

ORDINANCE NO. 20-_____

AN ORDINANCE AMENDING PART 9 (SUBDIVISION DRAINAGE FACILITIES) OF ARTICLE 7 (SUBDIVISION REGULATIONS) OF CHAPTER 7 (PLANNING, DEVELOPMENT AND BUILDING) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO GRADING AND EROSION CONTROL AND STORMWATER QUALITY

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

Section 1. Part 9 (Subdivision Drainage Facilities) of Article 7 (Subdivision Regulations) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

7.7.901: PURPOSE:

A. The City Council hereby finds, determines and declares the urgent necessity of providing storm drains and other facilities for the drainage and control of flood and surface waters including facilities or ~~best management practices (BMPs)~~ **permanent control measures (PCMs)** to control stormwater quality within areas and territories to be subdivided and developed and the City Council further finds and declares that the facilities are required for the proper and orderly development of the areas and territories in order that storm and surface waters may be properly drained and controlled along with stormwater quality and that the health, property, safety and welfare of the City and its citizens may be safeguarded and protected.

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7.7.902: STUDIES OF DRAINAGE BASINS:

The Mayor or the County Commissioners, as appropriate, shall cause to be made new or updated engineering studies of drainage basins in their respective jurisdictions. The studies, known as drainage basin planning studies (DBPS), are to be authorized as finances become available. If public funds are not available and land development in a specific drainage basin is causing the need for a new or updated DBPS, a specific land developer(s) may be required to finance a new or updated study, subject to conditions and requirements of the City

~~Engineer~~**Stormwater Enterprise Manager or his/her designated representative (“SE Manager”)**. The land developer(s) will be eligible for credit for the cost of the studies in accord with the provisions of section 7.7.907 of this part. These studies and investigations shall show the conduits, channels, natural drainage courses, sometimes called "greenbelts", detention/retention basins, easements, culverts and all other facilities which are required to provide for the drainage and stormwater quality control of surface waters within the basins and to carry such waters to designated points of outflow or discharge. The studies shall include an estimate of the cost of providing the drainage facilities, the computation of the costs to include the expense of the studies. The estimated cost per acre of providing the facilities shall be determined within each drainage basin by dividing the number of acres within the drainage basin into the total cost as provided. Large open public park areas shall not be included in total area. The City Council or the Board of County Commissioners as recommended by the Storm Drainage Board, in this case, shall determine City and County participation. This per acre cost shall be known as the unit drainage fee.

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7.7.903: BOUNDARIES DELINEATED:

As soon as possible after the adoption of this part, the boundaries of the drainage basins mentioned in this part will be delineated upon a map or maps. There will also be shown upon said map or maps the areas in said basins which have been platted, subdivided or developed into business or residential areas and those areas therein which are presently unimproved. Such additional information or data as may be determined to be desirable by the ~~City Engineer~~**SE Manager** may be shown upon said map or maps. When approved by the Council, these maps shall serve as official designations of the respective drainage basins concerned in this part, but the maps shall be subject to revision from time to time to conform with existing conditions.

7.7.904: EXCLUSIONS AND EXEMPTIONS:

A. * * *

B. The ~~City Engineer~~**SE Manager** shall maintain a file listing the specific areas and territories which are tributary to specific drainage basins and have been exempted and excluded from the provisions of this part. This file shall be available to the public for review and inspection.

7.7.906: SUBDIVIDER TO PREPARE DRAINAGE REPORTS AND DETAILED DRAINAGE PLANS:

A. Preparation And Components Of Drainage Reports And Plans: Prior to final approval of the plat of a subdivision, or part for which final approval is requested, the subdivider shall, at subdivider's expense, prepare a drainage report which

shall show the channels, conduits, detention/retention basins, culverts, bridges, easements and all other drainage facilities for the control and drainage of surface water including the control of stormwater quality within the subdivision, or the part to be approved, and the carriage of water to a safe discharge or outflow point, all in conformity with the Drainage Basin Planning Study (DBPS) as approved by the ~~City~~**Stormwater Enterprise**, together with the estimated cost of constructing these facilities. After final approval of the plat of a subdivision and prior to the issuance of any building permits within the subdivision, the subdivider shall, at the subdivider's expense, prepare detailed plans and specifications for the construction and installation of channels, conduits, detention/retention basins, culverts, bridges, and easements and all other drainage facilities for the control and drainage of surface water including the control of stormwater quality within the subdivision, or the part to be approved, and the carriage of water to a safe discharge or outflow point, all in conformity with the DBPS as approved by the ~~City~~**Stormwater Enterprise**.

~~B. Stormwater Quality Requirements For New Development And Significant Redevelopment:~~ All stormwater quality requirements, including ~~best management practices (BMPs)~~**PCMs**, policies and procedures must be complied with as outlined ~~defined~~ in the "Drainage Criteria Manual, Volume II: Stormwater Quality Policies, Procedures And Best Management Practices". Permanent stormwater quality BMPs are required for all "new development and significant redevelopment", which is defined as follows:

~~1. All sites zoned R 4 (multi family residential), R 5 (multi family residential), PUD (planned unit development), SU (special use), OR (office residential), OC (office complex), PBC (planned business center), C 5 (intermediate business), C 6 (general business), PIP 1 (planned industrial park), PIP 2 (planned industrial park), M 1 (light industrial), M 2 (heavy industrial), PF (public facilities), APD (airport planned development) and PCR (planned cultural resort) that include total development/redevelopment areas of one acre or larger. Water quality capture volume (WQCV), as detailed in the manual, shall be provided for the total site or individual lots/parcels. Other permanent BMPs may also be required as appropriate.~~

~~2. All sites in any zone that include total development/redevelopment areas of one acre or larger for which stormwater quality detention is required, as specified in the approved final drainage report. WQCV shall be incorporated into stormwater quantity detention basins as detailed in the manual. Other permanent BMPs may also be required as appropriate.~~

~~3. All sites zoned R estate (residential), R 1 6000 (single family residential), R 1 9000 (single family residential), R 2 (two family residential) and DFOZ (design flexibility overlay base zone must be~~

~~R, R 1 6000 or R 1 9000) that include total development/redevelopment areas of two (2) acres or larger will be reviewed on a case by case basis that will include an assessment of impacts from stormwater runoff from the new development/redevelopment to State waters and a determination of the need for any additional permanent water quality BMPs. Sites for which City Engineering determines water quality impacts to State waters are minimal and permanent water quality BMPs are impractical will be granted a waiver, based on the submittal of sufficient justification. Written waiver requests from requiring permanent stormwater quality BMPs will be considered by the City Engineer.~~

~~4. All other sites that do not meet the above requirements may be required to provide permanent stormwater quality BMPs, if significant stormwater quality impacts are anticipated as a result of development/redevelopment of the site, as determined by the City Engineer.~~

~~The intent of permanent water quality BMPs is that they be placed prior to the stormwater runoff being discharged to State waters. However, downstream BMPs (such as detention ponds or improved channels) may also be acceptable if there are minimal impacts to State waters between the downstream BMP and the area of new development/redevelopment. With increased impacts, other permanent BMPs may also be required on or adjacent to the site or in combination with new/retrofitted downstream BMPs. When determining the need for permanent water quality BMPs, consideration will be given to, but not limited to, the following: overall assessment of water quality impacts/benefits (including looking at the intervening reach between any downstream BMP and the development site), other BMPs incorporated into the overall site, costs and long term maintenance viability.~~

~~Whenever practical, the City of Colorado Springs promotes permanent stormwater quality BMPs on all sites.~~

C. Submittal And Signature Requirements: All drainage reports and detailed plans and specifications shall be submitted to the ~~City Engineer~~**SE Manager**. All drainage reports, detailed plans and specifications shall bear the seal of a registered professional engineer of the State of Colorado and a statement signed by the engineer that such drainage reports and detailed plans and specifications have been prepared according to the criteria established by the City for drainage reports and detailed plans and specifications and that such drainage reports and detailed plans and specifications are in conformity with the DBPS for the drainage basin; that such drainage reports and detailed plans and

specifications meet the purposes for which the particular drainage facility is designed; and that the engineer accepts responsibility for any liability caused by the negligent acts, errors or omissions of the engineer in preparing the detailed plans and specifications.

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7.7.907: CREDIT FOR FACILITIES:

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B. Determination Of Credit For Drainage Facilities: The credit to which a subdivider shall be entitled from the appropriate subfund of the basin involved in the subdivision storm drainage fund, as set forth in subsection A of this section, shall be determined on the basis of the actual cost incurred in constructing the drainage facilities, plus ten percent (10%) for engineering expense. The subdivider shall be responsible for contracting for the construction of the drainage facilities after receiving at least three (3) sealed bids for construction of the drainage facilities. If the subdivider is unable to get at least three (3) sealed bids the ~~City Engineer~~**SE Manager** shall be responsible for determining that the bid or bids received are the lowest responsible bids. The decision of the ~~City Engineer~~**SE Manager** may be appealed to the Drainage Board. Bidders must be on the City's approved contractor list. The subdivider shall award the bid to the lowest responsible bidder within thirty (30) days after receiving the bids.

Should the bids exceed the estimate of the cost of constructing the drainage facilities as set forth in the approved drainage plan they shall be rejected unless the subdivider's engineer and the ~~City Engineer or his designated representative~~**SE Manager** determine that any bid exceeding the engineer's estimate is the lowest responsible bidder unless the subdivider declares his desire to accept a higher bid. If such is the case any credit shall be based on the lowest responsible bid. Any disputes pertaining to this section shall be referred to the Drainage Board for determination, and decisions of such Board may be appealed to the City Council as set forth in this part.

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7.7.908: CITY RESPONSIBLE FOR ACCEPTED FACILITIES:

All drainage facilities and appurtenances constructed or provided under this part and designated by the ~~City Engineer~~**SE Manager** as public drainage facilities with public maintenance, shall upon written acceptance by the City become the property of the City and the City shall be responsible for the operation and maintenance of the facilities.

7.7.909: COOPERATION WITH SUBDIVIDERS:

The City shall cooperate with and assist subdividers subject to the provisions of this part by exercising its power of eminent domain to obtain rights of way for drainage facilities, the adoption of ordinances and resolutions for the control of drainage channels and waters therein, and similar matters. The City's cost of condemning any drainage easements required pursuant to an approved drainage plan will be paid by the subdivider as the costs are incurred by the City and shall include all costs of condemnation including appraisal fees and court costs. The City may require letters of credit or other financial assurances in amounts it determines reasonable to assure payment prior to commencing condemnation. The subdivider is entitled to a fair share reimbursement of the cost of such drainage easements from owners abutting the drainage easement whose property is subdivided or developed within a period of fifteen (15) years after the drainage easement is obtained. Application for a plat or building permit by the abutting owner shall not be approved until a fair share reimbursement of the cost of the drainage easement shall have been made to the original subdivider. The ~~City Engineer~~**SE Manager** shall determine the fair share reimbursement, which shall be a pro rata share on a front foot basis unless otherwise determined by the ~~City Engineer~~**SE Manager**. All liability for repayment of the drainage easement cost shall be limited to a period of fifteen (15) years after the drainage easement is obtained by the City. All monies so collected shall be refunded to the original subdivider who paid for the condemnation of the drainage easement involved. On January 1 of the year following the City's obtaining the drainage easement and on each year thereafter on January 1, the prior year's fair share reimbursement shall be increased by ten percent (10%). Payments by subdividers for drainage easements pursuant to this section shall not be a credit against applicable drainage fees nor shall repayment of any costs of acquiring drainage easements pursuant to this section be an obligation of the subdivision storm drainage fund of the basin involved.

7.7.910: SUBDIVISION STORM DRAINAGE BOARD:

A. Creation: Pursuant to the agreement between the City of Colorado Springs and the Board of County Commissioners of El Paso County dated November 22, 1983, there is hereby established a City/County Subdivision Storm Drainage Board. Said Board shall consist of seven (7) members who shall be appointed by the City Council and Board of County Commissioners. Appointments to the Board shall be made in such a manner as to achieve staggered three (3) year terms. The County Engineer and ~~City Engineer~~**SE Manager** shall be the secretaries of the Board without a vote. One member of the Board shall be a banker; one member shall be a land developer experienced in the subdivision and improvement of land; one member shall be a registered practicing engineer qualified in the subdivision and development of land; one member shall be a registered practicing engineer qualified in drainage matters incident to the subdivision and development of lands; one member shall be a person actively engaged in the construction and sale of housing; two (2) members shall be members at large residing in El Paso County.

In addition to the duties herein specifically granted, the Board shall advise the County Engineer and ~~City Engineer~~ **SE Manager** and other City and County officials in carrying out the provisions of the City Subdivision Code and the County subdivision regulations relating to the drainage and control of flood and surface waters within the City and County; shall administer the subdivision storm drainage funds; and, shall recommend to the City Council and Board of County Commissioners changes to the City Subdivision Code and the County subdivision regulations relating to the drainage and control of flood and surface waters within the City and County.

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Section 2. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 3. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ____ day of _____, 2020.

Finally passed: _____

Council President

Mayor's Action:

- Approved on _____.
- Disapproved on _____, based on the following objections:

Mayor

Council Action After Disapproval:

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Council President

ATTEST:

Sarah B. Johnson, City Clerk