

TOWN OF SUPERIOR
ORDINANCE NO. 0-5
SERIES 2017

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF
SUPERIOR AMENDING ARTICLE III OF CHAPTER 11 OF THE
TOWN OF SUPERIOR MUNICIPAL CODE, REGARDING STORMWATER
REQUIREMENTS

WHEREAS, pursuant to Article III, Chapter 11 of the Superior Municipal Code, the Town enacted provisions regulating the discharge of stormwater into its Municipal Separate Storm Sewer System ("MS4") in accordance with federal and state law; and

WHEREAS, the Board of Trustees desires to update Article III of Chapter 11 of the Superior Municipal Code to comply with current state law.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, THAT:

Section 1. Section 11-3-20 of the Superior Municipal Code is hereby amended by the addition of the following definitions:

Common plan of development or sale means a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules, but remain related. For purposes of this definition, "contiguous" means located within ¼ mile of one another.

Construction activity includes without limitation clearing, grading, excavation, demolition, installation of new or improved haul roads and access roads, staging areas, stockpiling of fill materials, and borrow areas, but excludes routine maintenance to maintain the following: the original line and grade, hydraulic capacity, or the original purpose of the facility.

Section 2. The definition of "Waters of the State" contained in Section 11-3-20 of the Superior Municipal Code is hereby repealed in its entirety and reenacted as follows:

Waters of the State means all surface and subsurface waters that are contained in or flow in or through the State, including dry watercourses, but excluding water in sewage systems, water in treatment works of disposal systems, water in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed.

Section 3. Section 11-3-40(b) of the Superior Municipal Code is hereby repealed in its entirety and reenacted as follows:

Sec. 11-3-40. Illicit discharges prohibited.

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(b) Exemptions. The following discharges, when properly managed, are exempt from this Section:

(1) Water line flushing, including without limitation, the following processes: washing, heat exchange, manufacturing, and hydrostatic testing of pipelines not associated with treated water distribution systems. All water line flushing shall be performed in accordance with the CDPHE's Low Risk Discharge Guidance: Discharges of Potable Water.

(2) Landscape irrigation or lawn watering, irrigation return flows, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration to storm drains, uncontaminated pumped groundwater (discharges containing groundwater that comes into contact with construction activity are not considered uncontaminated due to the potential for sediment content), foundation or footing drains, crawl space pumps, air conditioning condensation, springs, individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges in accordance with the CDPHE's Low Risk Discharge Guidance for Swimming Pools, agricultural stormwater runoff, dye testing in accordance with the manufacturers recommendations, stormwater runoff with incidental pollutants.

(3) Discharges resulting from emergency firefighting activities and water incidental to street sweeping, including associated sidewalks and medians and that are not associated with construction that is not associated with construction.

(4) A non-stormwater discharge pursuant to a NPDES or CDPS permit.

(5) Discharges that are in accordance with the CDPHE's Low Risk Policy Guidance or other CDPHE policy or guidance document where the CDPHE has stated that it will not pursue permit coverage or enforcement for specified point source discharges or discharges added through the process detailed in the CDPS General Permit COR090000 Stormwater Discharges Associated with MS4s.

Section 4. Section 11-3-90(a) of the Superior Municipal Code is hereby amended as follows:

Sec. 11-3-90. Stormwater quality permit requirements.

(a) Permit required. It is unlawful to conduct any activity resulting in the following total disturbed areas without first obtaining a stormwater quality permit for construction activities:

- (1) An area of one (1) acre or more.
- (2) An area of less than one acre, but is 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 or sale that would disturb or has disturbed one (1) acre or more, except for the tillage of land zoned for agricultural use and where the disturbed areas have been finally stabilized.~~

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Section 5. Section 11-3-100 of the Superior Municipal Code is hereby amended as follows:

Sec. 11-3-100. Construction Stormwater Management Plan.

- (a) Preparation. The SWMP shall be prepared in accordance with engineering, hydrological and pollution control practices outlined in the Town's current standards and specifications for design and construction of public improvements.
- (b) SWMP required on site. The owner shall maintain the approved SWMP on site at all times and shall be prepared to respond to maintenance of specific BMPs.
- (c) Installation. The owner shall ensure that erosion, sediment and waste control BMPs are implemented *throughout all stages of construction until final stabilization.*
- (d) Inspection. The owner shall inspect all BMPs at least every fourteen (14) days and within twenty-four (24) hours after any precipitation or snowmelt event that causes surface runoff. *Documented* inspections of BMPs shall be conducted by an individual who has successfully completed training in erosion and sediment control by a recognized organization acceptable to the Town Manager. A certification of successful completion of such training shall be provided to the Town upon request.

* * *

Section 6. Section 11-3-120 of the Superior Municipal Code is hereby amended as follows:

Sec. 11-3-120. Post-construction requirements.

- (a) ~~Permanent~~ BMPs. Land development projects that disturb greater than or equal to one (1) acre, including projects less than one (1) acre that are part of a larger common plan of development, shall address stormwater runoff quality through the use of permanent BMPs which shall be maintained in perpetuity.
- (1) Structural BMPs include without limitation detention and retention ponds, infiltration basins, engineered sedimentation and pollutant removal facilities that are designed to reduce pollutants.

(2) Nonstructural BMPs are practices that focus on site planning and site operations. Site planning that emphasizes preserving open space, protecting natural systems, clustering and concentrating development, minimizing disturbed areas and incorporating landscape features to manage stormwater at its source is an example.

(3) As a condition of approval of the BMP, the owner shall also agree to maintain the BMP to its design capacity *and functionality* unless or until the Town relieves the property owner of that responsibility in writing. The obligation to maintain the BMP shall be memorialized on the plat, development agreement or other instrument or in a form acceptable to the Town.

(b) Certification. *Post-construction, documented engineering inspections shall be conducted at key installation points to ensure proper installation and functionality of any structural BMPs.* Upon completion of a development or redevelopment project, and before a certificate of occupancy is issued, the Town shall be provided a written certification stating that the completed project is in compliance with the approved final plan *and the post-construction BMP will function as designed.* All applicants shall submit "as-built" plans for *post-construction structural permanent* BMPs after final construction is completed, certified by a Colorado Licensed Professional Engineer. A final inspection by the Town is required before the release of any performance securities can occur.

(c) Ongoing inspection and maintenance.


(1) Maintenance agreements. The owner of a parcel with privately maintained BMPs must execute an agreement addressing maintenance of BMPs that shall be binding on all subsequent owners of the permanent BMPs.

(2) Long-term inspection and maintenance. Permanent BMPs included in a final drainage plan shall undergo ongoing inspections to document maintenance and repair needs and to ensure compliance with the requirements of the plan and this Article. ~~A person who transfers ownership of land on which BMPs are located or will be located, or who otherwise transfers ownership of BMPs or responsibility for the maintenance of BMPs to another person or entity, shall provide written notice to the Town within thirty (30) days of such transfer and shall also provide clear written notice of the maintenance obligations associated with BMPs to the new or additional owner prior to transfer.~~

Section 7. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.


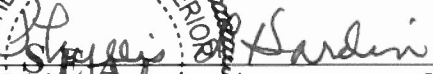
Section 8. Safety. This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

INTRODUCED, READ, PASSED AND ORDERED PUBLISHED this 9th day of October, 2017.



Clint Folsom, Mayor

ATTEST

Phyllis L. Hardin, Town Clerk-Treasurer