPOSIT OR DISCHARGE ONTO ANY AREA THAT MAY DRAIN, INFILTRATE OR PERCOLATE INTO ANY MUNICIPAL WATER SUPPLY**, any pollutant, or engage in any activity which ~~will~~ **MAY** result in ~~the degradation of water quality below the standards set forth in Section 16-21-2.~~ **IMPACTS.**
- (b) Dump or deposit into any **MUNICIPAL** water supply, **OR INTO ANY WATERWORKS**, any material which may injure or obstruct the same.

- (c) Store or retain any ~~offensive or unwholesome substance~~ **POLLUTANT** on any premises in such position that the substance or drainage there from may be carried by natural causes into the **MUNICIPAL** water supply **SYSTEM**.
- (d) Permit to flow from any place or premises any ~~foul or contaminating fluid~~ **POLLUTANT** into any **PART OF THE MUNICIPAL** water supply **SYSTEM**.
- (e) Bathe or swim, or to wash or bathe any animal, or **ALLOW OR** cause any animal to go into, any **PART OF THE MUNICIPAL** water supply **SYSTEM**.
- (f) Excavate, fill, surface or grade any area within the jurisdiction of the watershed without first obtaining a Watershed Permit.
- (g) **FAIL TO ADEQUATELY MAINTAIN ANY DRAINAGE OR WATER QUALITY IMPROVEMENT OR FACILITY.**

Section 16-21-54. Injunctive Relief. In the event that any activity prohibited under this Article is being conducted without a Watershed Permit, or in such a manner that the City-Council finds that a foreseeable risk of pollution to, ~~or degradation of,~~ the City's **MUNICIPAL** water supply **SYSTEM** exists **OR MAY DEVELOP (THIS IS ADDED TO REITERATE SECTION 16-21-1 (B) THAT WATER NEED NOT BE IN THE DITCH)** from such activity, the person responsible for such activity shall be notified by the City of such finding and the City may require that such activity cease and desist. In addition to any other remedies provided by this Article, the City Attorney, acting on behalf of the City-Council, may commence an action in a court of competent jurisdiction for injunctive relief.

Section 16-21-65. Permit ~~and Hearing~~ Procedures.

- (a) Application. An applicant for a Watershed Permit shall submit the following to the City-Council **MANAGER OR HIS DESIGNEE**:
  - (1) A completed application form as provided by the City. The application is to be signed by the owner of the subject property within the protection area defined under Section 16-21-32. An application will not be deemed to be complete until all information required by the City has been submitted.
  - (2) A full and complete description of the proposed activity for which a permit is sought, including, if applicable, a discussion of any future activity anticipated by the applicant with respect to the subject property for which a permit may be required hereunder.
  - (3) Two sets of plans ~~and,~~ specifications, **AND DRAINAGE STUDIES**

which shall contain the following information:

- (A) **SITE PLANS, DEVELOPMENT PLANS, OR PLATS;**
- (B) A vicinity sketch or other ~~data~~ **DATA** indicating the site location and legal description of the subject property;
- (C) Boundary lines of the property for which the permit is being sought;
- (D) Location of any buildings or structure within fifty feet (50') of the proposed activity;
- (E) Accurate contours establishing the topography of the existing surface;
- (F) Elevations, dimensions, location, extent and slopes of all proposed excavating, grading, filling or surfacing shown by contours and/or other means;

~~Details of all drainage devices in connection with the proposed activity;~~

~~A statement of the amount and location of any matter proposed to be deposited in areas other than that shown on the plans; and~~

~~Nature and locations of existing vegetation and a statement as to the effect of the proposed activity on such vegetation;~~

- (G) **DEVELOPED AND HISTORIC STORMWATER RUNOFF RATES, VOLUMES AND PATTERNS AND DETAILS OF ALL DRAINAGE AND WATER QUALITY MITIGATION FACILITIES IN CONNECTION WITH THE PROPOSED ACTIVITY;**
- (H) **EROSION AND SEDIMENT CONTROL PLANS INCLUDING ANY TEMPORARY DRAINAGE FLOW PATTERNS DURING CONSTRUCTION;**
- (I) **A STATEMENT AS TO OPERATION AND MAINTENANCE OF EROSION AND SEDIMENT CONTROL BMP'S DURING CONSTRUCTION AND DEVELOPMENT;**
- (J) **CONSTRUCTION DRAWINGS FOR ALL WATER, SANITARY SEWER AND STORM SEWER UTILITIES**

**WITHIN AND EXTENDING TO AND FROM THE PROPOSED ACTIVITY;**

- (K) **REVEGETATION AND RECLAMATION PLANS AND SPECIFICATIONS.**
- (4) **ANY AND ALL ADDITIONAL INFORMATION THAT MAY BE SPECIFICALLY REQUESTED BY THE CITY, INCLUDING, WITHOUT LIMITATION, THE FOLLOWING:**

- (A) Identification of any activity that may present or create a foreseeable risk of pollution to the **CITY'S MUNICIPAL** water supply ~~of the City~~ **SYSTEM** along with a specific description of the measures that will be employed by applicant to obviate such risks.

~~A map showing the drainage pattern and estimated runoff of the area of the proposed activity.~~

~~Revegetation and reclamation plans and specifications.~~

- (B) A soils analysis, including the nature, distribution and strength of existing soils, and recommendations for earth moving procedures and other design criteria;
- (C) A geologic analysis of the site and adjacent areas and its impact on the proposed activity;

~~An operational and maintenance analysis of the proposed activity.~~

- (D) Water use analysis, including legal basis, source, quality, amount of consumptive use, impact on ground water and discharge characteristics.
- (E) **A STATEMENT OF THE AMOUNT AND LOCATION OF ANY MATERIAL SUBSTANCE PROPOSED TO BE DEPOSITED IN AREAS OTHER THAN THAT SHOWN ON THE PLANS; AND**
- (F) **NATURE AND LOCATION OF EXISTING VEGETATION AND A STATEMENT AS TO THE EFFECT OF THE PROPOSED ACTIVITY ON SUCH VEGETATION;**

- (b) Fees. Any applicant shall submit along with the application, a minimum

base fee of one hundred fifty dollars (\$150.00). ~~The City may assess the applicant with any~~ **THE CITY MANAGER OR HIS DESIGNEE SHALL ESTABLISH AN additional FEE SCHEDULE FOR PROCESSING APPLICATIONS PURSUANT TO THIS ARTICLE, WHICH fees SHALL BE sufficient to ~~cover~~ COMPENSATE THE CITY FOR** the cost of ~~publication, hearing,~~ **REVIEWING AND** processing ~~administration~~ **SUCH APPLICATIONS AS WELL AS COSTS OF** inspection and enforcement, where applicable, of the permit request. No permit shall be issued without such fees having first been paid.

- (c) Review. Within thirty (30) days following receipt of a completed application, the ~~City's Director of Public Works,~~ **CITY MANAGER** or his ~~or her~~ designee, shall review **AND ANALYZE** the same ~~and prepare an analysis of the proposed activity for review by City Council.~~ Such analysis shall ~~include~~ **CONSIDER**, without limitation, the following:
- (1) Nature and extent of the proposed activity;
  - (2) Proximity to ~~existing~~ **THE MUNICIPAL water supplies-SUPPLY SYSTEM;**
  - (3) Drainage patterns and control measures;
  - (4) Soil criteria;
  - (5) Slope steepness and stability;
  - (6) Effects of denudation;
  - (7) Geologic hazards, including, without limitation, avalanche paths, flood plains, high water tables, fault zones and the like;
- (d) **UPON REVIEW, THE CITY MANAGER OR HIS DESIGNEE MAY REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT.**

**THE CITY MANAGER OR HIS DESIGNEE SHALL RENDER A DECISION REGARDING THE ISSUANCE, OR DENIAL, OF A WATERSHED PERMIT TO SUCH APPLICANT** within 30 days ~~after receipt of such analysis. the City Council shall schedule a public hearing required hereunder and render a decision regarding the issuance or denial of a Watershed Permit. The failure of the City Council to render such decision within the time limits specified herein shall be deemed and~~



considered affirmative action on the issuance of the requested permit.

- (e) ~~Section 16-21-7. Public Hearing. Upon receipt of the analysis from the Director of Public Works, the City Council shall conduct a public hearing to review the application and analysis and shall render a decision regarding the issuance or denial of a Watershed Permit to such applicant within three (3) months unless the activity requires approval of a permit from any county, state or federal governmental agency, and which approval or permit procedure exceeds the time requirements of this Section. Then, and in such event, the City shall have an additional sixty (60) days following the final decision of such other governmental approval or permit procedure to conduct the public hearing required hereunder and render a decision regarding the issuance or denial of a Watershed Permit. The City Council may require additional information from any applicant, in which event the public hearing and decision may be delayed or continued until receipt of such additional information.\*~~

**\* ALTERNATIVELY, IF THE PROPOSED ACTIVITIES IN THE APPLICATION INDICATE A *DE MINIMIS* RISK OF POLLUTION, AN EXEMPTION DETERMINATION WILL BE ISSUED.**

Section 16-21-86. StandardS for Issuance of Permit and Other Conditions.

- (a) A Watershed Permit shall be issued when the City finds that the applicant has sustained the burden of ~~proving~~**PROOF** that the proposed activity does not present or create a foreseeable risk of pollution to the City's ~~water supplies or to any water intake~~ **MUNICIPAL WATER SUPPLY SYSTEM** subject to the City's jurisdiction pursuant to Section 16-21-2. A Watershed Permit shall be denied if the City ~~Council~~ finds that the applicant has not sustained such burden of proof.
- (b) The City ~~Council~~ in issuing any Watershed Permit may prescribe any conditions it may deem necessary to effect the intent of this Article. Such conditions may include, without limitation, a requirement that the applicant post a surety bond **OR OTHER SECURITY ACCEPTABLE TO THE CITY ATTORNEY** in an amount sufficient to ensure compliance, including the cost of maintenance, operation, ~~R~~revegetation, reclamation and other requirements of **THE** proposed activities.
- (c) **THE CITY MAY INSPECT THE ACTIVITIES AT ANY TIME WHILE UNDER A WATERSHED PERMIT TO ENFORCE ANY PROVISION OF THIS ARTICLE.**
- (d) If any proposed activity for which a Watershed Permit is issued is not

commenced within nine (9) months from the date of issuance of such permit, the permit shall expire and become void. **THE CITY MANAGER, OR HIS DESIGNEE, SHALL DETERMINE THE AMOUNT OF FEES, IF ANY, WHICH SHALL BE RETURNED TO THE APPLICANT. ONCE AN APPLICATION HAS EXPIRED AND BECOME VOID, ANY PROPOSED ACTIVITY ON THE PROPERTY SHALL REQUIRE A NEW APPLICATION IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE 21.**

~~Notice of any public hearing hereunder shall be given at least ten (10) days in advance of the public hearing by publication in a newspaper having circulation within the City of Northglenn.~~

- (e) **UPON COMPLETION OF THE ACTIVITIES COVERED BY A WATERSHED PERMIT, THE PERMITTEE SHALL FILE AN AFFIDAVIT, UNDER OATH, STATING THAT THE ACTIVITIES COVERED BY THE WATERSHED PERMIT HAVE BEEN COMPLETED IN COMPLIANCE WITH THE WATERSHED PERMIT. THE CITY MAY INSPECT THE AREA TO ENSURE THAT ANY AND ALL CONDITIONS OF THE WATERSHED PERMIT HAVE BEEN SATISFIED. IF THE CITY IS SATISFIED THAT ALL CONDITIONS OF THE WATERSHED PERMIT HAVE BEEN SATISFIED, THE CITY SHALL TERMINATE THE WATERSHED PERMIT AND RELEASE ANY SECURITY PROVIDED BY THE PERMITTEE. FAILURE TO FILE AN AFFIDAVIT OF COMPLETION, AS SET FORTH HEREIN SHALL CONSTITUTE A VIOLATION OF THE ARTICLE AND A LOSS OF ANY PORTION OF A FINANCIAL SECURITY DEEMED APPROPRIATE.**

Section 16-21-97. Inspection.

- (a) The City, by its authorized representative, may enter upon any premises, lands or places, whether public or private, whenever necessary to enforce any provision of this ~~Chapter~~ **ARTICLE**, by following the procedures set forth in this Section **UNLESS SUCH INSPECTION IS OTHERWISE ALLOWED BY SECTION 16-21-6(C).**
- (b) Before entering any premises, lands or places for an inspection, the City, **BY ITS AUTHORIZED REPRESENTATIVE**, shall provide written notice by certified mail to the address of the owner(s) of the property as reflected in the records of the County Assessor. The notice shall state that such inspection is pending.
- (c) Where possible, the inspection shall be scheduled and conducted with the concurrence of the owner(s) of the property.

- (d) If after receiving notice that an inspection is pending, the owner or occupant denies access to the City or its authorized representative, the City may seek a search warrant from the Northglenn Municipal Court.
- (e) No landowner or occupant shall deny access to such land when presented with a valid search warrant.

Section 16-21-108. Violation and Penalty.

- (a) Any person who violates any provision of this Article is subject to receive a summons and citation to appear before the Northglenn Municipal Court. Upon conviction or entry of a guilty plea, such person shall be subject to a fine in an amount up to one thousand dollars (\$1,000.00), imprisonment for up to one (1) year, or both such fine and imprisonment. Each day in which the offense continues or is repeated shall constitute a separate offense.
- (b) Stop Work Order. Whenever any work or activity is being done contrary to the provisions of this Article, or in violation of the terms of any Watershed ~~District~~ Permit issued hereunder, the City or its authorized representativeS may order the work stopped by notice in writing served on the applicant or any person engaged in or causing such activity to be done, and any such **APPLICANT OR** person shall cease such activity until authorized by the City to proceed. The City shall reserve the right to revoke or suspend any permit issued hereunder if work is not done in accordance therewith.

~~Section 16-21-11. Regulations. The City Council may issue regulations providing guidelines and criteria to carry out the purposes of this Article.~~

INTRODUCED, READ, AND ORDERED POSTED this 28<sup>th</sup> day of July, 2005.

FOR *Kathleen M. Novak*  
KATHLEEN M. NOVAK  
Mayor

ATTEST:

*Diana L. Lentz*  
for DIANA L. LENTZ, CMC  
City Clerk


PASSED ON SECOND AND FINAL READING this, \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
KATHLEEN M. NOVAK  
Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
DIANA L. LENTZ, CMC  
City Clerk

  
\_\_\_\_\_  
HERBERT C. PHILLIPS  
City Attorney