

**PUBLIC WORKS DEPARTMENT MEMORANDUM
#20-2019**

DATE: June 10, 2019

TO: Honorable Mayor Pro Tem Esquibel and City Council Members

THROUGH: Heather Geyer, City Manager *hmg*

FROM: Kent Kisselman, PE – Director of Public Works *FKK*
Pam Acre, CSM – Stormwater Coordinator

SUBJECT: CB-1928 – Stormwater Program Ordinance Revisions

PURPOSE

City Council is considering CB-1928, amendments to the City Urban Runoff Drainage Ordinance (§16-13) and the Storm Water Quality Ordinance (§16-17) of the Municipal Code.

BACKGROUND

The Colorado Department of Public Health & Environment (CDPH&E), Water Quality Control Division (WQCD) issued the city its Municipal Separate Storm Sewer System (MS4) Permit in 2003. Since then, the WQCD has updated/revised the permit twice. The latest revision was in 2017 and requires revisions to ordinance language to bring the Stormwater Program into conformance with the state/federal stormwater regulations.

WQCD has conducted two audits of our Stormwater Program since the permit was first issued, in 2006 and 2011. Both times, revisions to our ordinance language were required as well.

Significant changes being presented include:

Article 13 of Chapter 16:

- Clarification of when and how a variance from requirements within the ordinance may be considered.
- Clean up of minor grammatical changes.
- Correction of applicant name designation and timing of application process.

Article 17 of Chapter 16:

- Reduction of duplicative descriptions and statements.
- Removal of specific information describing illicit discharges that is better referenced to the specifics of the MS4 Permit.
- Clarification of specific requirements for a city issued Grading Permit that meets the revised requirements of the most recent CDPHE, WQCD stormwater discharge permit.
- Identification of specific design standards that must meet the requirements of the most recent MS4 permit for all new development and redevelopment sites.

Many of these changes are now referenced to the City's Standards and Specifications (S&S) which allows for the inclusion of most of the engineering details to be in the S&S instead of the Code. These changes will be included in the update to our S&S which is currently underway.

STAFF RECOMMENDATION

Attached to this memorandum is a proposed ordinance, CB-1928, which if adopted would modify both the City Urban Runoff Drainage Ordinance (Chapter 16, Article 13) and the Storm Water Quality Ordinance (Chapter 16, Article 17) of the Municipal Code. Staff recommends

approval of CB-1928 on first reading. A public hearing and second reading of the ordinance will be held on June 24, 2019.

BUDGET/ TIME IMPLICATIONS

This item has no immediate budget implications. To maintain compliance with our MS4 Permit, ordinance revisions must be complete by July 1, 2019.

STAFF REFERENCE

If Council members have any comments or questions they may contact Kent Kisselman, 303.450.4005, or kkisselman@northglenn.org.

CB-1928 – Stormwater Program Ordinance Revisions

SPONSORED BY: MAYOR PRO TEM ESQUIBEL

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1928
Series of 2019

Series of 2019

A BILL FOR AN ORDINANCE AMENDING ARTICLES 13 AND 17 OF CHAPTER 16 OF THE NORTHGLENN MUNICIPAL CODE IN COMPLIANCE WITH THE CITY'S LATEST MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT

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

Section 1. Article 13 of Chapter 16 of the Northglenn Municipal Code is hereby amended to read as follows:

CHAPTER 13
ARTICLE 13. CITY URBAN RUNOFF DRAINAGE ORDINANCE.

Section 16-13-1. Title.

This ordinance shall be known and cited as the "City Urban Runoff Drainage Ordinance."

Section 16-13-2. Purpose.

The City Council recognizes that the City is subject to damage from floods. The presently existing storm drainage facilities provide some protection, but are inadequate for containing storms other than those of a minor nature. As development of the land area within the City continues, the runoff of stormwater increases, thereby increasing the volume of water which the City's storm drainage facilities must contain.

Each property owner within the City, to the extent that he makes use of the City's storm drainage facilities by means of adding storm water runoff to those facilities beyond the amount of runoff which would occur if the land were undeveloped, should pay for the use, and his share of the cost, of such facilities.

In addition to these general purposes, the City Council declares that this ordinance is adopted for the following specific purposes:

- (a) To promote the public health, safety, and welfare, by permitting the movement of emergency vehicles during flooding periods, and to minimize flood losses and the inconvenience and damage resulting from uncontrolled and unplanned storm runoff in the City;

(b) To implement a plan that includes a coordinated program of creating upstream ponding for temporary detention of storm runoff waters;

(c) To establish a storm drainage and flood control ~~manager~~ MANAGEMENT program in the Public Works Department in order to coordinate, design, construct, manage, operate and maintain the storm drainage and flood control system;

(d) To establish reasonable storm drainage and flood control fees on the basis of the use made of storm drainage facilities; and

(e) To encourage and facilitate urban water resources management techniques, including REDUCTION AND/OR detention of storm runoff, minimization of the need to construct storm ~~sewers~~ drainage INFRASTRUCTURE, reduction of pollution, and the enhancement of the environment.

Section 16-13-3. Definitions.

For the purposes of this Chapter, the following words and terms shall be defined as follows, unless the context in which they are used clearly indicates otherwise:

(a) "Facilities" includes all uses of land which are made in conjunction with, and which are related and incident to, the construction, installation and use of the physical structures and equipment necessary to contain and control storm water, such as channels, bridges, pipes, etc.;

~~(b) "Historic one hundred year flood plain" means that area along a channel that would be inundated by a one hundred year flood if no development had occurred.~~

Section 16-13-4. Implementation of Urban Runoff Management Plan.

(a) The City Manager shall implement the existing Urban Runoff Management Plan.

(b) The Urban Runoff Management Plan, based on engineering studies, indicates the location of all drainage facilities in the City, including those facilities which presently exist and those which are determined to be needed, and which are intended to be constructed, in the future. The facilities shown on the plan include all major drainage ways which directly or indirectly affect drainage within the City, all drainage basins within the City, and all conduits, channels, natural drainage course, retention reservoirs, easements, culverts, bridges and other facilities which are required to provide for the drainage and control of surface waters within the basins of the drainage ways and to carry such waters to designated points of outflow or discharge. Maximum citizen participation during all phases of the implementation of the storm drainage and flood control regulations shall be encouraged.

To insure citizen participation on actual construction projects at any time a project is proposed by the City to implement the Urban Runoff Management Plan, ~~the City administration shall hold a public hearing in the neighborhood where the project is to be constructed.~~ The Planning Board and City Council shall hold public hearings prior to ~~construction~~ APPROVAL of the project.

Section 16-13-5. Supplementary Studies.

Supplementary studies shall be made by the City Manager to determine the estimated cost of constructing the drainage facilities shown on the Urban Runoff Management Plan and which do not presently exist. This estimated cost shall include the expense of any necessary land acquisition, as well as the cost of the supplementary studies themselves.

Section 16-13-6. Purpose of Urban Runoff Management Plan.

The purpose of the Urban Runoff Management Plan is to identify and alleviate present and future drainage and flooding problems in the City by means of presenting in an orderly fashion the general data and information which are essential in understanding the relationship between rainfall and storm runoff. The Urban Runoff Management Plan shall serve as the official designation of drainage facilities and drainage ways shown thereon. The Urban Runoff Management Plan may be altered from time to time to conform with existing conditions.

Section 16-13-7. Annual Report by City Manager.

In the annual proposed budget of the City, the City Manager shall submit to the City Council a proposed budget for the construction of storm and flood drainage facilities for the ensuing budget year, which budget shall contain a statement of all amounts presently in the storm drainage and flood control account, an estimate of anticipated revenues for the ensuing budget year, and a list of the proposed projects to be constructed or developed.

Section 16-13-8. Duties of Land Developers - General.

The City Council finds and declares that each developer of land within the City has a duty to provide on his property all reasonably necessary drainage facilities to ensure the adequate drainage and control of flood and storm waters which fall on his property, as well as the flood and storm waters from all other property which contribute runoff to his property.

Section 16-13-9. Storm Drainage Plans.

(a) ~~Prior to the issuance by the City of a building permit for any building or structure~~ AN APPROVAL FOR USE OR MODIFICATION OF A USE ON ANY PARCEL, other than a single-family dwelling, that may result in a land disturbance of one or more acres, or result in land disturbance of less than one acre but which is part of a larger common plan of development, the property owner or ~~building~~ permit applicant shall submit a detailed storm drainage plan to the City,

and the requested ~~building~~ permit shall not be issued until and unless this storm drainage plan has been approved by the City Manager or the City Manager's designee. Such plan will be reviewed from the standpoint of generally accepted engineering principles and standards in the area of storm and drainage control.

(b) The storm drainage plan shall establish, locate, or otherwise define the alignment and boundary of any natural drainage course, drainage facility, or subdrainage area on the land in question, and it shall include drawings, profiles, and specifications for the construction and installation of channels, conduits, reservoirs, culverts, bridges, easements, and all other drainage facilities reasonably necessary to ensure that flood and storm waters, including drainage from other lands which will contribute runoff to the property in question, will be adequately drained and controlled. Included in the plan shall be a schedule containing the estimated dates of completion of construction for all storm drainage facilities shown on the plan. If and when the plan is approved and any permit issued, the applicant shall comply with the schedule.

(c) No storm drainage plan shall be approved by the City Manager OR THE CITY MANAGER'S DESIGNEE unless it conforms with the master drainage plan, and particularly that portion of the master plan which relates to the drainage basin in which the land in question is located.

(d) The approval by the City Council, or the City's Planning Department or Planning Board of every subdivision, planned unit development, AND special review use ~~and height exception~~, is conditioned, whether expressly stated or not, on the submission and approval of the storm drainage plan required by this Section.

(e) On-site detention, storage or other reasonable runoff reduction techniques shall be required for all developments, including any individual single family lots which may disturb greater than an acre, but are not part of a larger common plan of development. All ~~ponding~~ stormwater detention or runoff reduction techniques must meet the reasonable requirements of urban hydrology, and be in conformance with applicable City and Urban Drainage and Flood Control District standards regarding water quality and quantity.

(f) The City Manager OR THEIR DESIGNEE shall have the authority to waive OR ISSUE a variance of any or all of the requirements of this Section for particular developments, or to impose additional requirements consistent with the purposes of the storm drainage and flood control regulations as set forth in the City Code, if such waiver OR VARIANCE IS IMPLEMENTED IN A MANNER THAT IS CONSISTENT WITH THE TERMS AND CONDITIONS FOR EXCLUSIONS AND EXEMPTIONS WITHIN THE MOST RECENT VERSION OF THE CITY'S PHASE II MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT AND THE APPLICABLE PROVISIONS OF 5 C.C.R. 1002-61 ~~imposition of additional regulations is reasonably necessary due to the existence of special geological or topographical conditions.~~

(g) The approved plan shall be so developed as to be integrated into the City's open space irrigation and flood storage networks, in order to permit re-use of

flood waters and subsequent reapplication to cooperating farming entities in contractual relationships with the City.

Section 16-13-10. Easements for Drainage Ways.

In order to achieve the purposes of this ordinance, it is necessary for the City to acquire easements for the construction and maintenance of channels along the natural drainage ways in the City as shown on the Urban Runoff Management Plan. The resulting reestablishment of the historical channels ~~shall~~ MAY lessen the width of the flood plain, thereby benefiting the property through which the drainage ways flow, and permitting the owners of the property to make greater use of their land. Therefore, when the owner of a parcel of land through which a natural drainage way flows as shown on the Urban Runoff Management Plan applies for a ~~building permit development plan approvals~~ in order to develop the subject property, he shall be required to grant to the City, at no expense, a permanent easement for the purpose of constructing, maintaining, and reconstructing a channel along the drainage way.

Section 16-13-11. Construction of Drainage Facilities.

In order to guarantee the construction of any drainage facilities shown on an approved storm drainage plan, the owner ~~or developer~~ of the land in question must submit to the City, prior to the issuance of a building permit, and in a form satisfactory to the office of the City Attorney, a financial guarantee for the construction of the facilities.

Section 16-13-12. Severability Clause.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions or applications of this ordinance are declared to be severable.

Section 2. Article 17 of Chapter 16 of the Northglenn Municipal Code is hereby amended to read as follows:

CHAPTER 16
PUBLIC PROPERTY, UTILITIES AND SERVICES
ARTICLE 17. STORMWATER QUALITY.

Section 16-17-1. Purpose and Objectives.

The purpose of this article is to regulate non-stormwater discharges to the storm drainage system, as required by federal and state law and to protect and

enhance the water quality of watercourses, water bodies and wetlands in a manner consistent with the Federal Clean Water Act. The objectives of this article are:

(a) To regulate ~~the introduction~~ AND PROMOTE PUBLIC AWARENESS OF HAZARDS INVOLVED IN THE IMPROPER DISCHARGE of pollutants to the municipal separate storm sewer system (MS4);

(b) To ~~prohibit~~ DETECT AND ELIMINATE illicit connections and discharges to the MS4;

(c) To provide for inspection and monitoring procedures necessary to ensure compliance with this article;

(d) To reduce pollutants in stormwater discharges from construction ~~activity by guiding, regulating and controlling the design, construction, use, and maintenance of any development~~ ACTIVITIES or other ~~activity~~ ACTIVITIES that disturbs or breaks the topsoil or results in the movement of earth on land; AND

(e) To require permanent stormwater runoff controls to be constructed along with development AND REDEVELOPMENT to prevent the deterioration of water quality and reduce the increase of water runoff quantity.; ~~and~~

~~(f) To promote public awareness of the hazards involved in the improper discharge of pollutants into the storm drainage system.~~

Section 16-17-2. Definitions.

For the purposes of this article, the following words and phrases shall have the meaning set forth in this section:

Agricultural activities. Activities directly related to:

(a) Land preparation for farming such as plowing and disking, for the purpose of crop production;

(b) The housing and pasturing of livestock.

Approved Stormwater Management Plan; aka SWMP. The SWMP that is currently approved by the City. This would also include any minor modifications that have been made to the SWMP at the construction site.

Best management practices; aka BMPs. Schedules of activities, prohibitions of practices, general good housekeeping, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include permanent or non-permanent treatment practices, structures, ponds or basins, landscaping, operating procedures, and other practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CDPHE. The Colorado Department of Public Health and Environment.

CDPS. The Colorado Discharge Permit System.

Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*), and any subsequent amendments thereto.

Construction activities. GROUND SURFACE DISTURBING AND ASSOCIATED ACTIVITIES, INCLUDING, BUT NOT LIMITED TO Clearing, grading, excavation, landscape, remodel, expansion and other earth disturbance activities. Construction does not include agricultural activities; routine maintenance performed by public agencies or their agents to maintain original line, grade, hydraulic capacity or original purpose of the facility.

Director. The City of Northglenn Public Works Director or designee.

Disturbed area. That area of the land's surface disturbed by any work or activity upon the property by means including, but not limited to, grading, excavating, stockpiling soil, fill, or other materials; clearing; vegetation removal; removal or deposit of any rock, soil, or other materials; or other activities which expose soil. Disturbed area does not include disturbance caused by normal agricultural activities.

Facility. Any building, including a private home, structure, installation, process or activity from which there is or may be a discharge of a pollutant.

Finally stabilized area. All disturbed areas that have been either built on, paved, or on which a uniform perennial vegetative cover has been established, or equivalent permanent physical erosion reduction methods and best management practices have been employed.

Hazardous materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or to the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illicit connections. Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drainage system, including, but not limited to, any conveyances which allow any ~~non-stormwater~~ ILLICIT discharge including sewage, process wastewater, and wash water to enter the storm drainage system; and any connections to the storm drainage system from indoor drains, sump pumps, floor drains or sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved.

Illicit discharge. Any direct or indirect release of pollutants THAT IS NOT COMPOSED ENTIRELY OF STORMWATER to the storm drainage system,

except as exempted in this article and EMERGENCY FIREFIGHTING ACTIVITIES.

~~*Industrial activity.* Activities subject to NPDES industrial permits, as defined in 40 CFR, Section 122.26(b)(14), or successor regulations thereto.~~

Major SWMP modification. Modifications to the approved SWMP that change the hydrology.

Minor SWMP modification. Modifications to the approved SWMP that result in substitutions or adjustments to BMPs that provide equivalent performance and protection and do not result in conditions that require a major modification.

Mobile washing operation. A commercial activity involving power washing, steam cleaning, and any other method of mobile cosmetic cleaning of, by way of example, the following: vehicles, fabric, pets and/or exterior surfaces.

Municipal separate storm sewer system (MS4). Publicly-owned facilities by which stormwater is collected and conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, catch basins, inlets, piped storm drains, pumping facilities, retention and detention basins, and natural and human-made or altered drainage ditches/channels/lakes/reservoirs, and other drainage structures.

National pollutant discharge elimination system (NPDES) stormwater discharge permit. A permit issued pursuant to Section 402 of the Clean Water Act, including permits issued by the State of Colorado in compliance with the Act.

~~*Non-stormwater discharge.* Any discharge to the storm drain system that is not composed entirely of stormwater.~~

Operator. The individual who has day-to-day supervision and control of activities occurring at the construction site, includes the owner, the developer, the general contractor or the agent of one (1) of these parties.

Owner. The person who owns a facility, development, part of a facility, or land.

Pollutant. Any DREDGED SOIL, sewage, sewage biosolids, garbage, chemical waste, biological material, solid waste, incinerator residue, ash, munitions, radioactive material, heat, rock, sand, cellar dirt and industrial and agricultural wastes discharged in the water.

Pollution. The presence in waters of the state of any substances, contaminants, or manmade or man-induced impairment of waters or alteration of the chemical, physical, biological, or radiological integrity of water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which unreasonably interfere with the

enjoyment of life or property, including outdoor recreation unless authorized by applicable law.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved, and including adjacent sidewalks and parking strips.

Receiving water. Any water of the State of Colorado that receives a stormwater discharge from an MS4, including all watercourses, even if they are usually dry, and irrigation ditches that receive municipal stormwater. It also includes storm drainage systems owned by other entities.

Spill. Any intentional or unintentional release of solid or liquid material which may cause pollution of the MS4 or waters of the state.

Storm drainage system. Also defined as municipal separate storm sewer system (MS4).

Stormwater. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Management Plan (SWMP). A plan describing the BMP and activities to be implemented to identify sources of pollution or contamination at a site, and the actions to eliminate or reduce pollutant discharges to stormwater, MS4, and/or receiving waters to the maximum extent practicable.

Threatened discharge. A condition creating a substantial probability of harm, which makes it reasonably necessary to take immediate action to prevent, reduce or mitigate damages to persons, property or natural resources.

Wastewater. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Watercourse. A channel, natural depression, slough, artificial channel, gulch, arroyo, stream, creek, pond, reservoir or lake, including major drainageways, in which runoff and floodwater flows, either regularly or infrequently.

Waters of the State of Colorado (waters of the state). Any and all surface and subsurface waters that are contained in or flow in or through the State of Colorado. The definition includes all watercourses, even if they are usually dry.

Section 16-17-3. Applicability.

This article shall apply to all water and other discharges entering the storm drainage system generated on any developed and undeveloped real property within the City unless explicitly exempted by a provision hereof.

Section 16-17-4. Responsibility for Administration.

The Director shall administer, implement, and enforce the provisions of this article.

Section 16-17-5. Illicit Discharges Prohibited.

No person shall discharge or fail to implement adequate best management practices to prevent an illicit discharge into the MS4 or watercourses, ~~including but not limited to, the following, but not limited to~~ ANY OF THE FOLLOWING MATERIALS, WITHOUT LIMITATION:

- (a) Chemicals, petroleum products, paint, varnishes, solvents, oil and grease and other automotive fluids, pesticides, herbicides, and fertilizers, or other toxic materials;
- (b) Non-hazardous liquid and solid wastes;
- (c) Hazardous materials, sewage, fecal coliform and pathogens, dissolved and particulate metals;
- (d) Trash, refuse, rubbish, garbage, food wastes, animal wastes, litter, other discarded or abandoned objects, floatables and cleaning products;
- (e) Landscaping materials, sediment, lawn clippings, leaves, branches or other landscaping and yard debris;
- (f) Construction activities wastes and residues including, but not limited to, painting, paving, concrete placement, saw cutting, material storage and earthwork;
- (g) Wastes and residues that result from mobile washing operations, discharges from toilets, sinks, industrial processes, cooling systems, boilers, fabric cleaning, equipment cleaning, commercial vehicle cleaning;
- (h) Any other material that is considered harmful to humans, animals, or aquatic life and its habitat.

Section 16-17-6. Illicit Discharges Exempted.

~~The following discharges, w~~When properly managed, ~~are~~ THE ITEMS LISTED IN PART 1(E)(2)(V) OF THE CITY'S PHASE II MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT ARE exempt from the discharge prohibitions established by this article. Meeting exemptions identified in this section does not imply or determine that a CDPS permit is not required.

~~(1) — Allowable non-stormwater discharges. Water line flushing or other potable water sources discharged in accordance with the provisions of the current Low Risk Discharge Guidance provided by the CDPHE, landscape irrigation or lawn watering, irrigation return flows, diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, roof drains, foundation or footing drains, air conditioning condensation, water from crawl space pump, basement drains, springs, individual residential car washing, natural riparian habitat or wetland~~

~~flows, private swimming pools (if dechlorinated — less than 0.05 ppm chlorine); emergency firefighting activities, incidental discharges from street sweeping operations (including associated sidewalks and medians, and that is not associated with construction), and any other water source not containing pollutants.~~

~~(2) — Discharges approved by the authorized enforcement agency necessary to protect public health and safety, such as flows from emergency firefighting and street sweeping.~~

~~(3) — Dye testing, provided the person undertaking such testing provides verbal notification to the authorized enforcement agency twenty four (24) hours prior to the time of the test.~~

~~(4) — Runoff of roadway and sidewalk anti-icing and deicing agents; provided that they are applied according to best management practices.~~

~~(5) — Runoff associated with normal agricultural activities.~~

~~(6) — Any non-stormwater discharge permitted under a CDPS or NPDES permit, waiver or waste discharge order issued and administered under the authority of the Federal Environmental Protection Agency (EPA) or the Colorado Department of Public Health and Environment (CDPHE), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations.~~

~~(7) — Occasional incidental non-stormwater discharges. Snow melting operations, private swimming pools, potable water sources, and charity car washes provided that adequate BMPs are in place to minimize the discharge of pollutants.~~

~~(8) — Discharges as a result of activities of the City, where needed for emergency purposes or to protect public safety.~~

Section 16-17-7. Illicit Connections Prohibited.

The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

Section 16-17-8. Best Management Practices.

The owner or operator of a commercial, RESIDENTIAL or industrial establishments or a disturbed area shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or watercourse through the use of structural and non-structural BMPs. Further, any person responsible for premises, which are, or may be, the source of an illicit discharge, may be required to implement, at said person's expense,

additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4.

Section 16-17-9. Notification of Spills.

Notwithstanding any other requirement of law, as soon as any person responsible for any premises, facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drainage system, the MS4, or waters of the state, that person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Director in person or by telephone no later than twenty-four (24) hours after the release. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Director within five (5) calendar days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

Section 16-17-10. Grading Permit Required; Applicability.

(a) Grading permit required. It shall be unlawful for any person to conduct any QUALIFYING CONSTRUCTION ACTIVITY OR LAND DISTURBANCE activity resulting in any of the following total disturbed areas without first obtaining a Grading Permit pursuant to this section. A Grading Permit shall be required for disturbed areas of:

- (1) One (1) acre or more.
- (2) Less than one (1) acre if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.
- (3) The City may also require a Grading Permit regardless of the size of the total disturbed area in conjunction with approval of a final subdivision plat, special use permit, or site development plan, or if the construction activities are adjacent to a watercourse or wetlands.

(b) EXEMPTIONS. The following activities are exempt from this section but may not be exempt from obtaining any required state issued permit:

- (1) Agricultural land management activities, not including construction activities;

~~(2) Grading or an excavation below finished grade for basements, footings, retaining walls or other structures on plots zoned R1-R3 of less than one (1) acre in size unless required otherwise under this article;~~

~~(3) A sidewalk or driveway of less than one (1) acre in size authorized by a valid permit under Section 16-1-1 of this Code;~~

~~(4)(2) Sites smaller than one (1) acre which are not a part of a larger common plan of development and which constitute an infill of an established older development within the City, unless required otherwise under this article~~

~~(5)(3) NOTWITHSTANDING THE FOREGOING EXEMPTIONS IN THIS SECTION, THOSE OPERATIONS AND CONSTRUCTION ACTIVITIES WHICH ARE EXEMPT FROM OBTAINING A GRADING PERMIT MUST COMPLY WITH THE RULES AND REGULATIONS CONCERNING EROSION AND POLLUTION PREVENTION SPECIFIED IN THIS ARTICLE AND OTHER APPLICABLE PROVISIONS OF THIS CODE AND SHALL PROVIDE ADEQUATE STORMWATER POLLUTION PREVENTION CONTROLS TO RETAIN SOIL EROSION AND PROTECT STORMWATER RUNOFF QUALITY ON THE SUBJECT CONSTRUCTION SITE.~~

(c) Permit application. Applications for ~~g~~Grading permits shall be filed on a form prescribed by the City.

(1) In support of the application, the applicant shall submit all information required on the City's form and any additional information requested by the City.

(2) The application shall be signed by all persons responsible for compliance with the permit throughout the permit's validity.

(3) The application shall include documentation of an application for a CDPHE stormwater general permit for construction activities and a completed SWMP which must include an erosion and sediment control plan and waste management BMPs.

(d) Land disturbance activities may not proceed until grading permit approval is received from the City.

(e) Permit issuance or denial. The grading permit may be denied if the applicant fails to provide the information required by this article. . If a permit is denied, the applicant shall be notified in writing of the grounds for denial and of the corrective actions that must be taken to obtain a permit. An applicant may

appeal the denial in writing to the Director no later than thirty (30) calendar days from the date of issuance of denial. The appeal must set forth the grounds for the appeal and include any documents in support of the applicant's appeal. The Director shall issue a ruling on the matter within thirty (30) calendar days of receipt of an appeal based solely upon review of the application, denial, appeal, and all documents related thereto. The applicant shall receive written notice of the Director's ruling.

(f) Performance standards and fees. Performance standards and fees for any permit required by this article shall be met and paid per the schedules on the permit form. No permit shall be issued until and unless the performance standards have been met and fees paid in full.

Section 16-17-11. Technical Standards and Specifications.

All BMPs, whether temporary or permanent, designed to meet the requirements of this article shall comply with the following technical standards:

(a) Urban Drainage and Flood Control District's Urban Storm Drainage Criteria Manual – Volume 3 or its successor;

(b) "City of Northglenn Public Right-of-Way Standards and Specifications," originally adopted on November 11, 2010, and any subsequent updates as adopted by the City Council by Resolution; and

(c) Any other alternative methodology approved by the City, which is demonstrated to be effective.

Section 16-17-12. Construction Stormwater Management

(A) APPROPRIATE CONTROL MEASURES/BMPS MUST BE IMPLEMENTED PRIOR TO THE START OF CONSTRUCTION ACTIVITY, MUST CONTROL POTENTIAL POLLUTANTS DURING EACH PHASE OF CONSTRUCTION, AND MUST BE CONTINUED THROUGH FINAL STABILIZATION. APPROPRIATE STRUCTURAL CONTROL MEASURES MUST BE MAINTAINED IN OPERATIONAL CONDITION FROM INITIAL DISTURBANCE UNTIL FINAL STABILIZATION.

(B) CONTROL MEASURES/BMPS MUST BE SELECTED, DESIGNED, INSTALLED, IMPLEMENTED, AND MAINTAINED TO PROVIDE CONTROL OF ALL POTENTIAL POLLUTANTS, SUCH AS BUT NOT LIMITED TO SEDIMENT, CONSTRUCTION SITE WASTE, TRASH, DISCARDED BUILDING MATERIALS, CONCRETE TRUCK WASHOUT, CHEMICALS, SANITARY WASTE, AND CONTAMINATED SOILS IN DISCHARGES TO THE MS4.

~~(C)~~(C) The Stormwater Management Plan (SWMP) shall be prepared in accordance with the requirements of the most recent SWMP guidance document prepared by the CDPHE.

~~(b)~~(D) The owner or its representative will be required to have the City approved SWMP on site at all times and shall be prepared to respond to maintenance of specific BMPs.

~~(e)~~(E) The owner or its representative shall inspect all BMPs ~~at least every fourteen (14) days and within twenty-four (24) hours after any precipitation or snow melt event that causes noticeable erosion~~ THE FREQUENCIES IDENTIFIED IN THE MOST CURRENT CDPHE, CDPS STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY PERMIT, and when specifically requested by the City. Inspections of BMPs shall be conducted by an individual who is experienced with commonly accepted structural and non-structural BMPs for erosion and sediment control.

~~(d)~~(F) Based on inspections performed by the owner or by the City, modifications to the SWMP will be necessary if at any time the specified BMPs do not meet the objectives of this article. . In this case, the owner shall meet with City personnel to determine the appropriate modifications. All modifications shall be completed immediately of the referenced inspection, and shall be recorded on the owner's copy of SWMP.

~~(e)~~(G) SWMP modifications. The operator shall amend the SWMP whenever there is a change in design, construction, operation, or maintenance of the BMPs, which has a significant effect on the potential for discharge of pollutants to the MS4 or receiving waters, or if the SWMP proves to be ineffective in achieving the general objectives of controlling pollutants in stormwater discharges associated with construction activities. Minor modifications to the SWMP do not need to be reviewed by the City, but must be noted in the SWMP. Major modifications to the SWMP are required to be submitted to the City for review and approval before being included in the SWMP.

~~(f)~~(H) Records of inspection shall be maintained on-site with the SWMP and shall be made available to the City inspector upon request.

~~(g)~~(I) Certification of permanent BMPs. Upon completion of a project, prior to final acceptance and/or a Certificate of Occupancy or Completion being granted, the City shall be provided a written certification stating that the completed project is in compliance with the approved SWMP AND DEVELOPMENT SITE PLAN. All applicants are required to submit "as built" or "record" plans for any permanent BMPs after final construction is completed per requirements of the ~~City land development ordinance~~ CODE, if applicable. A final inspection by the City is required before the release of any performance securities can occur.

Section 16-17-13. Post-construction Requirement of Permanent BMPs.

(a) Land development AND REDEVELOPMENT that is subject to the requirements of this article must address stormwater runoff quality and quantity through the use of permanent BMPs which shall be maintained in perpetuity.

(1) All permanent BMPs of any site including, without limitation, detention basins, retention basins, ponds, inlets, outlets, outfall ditches, and structures for which the owner thereof or his or her predecessor-in-interest obtained approval from the City for the construction or establishment, shall be maintained in good repair and in substantially the form, condition and nature which was represented at the time they were constructed. It is the intention of this section that such permanent BMPs, having once been approved for construction or development, shall not be allowed to deteriorate to a condition which is in any respect inferior to the condition or state upon which the original approval for construction or development was based. For purposes of this section, either or both the owner or tenant of the structure or real property shall be considered the responsible party.

(2) Maintenance of all permanent BMPs shall be ensured through the creation of a stormwater facility maintenance agreement that must be approved by the City and recorded in the office of the Adams or Weld County Clerk and Recorder, as applicable, prior to the issuance of a Certificate of Occupancy or Completion. The agreement shall be binding on all subsequent owners of land served by the permanent BMP. As part of the agreement, a schedule shall be developed, detailing when and how often maintenance will occur to ensure proper function of the permanent BMPs. The agreement shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled maintenance. The agreement shall provide for access to the facility at reasonable times for periodic inspection ~~or any remedial maintenance by the City, or its contractor or agent~~ and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article.

(B) THE CONTROL MEASURES FOR APPLICABLE DEVELOPMENT SITES SHALL MEET ONE OR MORE OF THE FOLLOWING BASE DESIGN STANDARDS:

- (1) WATER QUALITY CAPTURE VOLUME STANDARD;
- (2) POLLUTANT REMOVAL STANDARD;
- (3) RUNOFF REDUCTION STANDARD;
- (4) APPLICABLE DEVELOPMENT SITE DRAINING TO A REGIONAL WQCV CONTROL MEASURE;
- (5) APPLICABLE DEVELOPMENT SITE DRAINING TO A REGIONAL WQCV FACILITY;
- (6) CONSTRAINED REDEVELOPMENT SITES STANDARD; AND/OR

(7) PREVIOUS PERMIT TERM STANDARD.

APPLICABLE INFORMATION FOR EACH OF THESE STANDARDS IS CONTAINED IN THE MOST RECENT VERSION OF THE CDPHE, CDPS GENERAL PERMIT (COR 090000), STORMWATER DISCHARGES ASSOCIATED WITH MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4S) AND/OR IN THE MOST RECENT VERSION OF THE CITY'S STANDARDS AND SPECIFICATIONS.

(b)(C) Inspections of permanent BMPs.

(1) All permanent BMPs must undergo, at the minimum, periodic inspections by the City, as deemed appropriate by the Director, to document maintenance and repair needs and ensure compliance with the requirements of this article and accomplishment of its purposes. These needs may include removal of silt, litter and other debris from all catch basins, inlets, ponds and detention/retention basins, outlet structures and drainage pipes, cutting or removal of grass and vegetation, and necessary replacement of landscape vegetation. Any maintenance needs found by City inspection, or otherwise, must be addressed in a timely manner, as determined in writing by the Director. The inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the permanent BMPs.

(2) Inspection programs may be established by the City on any reasonable basis IT DETERMINES UNDER THIS ARTICLE, including, but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations, ~~inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspection of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water quality standards or the CDPS stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws.~~ Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment practices.

(3) When any permanent BMP is installed on private property, or when any new connection is made between private property and a public drainage control system, the property owner shall grant to the City the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when the City has a reasonable basis to believe that a violation of this article is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this article.

(4) Parties responsible for the operation and maintenance of a permanent BMP shall make records of its installation and of all maintenance and repairs and shall retain the records for at least two (2) years. These records shall be made available to the City during inspection of the facility and at other reasonable times upon request.

Section 16-17-14. Financial Security.

(a) Construction of the BMPs and other stormwater facilities required by this article shall be a condition of issuance of any grading permit required pursuant to this article.

(b) A further condition of the grading permit required by this article shall be the posting of a performance bond to guarantee the construction and maintenance of the temporary or permanent BMPs or stormwater facilities required by this article, as fully set forth herein.

(c) The amount of the performance bond shall be based upon an itemized cost estimate prepared by the permittee and approved by the City.

(d) Form of performance bond.

(1) The performance bond shall be for one hundred twenty-five percent (125%) of the estimated costs of the required grading and BMP improvements as computed by the permittee and approved by the Director. Submittal of more than one (1) bond is not required.

(2) No form of performance bond drawn upon a bank or financial institution having any relationship to the applicant or any principal, director, officer or shareholder of the applicant (other than the relationship of depositor or checking account holder) shall be acceptable. The City may reject any tendered performance bond for any reason.

(3) The performance bond shall be in a form satisfactory to the City Attorney. The performance bond guarantees the City that the financial backing is available and the improvements will in fact be completed and paid for.

A. The performance bond may be from any financially responsible lender that is not directly or indirectly owned or controlled by the permittee.

B. The performance bond shall be in effect for a minimum period of two (2) years and shall be renewable for subsequent one-year periods at the City's sole discretion.

C. The performance bond shall be such that the City is assured that the permittee has funds committed to the amount and that in the event of a default by the permittee the City shall have available to

it, upon demand, funds necessary to construct any/or all of the grading and BMP improvements.

D. The City may release percent portions of the performance bond in increments of no less than twenty-five (25) at the discretion of the Director upon written request of the applicant. In such case, an amended performance bond shall be required. In no case shall the full amount of the performance bond be released until final acceptance has been granted and all BMP improvements have been constructed and approved.

E. After all repairs are made at the end of the warranty period and final acceptance is issued, the performance bond will be released.

(e) If the permittee does not successfully complete all required work or violates any requirement of the permit or this article, the City may take corrective measures and charge the cost of such to the permittee. Such costs shall include the actual cost of any work deemed necessary by the City plus reasonable administrative and inspection costs and penalties pursuant to this code. If the total of such costs exceeds the performance bond, the permittee shall be responsible for payment of the remaining balance within thirty (30) calendar days of receipt of an accounting of such from the City. Such costs, if unpaid, may be certified to the County Treasurer for collection in the same manner as real property taxes.

Section 16-17-15. Enforcement, Generally.

(a) All authorized personnel under the supervision of the Director have the power to conduct inspections, issue notices of violations and implement other enforcement actions under this section.

(b) Whenever the Director has cause to believe that there exists, or potentially exists, in or upon any premises, any condition which constitutes a violation of this article, the Director shall have the right to enter the premises at any reasonable time to determine if there exists an actual or potential violation of the requirements of this article. In the event that the owner or occupant refuses entry after a request to enter has been made, the City is hereby empowered to seek assistance from a court of competent jurisdiction in obtaining such entry.

(c) The Director shall have the right to install on the property of any discharger to the MS4 any devices deemed necessary to conduct an investigation of such discharges. The investigation may include, but is not limited to, the following: sampling of any discharge or process waters, the taking of photographs, interviewing staff or citizens in reference to alleged violations, and being granted access to any and all facilities or areas within the premises that may have any effect on the discharge.

(d) For the purpose of enforcement of this article, violation of a prohibition of this article or failure to meet a requirement of this article shall

constitute a nuisance. Whenever the City finds that a person has violated a prohibition or failed to meet a requirement of this article, the Director may order compliance by written notice of violation to the responsible person in accordance with the procedures outlined for nuisances in Article 11 of Chapter 9 of the Northglenn Municipal Code.

Section 16-17-16. Emergency Abatement.

In the event the violation constitutes an immediate danger to public health or public safety or pollution to the environment, the Director or designee is authorized to enter upon the subject property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property.

Section 16-17-17. Recovery of Expense of Abatement.

If the City abates a violation of this article, the owner of the property will be notified of the cost of abatement in accordance with the procedures outlined for nuisances in Article 11 of Chapter 9 of the Northglenn Municipal Code.

Section 16-17-18. Stop Work Order.

Whenever the Director determines that any activity is occurring which is not in compliance with the requirements of this article, the Director may order the activity stopped upon service of written notice upon the responsible owner and/or operator. The owner and/or operator shall immediately stop all activity until authorized in writing by the City to proceed. If the owner and/or operator cannot be located, the notice to stop shall be posted in a conspicuous place upon the area where the activity is occurring and shall state the nature of the violation. It shall be unlawful for any owner and/or operator to fail to comply with a stop work order.

Section 16-17-19. Penalties.

(a) It is unlawful and an offense for any person to violate or permit or cause violation of this article or of the provisions of any permit issued under this article. Violators shall be subject to the penalties as provided in Section 1-1-10 of this Code. Each day or part of a day any violation occurs or continues shall constitute a separate offense.

(b) Any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare and is declared and deemed a public nuisance. Any court of competent jurisdiction may enjoin violations of this article upon proof of such violations.

(c) The remedies in this article are cumulative and the exercise of any one (1) or more remedies shall not prejudice any other remedies that may otherwise be pursued for a violation of this article. The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

INTRODUCED, READ AND ORDERED POSTED this ____ day of _____,
2019.

ANTONIO B. ESQUIBEL
Mayor Pro Tem

ATTEST:

JOHANNA SMALL, CMC
City Clerk

PASSED ON SECOND AND FINAL READING this ____ day of _____,
2019.

ANTONIO B. ESQUIBEL
Mayor Pro Tem

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney