

ORDINANCE NO. 10

Series 2012

July 17, 2012: Introduced as Council Bill 10, Series 2012 by Councilor Stewart, seconded by Councilor Griffin and considered in full text on first reading. Passed by a vote of 5 yes and 0 no.

August 7, 2012: Considered in full text on second reading. Passed by a vote of 5 yes and 0 no.

A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE AMENDING CHAPTER 19 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE, CONCERNING STORMWATER QUALITY AND CONTROL

WHEREAS, the City of Cherry Hills Village is a home rule municipal corporation organized in accordance with Article XX of the Colorado Constitution; and

WHEREAS, pursuant to Colorado law, the City of Cherry Hills Village applied for a State of Colorado General Permit for Stormwater Discharges Associated with Municipal Separate Storm Sewer Systems, and successfully obtained Permit No. 090066 ("MS4 Permit"); and

WHEREAS, per a condition of the MS4 Permit, the City of Cherry Hills Village adopted an ordinance on April 4, 2007 (Ordinance No. 6, Series 2007), addressing illicit discharge detection and elimination, construction site stormwater runoff control and post-construction stormwater management, codified as Chapter 19, Stormwater Quality and Control; and

WHEREAS, the City of Cherry Hills Village contracted with CP-Compliance, a stormwater consulting company, to review and suggest edits to Chapter 19 so that it is consistent with and in full compliance of state requirements; and

WHEREAS, the suggested edits have been reviewed by staff and prepared as amendments to Chapter 19 of the Municipal Code; and

WHEREAS, it is in the best interest of the public health and welfare of the residents of the City of Cherry Hills Village for the City to be in compliance with the MS4 Permit and state requirements for stormwater systems.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO, ORDAINS:

Section 1. Amendments. Chapter 19 of the Municipal Code, Stormwater Quality and Control, is hereby amended as follows:

Sec. 19-1-20. Definitions.

Best Management Practices or BMPs means the specific management practices used to control pollutants in storm water stormwater as set forth in the Urban Storm Drainage Criteria Manual. BMPs are of two types: "source controls" (nonstructural) and "treatment controls" (structural). Source or nonstructural controls are practices, that prevent minimize pollution by reducing potential pollutants at their source before they come into contact with stormwater. Treatment or structural controls, such as constructed water quality detention facilities, remove pollutants already present in stormwater. Best management practices can either be temporary, such as silt fence used during construction activity, or permanent, such as detention facilities, to control pollutants in stormwater.

Illicit Discharge means any discharge to a storm drain system that is not composed entirely of stormwater, except discharges pursuant to a CDPS/ NPDES permit, discharges resulting from emergency fire fighting activities, and discharges further exempted by this Chapter.

Minimize means to reduce and/or eliminate to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best industry practice.

Sec. 19-1-30. Prohibitions.

(a) No person shall release or cause to be released into the storm drainage system any discharge that is not composed entirely of uncontaminated stormwater, except as allowed by section 19-3-20 ~~19-1-40~~. Common stormwater contaminants which cannot be released into the storm drainage system include herbicides and lawn chemicals, construction debris and wastes, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment, dirt and toxic substances, including but not limited to substances defined above as "pollutants."

Sec. 19-1-40. Exemptions.

The following non-stormwater discharges are exempt from the prohibitions established by this Chapter, unless they are found by the City to be significant sources of pollutants to the MS4. Meeting exemptions identified in this section does not imply or determine that a CDPS permit is not required.

(2) Uncontaminated discharge from foundation, footing or crawl space drains and sump pumps. ~~(Commercial air conditioning condensation and water from commercial cooler drains shall be discharged to the sanitary sewer system only.)~~

(10) ~~A discharge Discharges~~ authorized by and in compliance with a CDPS or NPDES permit, ~~and discharges compliant with CDPHE Policies and Guidance, other than the CDPS permit for discharges from the Municipal Separate Storm Sewer System, provided that written approval has been granted by the City prior to any discharge to the storm drainage system.~~

Sec. 19-1-60. Release Reporting and Cleanup.

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 municipal separate storm sewer system, or waters of the state, that person shall take all necessary steps to ensure the discovery, notification to the City Manager, containment, abatement 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 City Manager in person or by telephone no later than 24 hours after the release. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the City Manager within 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 (3) years.~~

Sec. 19-1-80. General Permit Requirements.

(b) ~~The following activities are exempt from this section:~~

- ~~(1) Agricultural land management activities, not including construction activities.~~
- ~~(2) Maintenance and repair of any stormwater facility, irrigation ditch, watercourse, or related practice deemed necessary by the City Manager.~~
- ~~(3) Emergency repairs to streets, water, sanitary sewer or other facilities deemed necessary by the City Manager.~~

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

~~(dc) Land disturbance activities shall not proceed until permit approval is received from the City.~~

~~(ed) Waste Disposal. Solid waste, industrial waste, yard waste, rubbish, discarded building materials, chemicals, sanitary wastes and any other pollutants or waste on any construction site shall be controlled through the use of best management practices.~~

Waste containers shall be provided and maintained by the owner or contractor on construction sites where there is the potential for release of waste. Uncontained waste, rubbish and other pollutants or toxins that may blow, wash or otherwise be released from the site are prohibited.

(fe) Ready-mixed concrete or any materials resulting from the washing or cleaning of vehicles or equipment containing or used in transporting or applying ready-mixed concrete, shall be contained in a designated area on construction sites for proper disposal. All washing-out of concrete mixer truck bowls and chutes and release of these materials in to storm drains is prohibited.

(gf) Erosion and Sediment Control. Best management practices shall be implemented to prevent the release of sediment from construction sites and development. Disturbed area(s) shall be minimized and disturbed soil, including but not limited to that on construction sites and entrances and exits therefrom, shall be managed to prevent tracking, blowing and fugitive emissions release. Any water used in cleaning operations shall not be disposed into the storm sewer system. Sediment, dirt and mud tracked onto streets shall be removed immediately by sweeping, scooping and shoveling at the owner's expense. Sediment not removed within the specified time limits as stated in a notification will be removed by the City or designated contractor. Such removal costs will be billed to the property owner and, if not paid, become a lien on the property.

(hg) Permit issuance or denial. The permit may be denied if the applicant fails to provide the information required by this Chapter. 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.

(ih) Fees. Fees for any permit required by this Chapter shall be paid per the schedules on the permit form. No permit shall be issued until and unless the fees have been paid in full.

Sec. 19-1-110. Implementation of Approved Stormwater Management Plans.

(b) The owner or its representative shall have the ~~CDPHE~~ approved Stormwater Management Plan on site at all times during construction and shall be prepared to respond to the maintenance requirements of the best management practices required by the Stormwater Management Plan.

(e) Construction site BMPs must be implemented and maintained in operable condition at all times.

(ef) If a modification is required, the owner or its representative shall meet and confer with authorized City personnel to determine the nature and extent of modification(s). All approved modification(s) shall be completed in a timely manner, but in no case more than seven (7) calendar days after the inspection showing that modification is needed. All modification(s) shall be recorded on the owner's copy of the Storm Water Management Plan. Minor Modifications to SWMP: Based on inspections performed by the owner or by City personnel, minor modifications to the SWMP will be necessary if at any time the specified BMPs do not meet the objectives of this chapter or equivalent or better BMPs are implemented. All minor modifications shall be implemented immediately and recorded on the owner's copy of the SWMP that shall be located on site at all times. The modified SWMP shall be made available to City personnel during inspections. Major Modifications to SWMP: Whenever there is a significant change in design, construction, operation or maintenance, which has a significant effect on the hydrology or potential for discharge of pollutants to the MS4 or receiving waters, a revised SWMP shall be submitted to the City for review and approval.

(fg) Upon completion of a construction project and before a certificate of occupancy or other final approval of the City's Building Official shall be granted, the City shall be provided a written certification signed by a qualified person stating that the completed project is in compliance with the approved Stormwater Management Plan. All applicants are required to submit "as built" plans for any permanent best management practices after final construction is completed. A digital copy of the as-built plans is required in current AutoCAD format. A final inspection by the City is required before the release of any performance securities may occur.

Sec. 19-1-120. Post-Construction Requirements for Permanent Best Management Practices.

(b) Inspections of permanent best management practices.

(1) All permanent best management practices must undergo, at the minimum, periodic inspections by the City, as deemed appropriate by the City Manager, to document maintenance and repair needs and ensure compliance with the requirements of this Chapter and accomplishment of its purposes. These needs may include but are not limited to: the 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 City Manager. The inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the permanent best management practices.

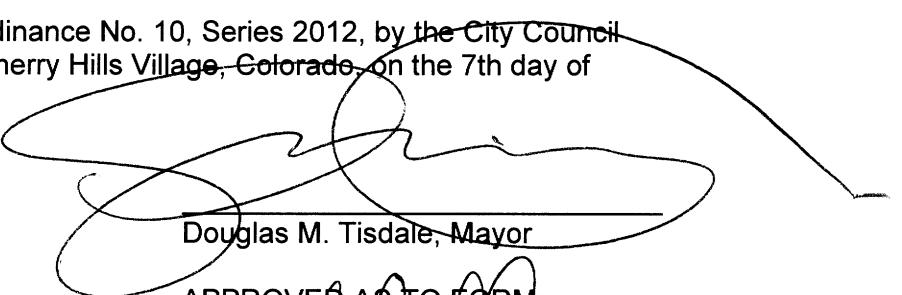
Sec. 19-1-130. Enforcement.

(b) Whenever the City Manager or his designee finds that any person has violated any provision of this Chapter or any permit issued pursuant to this Chapter, the City Manager and all authorized personnel under the supervision of the City Manager may order compliance by verbal direction, written notice of violation, or implement other enforcement actions under this section. ~~Within the time specified after the date of such notice, the person shall submit to the City Manager evidence of the satisfactory correction of the violation.~~ In addition to or in lieu of the issuance of a written notice of violation, whenever the City Manager or his designee determines that any activity is occurring that is not in compliance with the requirements of this Chapter or any permit issued pursuant to this Chapter, the City Manager 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 Manager to proceed. If the owner and/or operator cannot be located, the notice to stop activity 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 any order of the City Manager made pursuant to this subsection.

Section 3. Severability. If any provision of this ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this ordinance are not determined by the court to be inoperable. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one of more section, subsection, sentence, clause, phrase, or portion would be declared invalid.

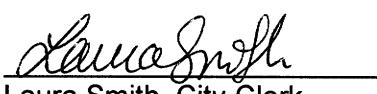
Section 4. Effective Date. This Ordinance shall become effective ten (10) days after publication on the second reading in accordance with Section 4.5 of the Charter for the City of Cherry Hills Village.

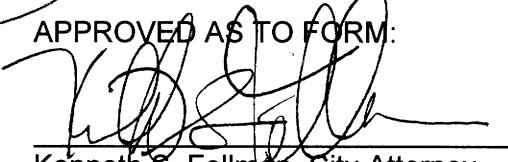
Adopted as Ordinance No. 10, Series 2012, by the ~~City Council~~ of the City of Cherry Hills Village, Colorado, on the 7th day of August, 2012.



Douglas M. Tisdale, Mayor

ATTEST:


Laura Smith, City Clerk



APPROVED AS TO FORM:
Kenneth S. Fellman, City Attorney

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ADOPTION OF ORDINANCE
ORDINANCE 10, SERIES 2012**
A BILL FOR AN ORDINANCE OF THE
CITY OF CHERRY HILLS VILLAGE
AMENDING CHAPTER 19 OF THE
CHERRY HILLS VILLAGE MUNICIPAL
CODE, CONCERNING STORMWATER
QUALITY AND CONTROL

Copies of the Ordinances are on file at the
office of the City Clerk and may be in-
spected during regular business hours.