

**CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER STITES**

**Council Bill No. 18
Ordinance No. 1473
Series of 2010**

**TITLE: AN ORDINANCE REVISING CHAPTER 20 OF THE WHEAT
RIDGE CODE OF LAWS, CONCERNING STORMWATER
QUALITY AND CONTROL, AND IN CONNECTION
THEREWITH**

WHEREAS, the City of Wheat Ridge ("City") is a Colorado municipal home rule corporation vested with powers under the Colorado constitution and statutes; and

WHEREAS, on April 7 and 8, 2010, the City's State of Colorado General Permit Program for Stormwater Discharges associated with Municipal Separate Storm Sewer Systems was audited; and

WHEREAS, following said audit, the City received from the State of Colorado a Compliance Advisory, dated May 3, 2010, for the City's General Permit for Stormwater Discharges Associated with Municipal Separate Storm Sewer Systems, Permit Number COR 090015; and

WHEREAS, as a condition of this Compliance Advisory the City is required to revise Chapter 20 of the Code of Laws of the City of Wheat Ridge ("Code"), concerning stormwater quality and control addressing illicit discharge detection and elimination, construction site stormwater runoff control and post-construction stormwater management; and

WHEREAS, it is deemed to be in the best interest of the public health and welfare of the residents of the City for the City to comply with the Compliance Advisory; and

WHEREAS, to this end, the City Council desires to revise Chapter 20 of the Wheat Ridge Code of Laws, concerning stormwater quality and control.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

Section 1. Chapter 20 of the Code, concerning stormwater quality and control, is hereby repealed and reenacted to read in its entirety as follows:

CHAPTER 20 STORMWATER QUALITY AND CONTROL

Article I. In General

- Sec. 20-1. Purpose and objectives.
- Sec. 20-2. Definitions.
- Sec. 20-3. Applicability.
- Sec. 20-4. Responsibility for administration.
- Sec. 20-5 – 20-10. Reserved.

Article II. Illicit Discharges

- Sec. 20-11. Illicit discharges prohibited.
- Sec. 20-12. Illicit discharges exempted.
- Sec. 20-13. Illicit connections prohibited.
- Sec. 20-14. Requirements applicable to potential discharges.
- Sec. 20-15. Best management practices.
- Sec. 20-16. Access and inspections of properties and facilities.
- Sec. 20-17. Notification of spills.
- Sec. 20-18 – 20-30. Reserved.

Article III. Permits

- Sec. 20-31. Applicability.
- Sec. 20-32. Technical standards and specifications.
- Sec. 20-33. Construction stormwater management plan.
- Sec. 20-34. Post-construction requirement of permanent BMPs.
- Sec. 20-35. Guarantee and Financial security.
- Sec. 20-36 – 20-40. Reserved.

Article IV. Enforcement

- Sec. 20-41. Enforcement.
- Sec. 20-42. Appeal of Notice of Violation.
- Sec. 20-43. Abatement.
- Sec. 20-44. Stop Work Order.
- Sec. 20-45. Penalties.

ARTICLE I. IN GENERAL

Sec. 20-1. Purpose and objectives.

The purpose of this chapter 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 chapter are:

- (1) To regulate the introduction of pollutants to the municipal separate storm sewer system (MS4);
- (2) To prohibit illicit connections and discharges to the MS4;
- (3) To provide for inspection and monitoring procedures necessary to ensure compliance with this Chapter;
- (4) To reduce pollutants in stormwater discharges from construction activity by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land;
- (5) To require permanent stormwater runoff controls to be constructed along with development to prevent the deterioration of water quality; and
- (6) To promote public awareness of the hazards involved in the improper discharge of Pollutants into the storm drainage system.

Sec. 20-2. Definitions.

For the purposes of this chapter, 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 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.

Director. The City of Wheat Ridge 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 a uniform perennial vegetative cover has been established, or equivalent permanent physical erosion reduction methods and best management practices have been employed. If perennial vegetation is applied, 'final stabilization' shall be established as defined in the city Standard Seeding and Mulching Installation Notes (as referenced on WR engineering detail E-A03).

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 manage.

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-storm water 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 to the storm drainage system, except as exempted in this chapter.

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 storm water 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 of these parties.

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

Pollutant. Any 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 MS4, including all watercourses, even if they are usually dry, and irrigation ditches that receive municipal stormwater. It also includes storm sewer 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 or 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 make 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.

Sec. 20-3. Applicability.

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

Sec. 20-4. Responsibility for administration.

The Director shall administer, implement, and enforce the provision of this chapter.

Sec. 20-5 – 20-10. Reserved.

ARTICLE II, ILLICIT DISCHARGES

Sec. 20-11. 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:

- (1) Chemicals, petroleum products, paint, varnishes, solvents, oil and grease and other automotive fluids, pesticides, herbicides, and fertilizers, or other toxic materials;
- (2) Non-hazardous liquid and solid wastes;
- (3) Hazardous materials, sewage, fecal coliform and pathogens, dissolved and particulate metals;
- (4) Trash, refuse, rubbish, garbage, food wastes, animal wastes, litter, other discarded or abandoned objects, floatables and cleaning products;
- (5) Landscaping materials, sediment, lawn clippings, leaves, branches or other landscaping and yard debris;
- (6) Construction activities wastes and residues including but not limited to, painting, paving, concrete placement, saw cutting, material storage and earthwork;
- (7) 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;
- (8) Any other material that is considered harmful to humans, animals, or aquatic life and its habitat.

Sec. 20-12. Illicit discharges exempted.

The following discharges, when properly managed, are exempt from the discharge prohibitions established by this chapter. 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, 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 wet-land flows, swimming pools (if dechlorinated – less than 0.05 PPM chlorine),

fire fighting 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 firefighting and street sweeping.

(3) Dye testing, provided the person undertaking such testing provides verbal notification to the authorized enforcement agency 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), 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, 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, if approved by the Director.

Sec. 20-13. Illicit connections prohibited.

The construction, use, maintenance or contained 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.

Sec. 20-14. Best management practices.

The owner or operator of a commercial or industrial establishment 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.

Sec. 20-15. 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.

Sec. 20-16 – 20-31. Reserved.

ARTICLE III. PERMITS

Sec. 20-31. Applicability.

(a) *Permit required.* It shall be unlawful for any person to conduct any activity resulting in any of the following total disturbed areas without first obtaining a grading permit; pursuant to this section and section 26-623 of this Code. The requirements of this section shall be in addition to those contained within section 26-623. In the event of conflict between this chapter and section 26-623, the more restrictive requirement shall apply. 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:

(1) Agricultural land management activities, not including construction activities.

(c) *Permit application.* Applications for 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.

(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 chapter and section 26-623. 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 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 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 chapter 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.

Sec. 20-32. Technical standards and specifications.

All BMPs designed to meet the requirements of this Chapter shall comply with the following technical standards:

- (1) Urban Drainage and Flood Control District's Urban Storm Drainage Criteria Manual – Volume 3 or its successor;
- (2) City of Wheat Ridge site drainage requirements; and
- (3) Any other alternative methodology approved by the City, which is demonstrated to be effective.

Sec. 20-33. Construction stormwater management plan.

(a) The stormwater management plan (SWMP) shall be prepared in accordance with the requirements of the most recent SWMP guidance document prepared by the CDPHE, and the engineering and hydrologic practices outlined in the current City site drainage requirements document.

(b) 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.

(c) 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, 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) Based on inspections performed by the owner or by the city, modifications to the SWMP will be necessary if at any time the specified BMP's do not meet the objectives of this chapter. 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) *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) Records of inspection shall be maintained on site with the SWMP and shall be made available to the city inspector upon request.

(g) *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. 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, if applicable. A final inspection by the city is required before the release of any performance securities can occur.

Sec. 20-34. Post-construction requirement of permanent BMPs.

(a) Land development that is subject to the requirements of this chapter must address stormwater runoff quality 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 Jefferson County county clerk and recorder 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 chapter.

(b) *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 chapter 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, grass cutting and vegetation removal, 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, 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; inspections 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 or sediment 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 chapter is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this chapter.

(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 2 years. These records shall be made available to the city during inspection of the facility and at other reasonable times upon request.

Sec. 20-35. Financial security.

(a) Construction of the BMPs and other stormwater facilities required by this Chapter shall be a condition of issuance of any grading permit required pursuant to section 20-31 or section 26-623 of this Code.

(b) A further condition of the grading permit required by section 20-31 and/or section 26-623 of this Code shall be the posting of a performance bond to guarantee the construction of the BMPs or stormwater facilities required by this chapter, 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 (125) percent of the estimated costs of the required grading and BMP improvements as computed by the permittee and approved by the Director. The requirement for a performance bond under chapter 26, section 623 of this Code may be satisfied by inclusion in the performance bond required in this section. 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 one (1) year 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 or, 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 chapter, 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.

Sec. 20-36 – 20-40. Reserved.

ARTICLE IV. ENFORCEMENT

Sec. 20-41. Enforcement, generally.

(a) All authorized personnel under the supervision of the Director have the power to conduct inspections, issues 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 chapter, 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 chapter. 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 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 chapter, violation of a prohibition of this chapter or failure to meet a requirement of this chapter shall constitute a nuisance. Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the Director may order compliance by written notice of violation to the responsible person in accordance with the procedures outlined for nuisances in section 15-8, Abatement, of this Code.

Sec. 20-42. 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.

Sec. 20-43. Recovery of expense of abatement.

If the city abates a violation of this chapter, the owner of the property will be notified of the cost of abatement in accordance with the procedures outlined for nuisances in section 15-11, Recovery of expense of abatement, of this Code.

Sec. 20-44. Stop work order. Whenever the Director determines that any activity is occurring which is not in compliance with the requirements of this chapter, 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.

Sec. 20-45. Penalties.

(a) It is unlawful and an offense for any person to violate or permit or cause violation of this chapter or of the provisions of any permit issued under this chapter. Violators shall be subject to the penalties as provided in chapter 1, section 1-5 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 chapter 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 chapter upon proof of such violations.

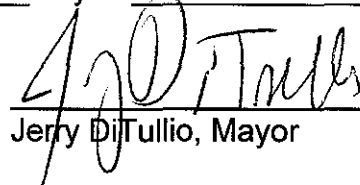
(c) The remedies in this chapter are cumulative and the exercise of any one or more remedies shall not prejudice any other remedies that may otherwise be pursued for a violation of this chapter. The remedies listed in this chapter are not exclusive of any other remedies available under any applicable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

Section 2. Effective Date. This Ordinance shall take effect fifteen (15) days after final publication, as provided by Section 5.11 of the Charter.


INTRODUCED, READ, AND ADOPTED on first reading by a vote of 8 to 0 on this 8th day of November, 2010, ordered published with Public Hearing and consideration on final passage set for November 22, 2010, at **7:00 p.m.**, in the Council Chambers, 7500 W. 29th, Wheat Ridge, CO, and that it take effect 15 days after final publication.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 8 to 0, this 22nd day of November, 2010.

SIGNED by the Mayor on this 22nd day of November, 2010.

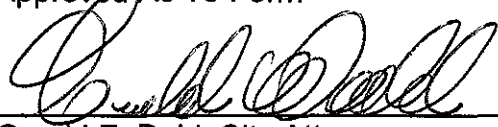


Jerry DiTullio, Mayor

ATTEST:


Michael Snow, City Clerk



Approved As To Form


Gerald E. Dahl, City Attorney

First Publication: November 11, 2010
Second Publication: December 2, 2010
Wheat Ridge Transcript
Effective Date: December 17, 2010