



TOWN BOARD WORK SESSION

February 25, 2019 - 5:30 PM

1st Floor Conference Room, 301 Walnut Street, Windsor, CO 80550

GOAL of this Work Session is to have the Town Board receive information on topics of Town business from the Town Manager, Town Attorney and Town staff in order to exchange ideas and opinions regarding these topics.

Members of the Public in attendance are asked to be recognized by the Mayor before participating in any discussions of the Town Board

AGENDA

1. New Liberty Roundabouts
2. MS4 Ordinance
3. Future Meetings Agenda

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Thursday prior to the meeting to make arrangements.



MEMORANDUM

Date: February 25, 2019
To: Mayor and Town Board
Via: Shane Hale, Town Manager
From: Dennis Wagner, Director of Engineering
Re: New Liberty Roundabouts
Item #: 1.

Background / Discussion:

In response to increased traffic and citizen complaints, a traffic signal warrant study was done in 2018 at the intersections of 7th Street/New Liberty Road and WCR 13/New Liberty Road. An intersection should meet at least one of the nine warrants defined in the Manual on Uniform Traffic Control Devices (MUTCD) to qualify for signal installation. Both intersections met two warrants and were close to meeting a third in early 2018.

The 2019 budget includes \$348,000 for each of the two signals; a total of \$696,000. Traffic signals were budgeted in lieu of roundabouts due to cost differential. For example, Windsor constructed the roundabout at 7th Street and Eastman Park Drive in 2017 at a cost of \$1.1 million.

Last month, staff received some inquiries and comments concerning the plan to install traffic signals at the two subject intersections versus roundabouts. Martin Lind's design and construction team laid out the attached sketches and cost estimates for roundabouts. As you can see, the cost estimates (approx. \$650k per roundabout) are significantly lower than expected.

As an alternative to traffic signals, it's proposed that either the Raindance Metro District and/or the Water Valley Metro District will construct the roundabouts at WCR 13/New Liberty Road and at 7th Street/New Liberty Road. It is Staff's preference that both would be constructed in 2019, but one at a time so as to reduce the impact to existing traffic. If approved by the Town Board, Windsor will reimburse the Raindance Metro District in 2019 for the cost of one roundabout. Windsor will reimburse the Water Valley Metro District in 2020 for the cost of a roundabout.

Financial Impact:

In 2019, \$696,000 was budgeted in the Road Impact Fee Fund for two traffic signals. That money would be used to reimburse Raindance Metro District for construction of a roundabout at WCR 13/New Liberty Road. In 2020, approximately \$650,000 will have to be budgeted in the Road Impact Fee Fund to reimburse Water Valley Metro District for the roundabout at 7th Street/New Liberty Road. There are currently no other expenditures anticipated in the 2020 Road Impact Fee Fund and a sufficient fund balance is projected in 2020 to cover the proposed roundabout.

Recommendation:

Authorize staff to draft Intergovernmental Agreements with Metro Districts.

ATTACHMENTS:

- ▢ 7th St-New Liberty Road RAB cost
- ▢ WCR 13-New Liberty Road RAB cost



7251 W. 20th St., Bldg. L, Suite 101B
Greeley, Colorado 80634
Phone: (970) 330-5070
Fax: (970) 330-6044

ROUND-A-BOUT ESTIMATE
Windsor, CO
7th St & New Liberty
Budget- Preliminary Plan

To: Water Valley Land Company
Attention: Tom Siegel
1625 Pelican Lakes Point, Suite 201
Windsor CO 80550
(970) 686-5828

From: Joe Schumacher (cell) 970.397.9880
Andrew Holder (cell) 970.397.9875
(cell) 970.302.9723

Estimate Date: *February 8, 2019*
Plans Dated:

Crow Creek Construction, LLC - PROJECT TOTAL	
Item	Total
GENERAL CONDITIONS	\$181,400.00
EROSION CONTROL	\$22,460.00
EARTHWORK	\$14,000.00
CURB, GUTTER & SIDEWALKS	\$171,420.00
ASPHALT PAVING	\$181,830.00
TEMP. ROAD	\$79,110.00
Total:	\$650,220.00

Inclusions:

Labor, Equipment, Material, City / State Taxes, Erosion Control (As Listed), Concrete, Traffic Control (As Listed), Signs, Striping, Asphalt, Procurement of Storm water Discharge Permit, Storm Water Management Plans or Management, Dry Utility Sleeves, Erosion Control Maintenance (As Listed)

Exclusions:

Relocation of Existing Utilities (Shown/Not Shown), Payment & Performance Bond, Foreign or Hazardous Materials, Trench Bottom Stabilization, Existing Landscape Ground Maintenance, Monumentation, Landscape/Irrigation Removal, Winter Protection or Frost Removal, Procurement of Nationwide No. 12 Corps Permit, Any Fence Removal (other than listed), Import of Trench Material, Retaining Walls, Ripping, Blasting, Import / Export of Earthwork, Engineering and Project Design Plans, Dry Utility (PVREA, Xcel, Comcast) Fees and/or Coordination

Crow Creek Construction, LLC:

By: _____
Title: _____
Attest: _____
Date: _____

Accepted:

By: _____
Title: _____
Attest: _____
Date: _____

GENERAL CONDITIONS	UNIT	QUANTITY	UNIT COST	EXTENDED
Surveying	LS	1.0	\$15,000.00	\$15,000.00
Material Testing	LS	1.0	\$12,000.00	\$12,000.00
Traffic Control	DAYS	60.0	\$850.00	\$51,000.00
Landscaping & Irrigation	SF	10,000.0	\$4.00	\$40,000.00
Irrigation Conduit Sleeving	LS	1.0	\$7,500.00	\$7,500.00
Sawcut & Remove Asphalt	SY	5,200.0	\$4.50	\$23,400.00
Remove Existing Concrete (Trails, Ex. Median)	SY	150.0	\$5.00	\$750.00
Remove Existing Curb & Gutter	LF	650.0	\$5.00	\$3,250.00
Street Signs/Striping	LS	1.0	\$28,500.00	\$28,500.00
			Subtotal:	\$181,400.00

EROSION CONTROL	UNIT	QUANTITY	UNIT COST	EXTENDED
Silt Fence	LF	1,500.0	\$1.80	\$2,700.00
Concrete Wash Out	EA	1.0	\$900.00	\$900.00
Vehicle Tracking Pad	CY	100.0	\$60.00	\$6,000.00
Temporary Seeding	AC	4.0	\$865.00	\$3,460.00
Storm Water Inspections	EA	8.0	\$350.00	\$2,800.00
SWMP Book	LS	1.0	\$4,000.00	\$4,000.00
Gravel Inlet Protection	EA	2.0	\$300.00	\$600.00
Straw Wattles	EA	10.0	\$200.00	\$2,000.00
			Subtotal:	\$22,460.00

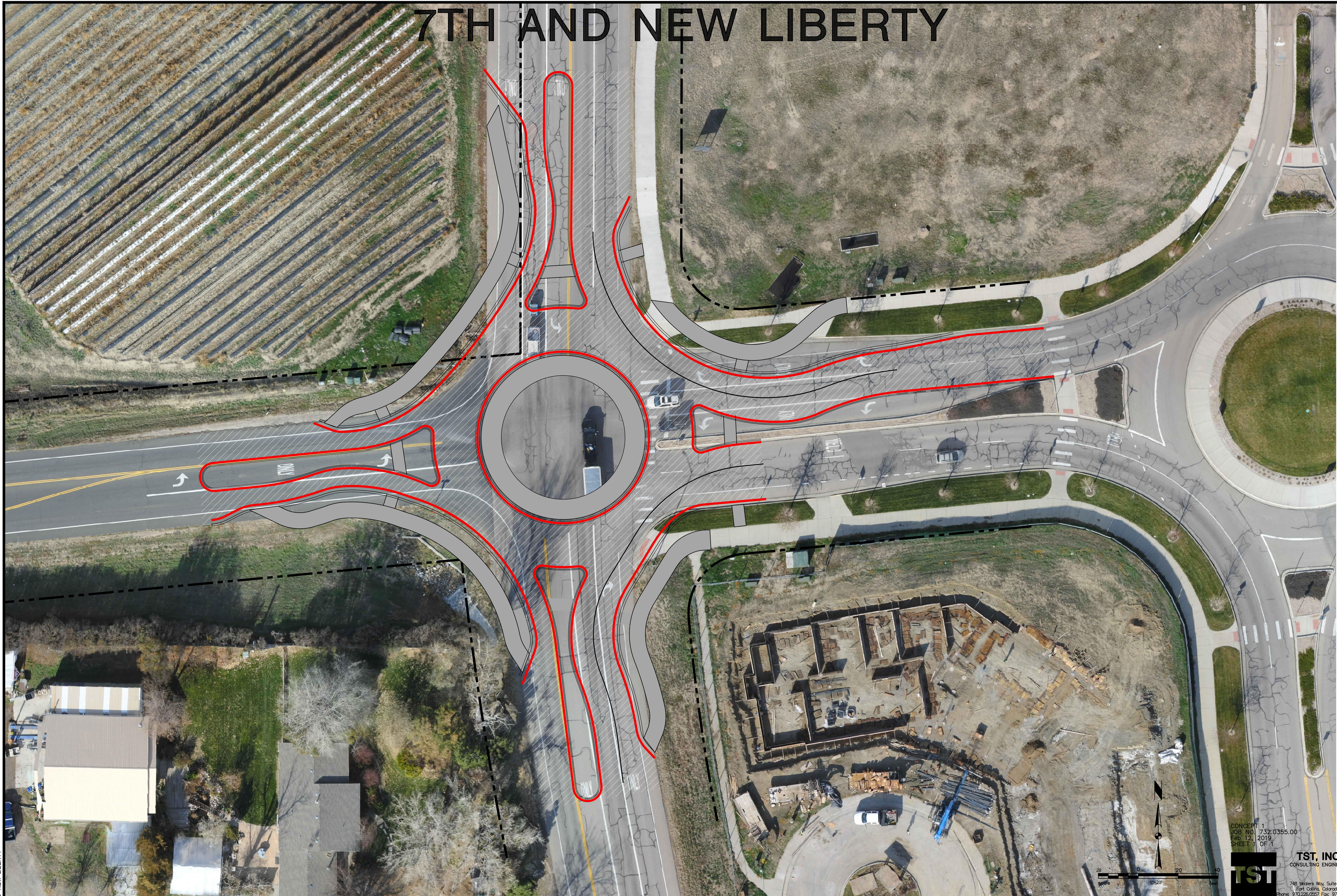
EARTHWORK	UNIT	QUANTITY	UNIT COST	EXTENDED
Clear and Grub Site	AC	4.0	\$3,500.00	\$14,000.00
			Subtotal:	\$14,000.00

CURB, GUTTER & SIDEWALKS	UNIT	QUANTITY	UNIT COST	EXTENDED
Sidewalk 5' Wide 6" Thick	LF	30.0	\$26.00	\$780.00
Sidewalk 8' Wide 6" Thick	LF	950.0	\$48.00	\$45,600.00
Handicap Ramp	EA	4.0	\$1,500.00	\$6,000.00
18" Vertical Curb	LF	2,325.0	\$25.00	\$58,125.00
Install 8" Thick Concrete Truck Apron w/ Subgrade Prep	SF	2,200.0	\$10.00	\$22,000.00
Splashblock	LF	800.0	\$25.00	\$20,000.00
Concrete Subgrade Prep	LF	6,305.0	\$3.00	\$18,915.00
			Subtotal:	\$171,420.00

ASPHALT PAVING	UNIT	QUANTITY	UNIT COST	EXTENDED
Asphalt Paving: 7.5"/10"	SY	3,135.0	\$55.00	\$172,425.00
Asphalt Subgrade Prep	SY	3,135.0	\$3.00	\$9,405.00
			Subtotal:	\$181,830.00

TEMP. ROAD	UNIT	QUANTITY	UNIT COST	EXTENDED
Dirtwork	SY	3,900.0	\$3.50	\$13,650.00
6" Road Base	TONS	1,200.0	\$18.00	\$21,600.00
Subgrade Prep	SY	4,620.0	\$3.00	\$13,860.00
Traffic Control	DAY	60.0	\$500.00	\$30,000.00
			Subtotal:	\$79,110.00

7TH AND NEW LIBERTY



CONCEPT 1
JOB NO. 732.0355.00
Feb. 12, 2019
SHEET 1 OF 1



TST, INC.
CONSULTING ENGINEERS

748 Widens Way, Suite 200
Fort Collins, Colorado
Phone: 970.226.0557 Fax: 970.226.0204



7251 W. 20th St., Bldg. L, Suite 101B
 Greeley, Colorado 80634
 Phone: (970) 330-5070
 Fax: (970) 330-6044

ROUND-A-BOUT ESTIMATE
 Windsor, CO
WCR 13 & New Liberty
Budget- Preliminary Plan

To: Water Valley Land Company
 Attention: Tom Siegel
 1625 Pelican Lakes Point, Suite 201
 Windsor CO 80550
 (970) 686-5828

From: Joe Schumacher (cell) 970.397.9880
 Andrew Holder (cell) 970.397.9875
 (cell) 970.302.9723

Estimate Date: *February 8, 2019*
 Plans Dated:

Crow Creek Construction, LLC - PROJECT TOTAL	
Item	Total
GENERAL CONDITIONS	\$187,093.50
EROSION CONTROL	\$21,920.00
EARTHWORK	\$10,500.00
CURB, GUTTER & SIDEWALKS	\$190,525.00
ASPHALT PAVING	\$159,500.00
TEMP. ROAD	\$79,110.00
Total:	\$648,648.50

Inclusions:

Labor, Equipment, Material, City / State Taxes, Erosion Control (As Listed), Concrete, Traffic Control (As Listed), Signs, Striping, Asphalt, Procurement of Storm water Discharge Permit, Storm Water Management Plans or Management, Dry Utility Sleeves, Erosion Control Maintenance (As Listed)

Exclusions:

Relocation of Existing Utilities (Shown/Not Shown), Payment & Performance Bond, Foreign or Hazardous Materials, Trench Bottom Stabilization, Existing Landscape Ground Maintenance, Monumentation, Landscape/Irrigation Removal, Winter Protection or Frost Removal, Procurement of Nationwide No. 12 Corps Permit, Any Fence Removal (other than listed), Import of Trench Material, Retaining Walls, Ripping, Blasting, Import / Export of Earthwork, Engineering and Project Design Plans, Dry Utility (PVREA, Xcel, Comcast) Fees and/or Coordination

Crow Creek Construction, LLC:

By: _____
 Title: _____
 Attest: _____
 Date: _____

Accepted:

By: _____
 Title: _____
 Attest: _____
 Date: _____

GENERAL CONDITIONS	UNIT	QUANTITY	UNIT COST	EXTENDED
Surveying	LS	1.0	\$15,000.00	\$15,000.00
Material Testing	LS	1.0	\$12,000.00	\$12,000.00
Traffic Control	DAYS	60.0	\$850.00	\$51,000.00
Landscaping & Irrigation	SF	8,872.0	\$4.00	\$35,488.00
Irrigation Conduit Sleeving	LS	1.0	\$7,500.00	\$7,500.00
Sawcut & Remove Asphalt	SY	6,549.0	\$4.50	\$29,470.50
Remove Existing Concrete (Trails, Ex. Median)	SY	175.0	\$5.00	\$875.00
Remove Existing Curb & Gutter	LF	1,452.0	\$5.00	\$7,260.00
Street Signs/Striping	LS	1.0	\$28,500.00	\$28,500.00
			Subtotal:	\$187,093.50

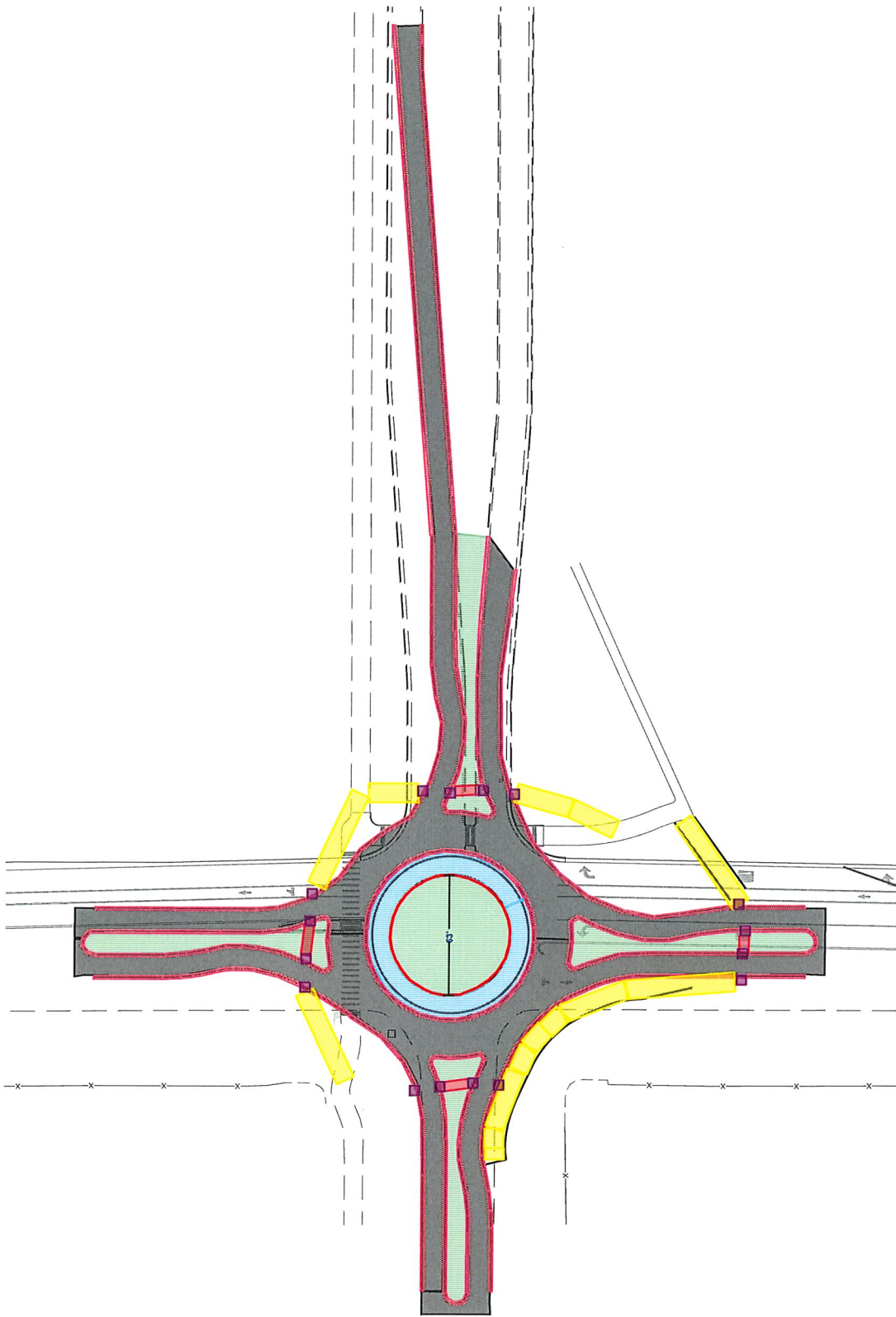
EROSION CONTROL	UNIT	QUANTITY	UNIT COST	EXTENDED
Silt Fence	LF	1,200.0	\$1.80	\$2,160.00
Concrete Wash Out	EA	1.0	\$900.00	\$900.00
Vehicle Tracking Pad	CY	100.0	\$60.00	\$6,000.00
Temporary Seeding	AC	4.0	\$865.00	\$3,460.00
Storm Water Inspections	EA	8.0	\$350.00	\$2,800.00
SWMP Book	LS	1.0	\$4,000.00	\$4,000.00
Gravel Inlet Protection	EA	2.0	\$300.00	\$600.00
Straw Wattles	EA	10.0	\$200.00	\$2,000.00
			Subtotal:	\$21,920.00

EARTHWORK	UNIT	QUANTITY	UNIT COST	EXTENDED
Clear and Grub Site	AC	3.0	\$3,500.00	\$10,500.00
			Subtotal:	\$10,500.00

CURB, GUTTER & SIDEWALKS	UNIT	QUANTITY	UNIT COST	EXTENDED
Sidewalk 5' Wide 6" Thick	LF	60.0	\$26.00	\$1,560.00
Sidewalk 10' Wide 6" Thick	LF	420.0	\$52.00	\$21,840.00
Handicap Ramp	EA	16.0	\$1,500.00	\$24,000.00
18" Vertical Curb	LF	3,350.0	\$25.00	\$83,750.00
Install 8" Thick Concrete Truck Apron w/ Subgrade Prep	SF	3,025.0	\$10.00	\$30,250.00
Splashblock	LF	220.0	\$25.00	\$5,500.00
Place Inlet Tie Ins	EA	2.0	\$1,200.00	\$2,400.00
Concrete Subgrade Prep	LF	7,075.0	\$3.00	\$21,225.00
			Subtotal:	\$190,525.00

ASPHALT PAVING	UNIT	QUANTITY	UNIT COST	EXTENDED
Asphalt Paving: WCR 13 7.5"/10" ABC	SY	2,750.0	\$55.00	\$151,250.00
Asphalt Subgrade Prep	SY	2,750.0	\$3.00	\$8,250.00
			Subtotal:	\$159,500.00

TEMP. ROAD	UNIT	QUANTITY	UNIT COST	EXTENDED
Dirtwork	SY	3,900.0	\$3.50	\$13,650.00
6" Road Base	TONS	1,200.0	\$18.00	\$21,600.00
Subgrade Prep	SY	4,620.0	\$3.00	\$13,860.00
Traffic Control	DAY	60.0	\$500.00	\$30,000.00
			Subtotal:	\$79,110.00





MEMORANDUM

Date: February 25, 2019
To: Mayor and Town Board
Via: Shane Hale, Town Manager
From: Janine Hegeman, Stormwater Program Coordinator
Re: MS4 Program Status; Stormwater Ordinance
Item #: 2.

Background / Discussion:

Ordinance needed to support Windsor's application and enforcement of the State-issued Municipal Separate Storm Sewer System permit. The goal: ensure that runoff meets State water quality standards as it passes through Windsor's storm sewer system and into the Cache la Poudre River. Multiple programs designed to manage specific impacts to stormwater runoff must be functioning per the compliance schedule stated in the permit beginning July 1, 2019. Work is underway to customize these programs for Windsor. Implementation depends on approval of an ordinance that includes enforcement.

ATTACHMENTS:

- ▣ MS4 Permit certification application notice
- ▣ MS4 Permit Certification
- ▣ MS4 Compliance Schedule
- ▣ DRAFT MS4 Ordinance
- ▣ MS4 Program Status to date



COLORADO

Department of Public
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

MEMORANDIUM

To: John Vazquez, Mayor, Town of Windsor, 301 Walnut Street, Windsor, Colorado 80550

From: Lillian Gonzalez, Unit 1 Manager and Lisa Knerr, Environmental Protection Specialist

Date: August 3, 2016

Re: New Municipal Separate Storm Sewer System (MS4) Designation

Dear John Vazquez:

The Water Quality Control Division (division) issued a letter to the Town of Windsor (applicant) in 2012 explaining that they will be designated a regulated small municipal separate storm sewer system (MS4) when the general permit is reissued. The renewed general permit is effective on July 1, 2016. In accordance with Regulation 61.3(2)(f)(v)(A)(I), the applicant is officially designated as an MS4 and must complete the attached application by February 3, 2017. The application can also be downloaded from our web site <https://www.colorado.gov/pacific/cdphe/wq-municipal-ms4-general-permits>.

Section 61.3(2)(f)(v)(A)(I) of Colorado State Regulation 61 requires a Colorado Discharge Permit System (CDPS) permit for small publically-owned systems similar to municipal separate storm sewer systems (MS4s). Section 61.3(2)(f)(iii) states that the division "may issue permits for designated municipal separate storm sewer systems that are on a system-wide basis, *jurisdiction-wide basis* [emphasis added], watershed basis or other appropriate bases, or may issue permits for individual discharges. The division, therefore, is designating the applicant's entire jurisdiction.

A municipal separate storm sewer system is a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (a) owned or operated by a State, city, town, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to state waters; (b) designed or used for collecting or conveying stormwater; (c) which is not a combined sewer; and (d) which is not part of a Publicly Owned Treatment Works (POTW).

The intent of the regulations is to reduce the amount of pollutants entering streams, lakes and rivers as a result of runoff from MS4s. Please note that Table 3 in the general permit includes a compliance schedule for implementing each program area for new permittees. For example, the applicant does not have to implement the construction sites program until July 1, 2019.

Please contact us if you have any questions.

Cc: Dennis Wagner, Director of Engineering, Town of Windsor
Terry Walker, Director of Public Works, Town of Windsor
Brian Rowe, Streets Supervisor, Town of Windsor



**CERTIFICATION TO DISCHARGE UNDER
CDPS GENERAL PERMIT COR0900000
STORMWATER DISCHARGES ASSOCIATED WITH
MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4)**

Certification Number: COR090112

This Certification to Discharge specifically authorizes:

Windsor Town of

**to discharge stormwater from its MS4
(including the entire area within its jurisdictional boundary)
to State waters, including but not limited to:**

- Cache la Poudre River

Certification issued and effective: 2/1/2017

Expiration Date : 6/30/2021

This certification under the permit requires that specific actions be performed at designated times. The certification holder is legally obligated to comply with all terms and conditions of the permit.

**Approved by
Lillian Gonzalez
Permits Unit Manager
Water Quality Control Division**

2. New Permittees

New permittees must obtain permit coverage following the effective date of the permit. "New permittees" are permittees not covered under a previous MS4 general permit. The Division may include in the permit certification an alternative compliance schedule deadline from those included in Table 3 for specific compliance schedule deadlines prior to, or within 1 year of, the effective date of the permittee's certification. Alternative compliance schedules may extend beyond the permit expiration date.

All requirements of the cited section, and all subsections unless specifically excluded, must be met by the compliance schedule deadline in Table 3.

The permit terms for Part I.E.3, Part I.E.4, and Part I.E.5 are subject to the compliance schedule dates in Table 3 and require the implementation of structural control measures that require planning and installation. In addition, Parts I.E.3 and I.E.4 require the permittee to implement regulatory mechanisms to ensure implementation by operators. The permittee must, therefore, complete some necessary actions in advance of the required deadlines to ensure that the required structural control mechanisms for applicable construction activities, applicable municipal facilities, and applicable municipal operations are in place by the corresponding deadlines in the compliance schedule. For applicable development sites, the permittee must ensure that the control measures are in place for all sites completed after the compliance schedule deadline.

TABLE 3 Compliance Schedule - New Permittees				
ICIS Code	Permit Condition	Action	Deliverable	Deadline
PR010	Part I.C.1 and PDD content requirements in Parts I.D and E	Complete PDD (contents must reflect terms and conditions that are in effect, i.e., following the associated compliance schedule deadline)	Notification in annual report Due March 10, 2018	Completed January 1, 2018
PR010	Part I.D.1	Public Involvement/Participation: Ensure requirements are met	Notification in annual report Due March 10, 2018	Completed January 1, 2018
PR010	Part I.E.1	Public Education and Outreach: Ensure requirements are met	Notification in annual report Due March 10, 2019	Completed July 1, 2018
PR010	Part I.E.2	Illicit Discharge Detection and Elimination: Ensure requirements are met	Notification in annual report Due March 10, 2020	Completed July 1, 2019
PR010	Part I.E.3	Construction Sites: Ensure requirements are met.	Notification in annual report Due March 10, 2020	Completed July 1, 2019
PR010	Part I.E.4	Post Construction: Ensure requirements are met.	Notification in annual report Due March 10, 2021	Completed July 1, 2020

DRAFT PROPOSED WINDSOR MS4 STORMWATER QUALITY ORDINANCE
(amendment to Chapter 13 of the *Windsor Municipal Code*)

ARTICLE V
STORMWATER QUALITY

Sec. 13-5-10 - Intent.

The intent of this Article is to regulate non-stormwater discharges to the storm drainage system and subsequent receiving waters as required by federal and state law in order to protect and enhance the water quality of the Town's watercourses, water bodies and wetlands in a manner consistent with the Clean Water Act. The objectives of this Article are:

- (a) To regulate and reduce, to the maximum extent practicable, the introduction of pollutants to the municipal separate storm sewer system (MS4);
- (b) To prohibit 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 or other activity that disturbs or breaks the topsoil or results in the movement of earth on land;
- (e) To require the construction of permanent stormwater runoff controls with development to reduce, to the maximum extent practicable, the deterioration of water quality; and
- (f) To promote public awareness of the hazards involved in the improper discharge of pollutants into the storm drainage system.

Sec. 13-5-20 - Definitions.

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

Best Management Practices (BMPs): A technique, process, activity or structure used to prevent or reduce, to the maximum extent practicable, the pollutant content of a stormwater discharge into receiving waters. BMPs include nonstructural methods such as good housekeeping and preventive maintenance and structural modifications to control the discharge of pollutants directly or indirectly into receiving waters, which limit the release of pollutants into stormwater discharges or function as treatment controls. For the purpose of this Article, the term *BMP* is used interchangeably with the term *control measure*, and can include other methods such as the installation, operation, and maintenance of structural controls and treatment devices.

BMPs, Nontreatment Nonstructural: Practices that include: schedules of activities, site planning incorporating low-impact development techniques, general good housekeeping pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce, to the maximum extent practicable, the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems.

BMP, Treatment Structural: A permanent system designed for the treatment of stormwater to prevent or reduce, to the maximum extent practicable, the discharge of pollutants.

Control Measure: Any best management practice or other method used to prevent or reduce the discharge of pollutants to waters of the state. Control measures include, but are not limited to best management practices. Control measures can include other methods such as the installation, operation, and maintenance of structure controls and treatment devices.

CDPHE: The Colorado Department of Public Health and Environment. By its definition herein, the Town recognizes that CDPHE is authorized to administer the NPDES program in Colorado.

CDPS: Colorado Discharge Permit System.

Clean Water Act: The federal Water Pollution Control Act (33 USC §1251 *et. seq.*), and any amendments thereto.

Construction activity: ground surface disturbing and associated activities, which include, but are not limited to, clearing, grading, excavation, demolition, installation of new or improved haul roads and access roads, staging areas, stockpiling of fill materials, and borrow areas that disturbs at least 1 acre of land (or is part of a larger common plan of development or sale that will disturb at least 1 acre). Activities that include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility are not considered *construction activity*. *Construction activity* occurs from initial ground breaking to final stabilization regardless of ownership of the land upon which *construction activity* takes place.

Common plan of development or sale: a contiguous area where multiple separate and distinct construction activity may be taking place at different times on different schedules, but remain related.

Construction stormwater management plan (SWMP): The State of Colorado-required document developed to assure compliance with the general permit for Stormwater Discharges Associated with Construction Activities.

Contiguous: construction activities located in close proximity to each other (within $\frac{1}{4}$ mile).

Director: The Town of Windsor Town Manager 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 the tillage of land that is under agricultural use pursuant to an express written agreement with the Town.

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

Grading, Erosion and Sediment Control Plan and Permit (GESCPP): The collection of maps, specifications, plan sets and associated narrative, signed, updated and maintained by the owner/operator and/or assigns, and also signed and sealed by the design engineer.

Hazardous material: 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 nonstormwater 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 and 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 **sub-§ 13-5-50 (b)**.

Industrial activity: Activities subject to CDPS industrial permits, as defined in 40 CFR § 122.26(b)(14).

Mobile washing operation: A commercial activity involving power washing, steam cleaning, and any other method of mobile cosmetic cleaning of, to include, but is not limited to, the following: vehicles, fabric, pets and/or exterior surfaces.

MS4: Municipal Separate Storm Sewer System.

Municipal separate storm sewer system: 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 or other water quality structures, and natural and manmade or altered drainage ditches/channels/lakes/reservoirs, and other drainage structures.

National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit or NPDES permit: A permit issued pursuant to section 402 of the Clean Water Act, including CDPS 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 a construction site or facility; *operator* includes the owner, lessee, the developer, the general contractor or the agent(s) of any one (1) or more 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, sediment and industrial and agricultural wastes discharged into 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.

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

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. *Receiving water* 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: Interchangeable with *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 BMP's 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, the MS4, and/or receiving waters to the maximum extent practicable.

Town: The Town of Windsor, a Colorado home rule municipal corporation.

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 stormwater runoff and floodwater flow, whether 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 but does not include waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed. This definition includes all watercourses, even if they are usually dry.

Sec. 13-5-30. - Applicability of this Article.

This Article shall apply to all water entering the storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by this Article.

Sec. 13-5-40. - Responsibility for administration.

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

In addition to the foregoing powers, the Director shall have the power to adopt written policies and procedures necessary to implement this Article, and shall make such written policies and procedures available to the public.

Sec. 13-5-50. - Illicit discharge prohibited; exemptions.

(a) Illicit discharges enumerated. No person shall discharge or cause to be discharged into the MS4 or watercourses any illicit discharge, 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) Nonhazardous liquid, solid wastes and yard wastes;
- (3) Hazardous materials, sewage, fecal coliform and pathogens, dissolved and particulate metals;
- (4) Trash, refuse, rubbish, garbage, food wastes, pet 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 and substances added to the storm drain to control root growth;
 - (8) Any other material that is considered harmful to humans, animals, or aquatic life and its habitat.
- (b) Exemptions. The following discharges, when not otherwise enumerated as illicit above, are exempt from the discharge prohibitions established by this article:
- (1) Waterline flushing or other potable water sources , landscape irrigation or lawn watering, irrigation return flows, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration to stormdrains, uncontaminated pumped groundwater , roof drains, foundation or footing drains, crawl space pumps, air conditioning condensation, springs, charitable fundraising carwashes classified as a Low-Risk Discharge by the Director in accordance with official guidance issued by the State of Colorado Department of Health and Environment, individual residential car washing, natural riparian habitat or wetland flows, swimming pools (if dechlorinated, less than 0.05 ppm chlorine).
 - (2) Agricultural stormwater runoff.
 - (2) Flows from emergency firefighting activities and water incidental to street sweeping (includes associated sidewalks and medians).
 - (3) Any non-stormwater discharge permitted under an NPDES or CDPS permit.
 - (4) Any non-stormwater discharge permitted in accordance with CDPHE's current policies and guidance regarding low risk discharges, provided that such discharge is in full compliance with all requirements of such policies and guidance and all other applicable orders, laws and regulations.
 - (5) Dye testing in accordance with the manufacturer recommendations.
 - (6) Stormwater runoff with incidental pollutants.

Sec. 13-5-60. - Illicit connections prohibited.

(a) Generally. The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited. This prohibition expressly includes, without limitation, illicit connections made prior to the adoption of this Article, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(b) Cleaning of paved surfaces required. The owner of any paved parking lot, street or drive shall clean the pavement as necessary to reduce, to the maximum extent practicable, an illicit discharge of pollutants. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, collection and treatment of wash water or other methods in compliance with this Article.

Sec. 13-5-70. - Potential discharges.

(a) Generally. It is unlawful to cause materials to be deposited in such a manner or location as to constitute a threatened discharge into MS4 or waters of the state. Pollutants that are no longer contained in a pipe, tank or other container are considered to be potential discharges unless they are actively being cleaned up.

(b) Materials storage. Materials including, but not limited to, stockpiles used in construction and landscaping activities shall be stored to reduce, to the maximum extent practicable, the potential discharge and release of pollutants.

(c) Pesticides, herbicides and fertilizers. Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer recommendations and applicable laws. Pesticides, herbicides and fertilizers shall be stored in a manner to prevent potential discharge and release to the MS4.

Sec. 13-5-70. - Best management practices.

The owner or operator of a commercial or industrial establishment or a disturbed area shall provide at its own expense reasonable protection from accidental or potential discharge of prohibited materials or other wastes into the MS4 or watercourses through the use of treatment structural and nontreatment nonstructural BMPs. Further, any person responsible for premises which are or may be the source of an illicit discharge may be required to implement additional treatment structural and nontreatment nonstructural BMPs to prevent the further discharge of pollutants to the MS4 at said person's expense.

Sec. 13-5-80. - Right of entry and inspection of properties and facilities.

(a) Whenever the Director has reasonable cause to believe that there 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, with prior notice, to determine if the owner or operator is complying with the requirements of this Article. In the event that the owner or occupant refuses entry after a request to enter has been made, the Town is hereby empowered to seek relief from the Municipal Court to obtain a court order authorizing such entry.

(b) The Director shall have the right to install such devices as are necessary to investigate illicit discharges upon the property of any discharger to the MS4. The investigation may include, but is not limited to, the following: sampling of any discharge or process waters, the taking of photographs, interviewing staff on alleged violations, and access to any and all facilities or areas within the premises that may have any effect on the discharge.

(c) If the Director discovers a violation constituting an imminent danger to public health or public safety, the Director is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or bring the property into compliance with the requirements of this Article.

Sec. 13-5-80. - Notification of spills.

The owner or operator or person responsible for emergency response at a facility or operation shall, upon discovery of circumstances reasonably likely to constitute a known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the MS4, or waters of the state, take all necessary steps to ensure the discovery, assessment, containment, and cleanup of such release. In the event of a release of hazardous materials said owner or operator shall immediately notify emergency response agencies of the occurrence via emergency dispatch services (emergency 911 service). The requirements of this Section shall be in addition to any other requirements of law.

Sec. 13-5-90. - Applicability of permit.

(a) Permits required. It shall be unlawful for any person to conduct any activity resulting in the following total disturbed area without first obtaining a GESCP from the Town of Windsor and, when applicable, the State of Colorado:

(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 Town may also require a stormwater quality 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 Article:

(1) Agricultural land management activities.

(2) Construction activities taking place on land under the authority of a non-standard MS4 Permit holder.

- (3) The discharge is from a parcel or area that is not under the jurisdictional authority of the Town, or is under the authority of another stormwater permit entity.
 - (4) Activities associated with oil and gas exploration, production, treatment operations or transmission facilities.
 - (5) Construction activities pursuant to a State-approved R-Factor Waiver.
- (c) Permit application. Applications for GESCP permits shall be filed on a form prescribed by the Town, with accompanying site plans and, drainage reports, and other documents as specified.
- (1) In support of the application, the applicant shall supply all information required on the Town's form and any additional information requested by the Director.
 - (2) The application shall be signed by the person or persons under penalty of perjury responsible for compliance with the permit throughout the permit's validity.
 - (3) The applicant shall attach documentation of an application for a CDPHE stormwater general permit for construction activities.
 - (4) The applicant shall pay a fee of \$250.00 for the first acre of disturbance, plus \$50.00 for each additional acre (or any portion thereof) of additional acre of disturbance at the time of application, which fee may be adjusted by subsequent resolution adopted by the Town Board.
 - (5) The Director may reject an incomplete application or application for which the required fee has not been received.
- (d) Permit approval required. Construction activities may not proceed until a permit is issued by the Town, and an initial inspection is scheduled by the permittee with the Town's Stormwater Program Coordinator and/or inspection staff.
- (e) Permit issuance/denial. The Town shall either issue or deny a permit within thirty (30) working days of its receipt of a completed permit application. The permit may be denied if the applicant fails to provide the information or pay the fee 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 Town Manager no later than twenty-eight (28) calendar days from the date of written denial. The appeal must set forth the grounds for the appeal and include any documents in support of the appeal. The Town Manager shall rule on the appeal within thirty (30) calendar days of receipt of the appeal. The Town Manager's ruling on the matter shall be based solely upon review of the application, denial, appeal, and all documents related thereto. The parties shall receive written notice of the Town Manager's decision. The Town Manager's decision shall be deemed final agency action for purposes of judicial review.

(f) Permit close-out. The requirements of the stormwater quality permit will remain in effect until the Director has given written notice to the permittee of final stabilization via a Final Inspection Report and notification of final acceptance from the Town.

Sec. 13-5-100. - Construction Stormwater Management Plan (SWMP).

(a) Preparation of SWMP. In addition to all State requirements, the SWMP shall be prepared in accordance with the engineering, hydrologic 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 SWMP shall be kept on-site and kept updated at all times, and the owner or its representative shall be prepared to respond to maintenance of and compliance with specific BMPs.

(c) Inspection of BMPs. The owner or its representative shall self-inspect all BMPs at least every fourteen (14) days and within twenty-four (24) hours after any precipitation or snowmelt event causing surface runoff. Self-inspections of BMPs shall be conducted by an individual or team with formal training in erosion and sediment control by a recognized organization acceptable to the Director. A certification of successful completion of such training shall be provided upon request. Self-inspection reports, to include descriptions of resolutions to findings within the required time frame, shall be forwarded to the Stormwater Program Coordinator within two (2) days after the reports are closed out.

(d) Installation of BMPs. The owner or its representative shall ensure erosion, sediment and waste control BMPs are implemented for all pollutant sources throughout all stages of construction from the initial inspection until final stabilization has been certified by the Director as set forth in **Section** 13-5-90 (f). As a BMP(s) is deemed ineffective or inappropriate, the operator shall replace with an appropriate BMP, or remove a BMP, record its location and date of installation or removal on all documentation, and maintain it as required.

(e) Maintenance of BMPs. BMPs shall be continuously maintained to their designed functional capacity and restored immediately when damaged.

(f) BMP removal. It shall be unlawful for any person to maliciously destroy or interfere with any BMPs implemented to protect water quality. BMP removal shall be conducted as needed to meet the requirements for final stabilization or as needed in paragraph (d)

(g) Minor modifications to SWMP. Based on inspections performed by the owner or by Town personnel, minor modifications to the SWMP will be necessary if at any time the specified BMPs do not meet the objectives of this Article. The Director may require equivalent or improved BMPs to be implemented where feasible on a schedule established by the Director in consultation with the owner. All minor modifications shall be implemented immediately and recorded on the owner's on-site copy of the SWMP. The modified SWMP shall be made available to Town personnel during inspections and site visits.

(h) 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, the Director may require submittal of a revised SWMP to the Town for review. The owner or operator shall have an affirmative duty to immediately report any such conditions to the Town.

(i) Records of inspection. Records of self-inspections shall be maintained on site with the SWMP, and sent to the Stormwater Program Coordinator as directed in the permit (see paragraph (c)).

Sec. 13-5-110. - Technical standards and specifications.

(a) All BMPs designed to meet the requirements of this Article shall, as applicable, comply with the following technical standards:

(1) "Urban Drainage and Flood Control District's Urban Storm Drainage Criteria Manual", Volume 3, Chapter 7, Stormwater Quality" or its successor.

(2) Any other alternative methodology approved by the Town, which is demonstrated to be effective in meeting the requirements of this Article. Specifications and details, as well as maintenance requirements must be reviewed by the Town's engineering and Stormwater staff for approval prior to use.

Sec. 13-5-120. - Post-construction requirement of permanent BMPs.

(a) Post-Construction Permanent BMPs. Land development for both private and public projects that meets the requirements of this Article must address stormwater runoff quality through the use of permanent post-construction BMPs which shall be maintained in perpetuity by the property owner, unless otherwise specifically agreed in writing by the Town.

(1) Treatment Structural BMPs, such as but not limited to, inlet inserts, bioretention, grass swales and buffers, extended detention basins, sand filters, permeable pavement, constructed wetland ponds and channels, and underground BMPs located on private property shall be owned and operated by the owner(s) of the property on which the BMP is located, unless the Town in writing agrees that a person or entity other than the owner shall own or operate such BMP. Certification of the BMP by the owner's state-licensed engineer, a final passing inspection by the Town's Stormwater Program Coordinator or inspector.

(2) Nontreatment Nonstructural BMPs, such as site operations, employee training, and site planning incorporating low impact development techniques to address stormwater quality shall be implemented by the owner or operator in perpetuity.

(3) As a condition of approval of the BMP, the owner of a private project shall 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 imposed by this Article, and shall not require further notice or recording.

(b) Certification of permanent post-construction BMPs. During installation of post-construction structural BMPs, engineering inspections must be conducted at key installation points to ensure proper installation and functionality of the BMP. Upon completion of a project, and before construction acceptance and/or a certificate of occupancy is granted, the Town shall be provided a written certification by a competent Colorado licensed professional engineer 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 any permanent treatment post-construction structural BMP after final construction is completed and must be certified by a Colorado licensed professional engineer. A final inspection by the Town is required before the release of any security posted pursuant to **Section** 13-5-130 will occur.

(c) Ongoing inspection and maintenance of permanent BMPs.

(1) Maintenance. The owner of a site containing privately-maintained BMPs shall maintain such BMPs in accordance with this Article. The maintenance obligation shall run with the land and shall be binding on all subsequent owners of the site containing permanent BMPs. Failure of any owner to receive actual notice of its obligation to maintain BMP's pursuant to this Article shall not absolve any owner of the obligation to meet the BMP maintenance requirement.

(2) Publicly owned permanent post-construction BMPs. Publicly owned or maintained permanent post-construction BMPs shall be subject to ongoing inspection by Town inspection staff to ensure the BMP is functioning to designed capacity.

(3) Long term inspection and maintenance of permanent post-construction BMPs. Permanent Post-construction BMPs included in a final drainage plan must undergo ongoing inspections to document maintenance and repair needs and to ensure compliance with the requirements of the Town-approved improvement plans, the written policies and procedures adopted by the Director, and this Article.

(4) Substitution of Entity of Perpetual Existence. At the Town's sole election, the maintenance obligation imposed under this Article may be approved for assignment in writing to an entity of perpetual existence, such as a metropolitan district or other special district with sufficient financial capability. The property owner shall have the burden of establishing financial capability to the Town's satisfaction.

(d) Existing BMPs.

(1) If review of a land development proposal demonstrates that existing permanent BMPs are in place to address water quality treatment for the site, and are sufficient to maintain water quality, no additional BMPs will be required.

(2) If review of a land development proposal demonstrates existing vegetative buffers, or other existing site features provide adequate treatment for the proposed development, and are sufficient to maintain water quality, no additional BMPs will be required.

(3) If an existing BMP is modified to accommodate additional stormwater flows from development or redevelopment undertaken pursuant to subdivision or site plan approvals issued by the Town after the effective date of this Article, the entire BMP (including those portions in existence before the effective date of this Article) shall be subject to the maintenance requirements of this Article.

(e) Nothing herein shall be deemed to prohibit the Town from entering into agreements for perpetual maintenance of select BMPs to assure ongoing maintenance as contemplated in this Article.

Sec. 13-5-130. - Security requirement.

(a) As a condition for the issuance of a GESCP, applicants shall provide security in the form of cash, a surety bond or irrevocable letter of credit, the form of which shall be left to the sound discretion of the Director. The amount of the security will generally be in an amount equal to one-hundred-fifteen percent (115%) of the estimated cost of the work required to ensure compliance with the requirements of this Article. After close-out of the GESCP, the security shall be released.

(b) If the permittee does not successfully complete all required work or violates any requirement of the permit or this Article, the Town 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 Town plus reasonable administrative and inspection costs and penalties established through policies approved by the Director. The Town shall have the right to draw on the security to cover all such costs. If the total of such costs exceeds the security, 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 Town. All amounts due in excess of the security shall bear interest at the annual rate of six percent (6%).

Sec. 13-5-140. – Enforcement, abatement, remedies.

(a) Violation. Any person who violates any of the provisions of this Article shall be subject to the enforcement actions outlined in this Section.

(b) Enforcement. The Director or designee shall have the power to conduct inspections, give verbal direction, issue notices of violations and implement other enforcement actions under this Section.

(c) Determination and investigation. The Director shall have all powers of investigation and verification as set forth in **Section** 13-5-80 above.

(d) Emergency Abatement. In the event the Director concludes a stormwater quality nuisance exists under this Article and presents an imminent threat to the public health, safety or welfare, the following procedures shall be followed:

- (1) Authorization. The Director may apply under oath to the Municipal Court for an *ex parte* order authorizing immediate abatement of the nuisance. The Municipal Judge is empowered to administratively issue *ex parte* orders for the immediate abatement of any nuisance which presents an imminent threat to the public health, safety or welfare.
- (2) Determination administrative. In conjunction with the application for an *ex parte* order under Paragraph (1) above, the Police Department may issue a citation to the owner, the operator or both. Notwithstanding the issuance of a citation under this subsection, the determination and issuance of an *ex parte* order shall remain an administrative matter except as provided below.
- (3) Contents. Every *ex parte* order issued pursuant to this subsection shall authorize the immediate abatement of any such nuisance and shall contain a finding by a preponderance of the evidence that a nuisance exists upon the subject property which presents an imminent threat to the public health, safety or welfare, shall recite the facts supporting such a finding and shall be supported by sworn testimony or affidavit upon personal knowledge.
- (4) Mailing and posting. The Municipal Court shall mail a copy of every *ex parte* order issued pursuant to this subsection within twenty-four (24) hours of its issuance to the property owner address as maintained by the County Assessor's Office by first-class mail. The Municipal Court shall further direct the Police Department to post a copy of such *ex parte* order in a conspicuous location upon the premises.
- (5) Right to hearing; no citation; administrative procedure. Every *ex parte* order issued pursuant to this subsection shall contain a notice to the property owner that, upon written request, a hearing before the Municipal Court will be scheduled. Such property owner's request for hearing shall be in writing, shall contain the requestor's mailing address and shall be delivered to the Municipal Court within ten (10) days of the mailing specified in sub-section (4) above. Upon receipt of the property owner's request for a hearing, the Municipal Court shall schedule a hearing and provide written notice of the same to the Town Prosecutor, who shall represent the Town in the matter. The Municipal Court shall also provide written notice of the hearing date and time to the requesting property owner by first-class mail to the address appearing on the request for hearing. Failure of the property owner to request a hearing as provided in this Subsection within ten (10) days of issuance the *ex parte* order shall be deemed a waiver of any objections to the *ex parte* order authorized in this Section, and shall be deemed a waiver of any objections to the Town's lien rights for nuisance abatement costs provided in sub-section (f) below. In cases in which a citation is issued to the property owner, the determination of guilt or innocence, and the amount, if any, of nuisance abatement costs to which the Town may be entitled, shall be determined as provided in Paragraph (6) below. At the administrative hearing, the following provisions shall apply:

- (i) The Municipal Court shall determine whether, based on a preponderance of the evidence, a nuisance existed upon the subject property and, if so, whether the Town should have been authorized to enter upon the subject property for the purpose of abating the nuisance. The property owner shall be given an opportunity to be heard and present evidence on these questions. Upon a finding in the affirmative on both questions, the Municipal Court shall order determining that the entry and abatement was lawful, assessing the costs of nuisance abatement and authorizing the remedies available under sub-section (f) below.
 - (ii) In the event that the administrative hearing results in a finding that no nuisance constituting an imminent threat to the public health, safety and welfare existed at the time the *ex parte* order was issued, the Municipal Court shall make such a finding and shall deny the Town any right to recover nuisance abatement costs incurred by the Town in conjunction with the matter. In this event, the Town shall have no lien rights.
- (6) Right to hearing; citation issued; criminal procedure. In cases in which a citation has been issued to the property owner or the operator, the determination of a nuisance prohibited by this Article shall be made in conjunction with the usual and customary practices of the Municipal Court presiding in criminal matters. In the event of a conviction, or approval of a deferred sentence, arising out of any citation issued for a violation of this Article, as a condition of sentencing or deferral, the Municipal Court shall order the defendant to pay all costs incurred by the Town for abatement of the nuisance in addition to any other sentence or assessment of court costs. The standard of proof for determination of the amount of nuisance abatement costs shall be by a preponderance of the evidence as a sentencing matter.
- (7) Determination final, lien rights, citation to owner. In cases in which a citation is issued to the property owner and a conviction, or deferred sentence, results, the Municipal Court's determination of nuisance abatement costs made in accordance with sub-section (5) above shall be final and shall entitle the Town to enforcement of such sums as provided in sub-section (f) below, including the right to a lien for such sums.
- (8) Determination final, lien rights, citation to operator. In cases in which a citation is issued to the operator and a conviction, or deferred sentence, results, the Municipal Court's determination of nuisance abatement costs made in accordance with Paragraph (6) above shall be final and shall entitle the Town to enforcement of such sums as provided in sub-section (f) below. In such cases, the Town's enforcement remedies shall include the right to a lien for such sums.
- (e) Non-emergency abatement.

For all cases in which the Director concludes a stormwater nuisance exists under this Article and is not found to be an imminent threat to the public health, safety or welfare, the following procedures shall be followed:

- (1) Notice. The Director shall give notice to the owner that a nuisance exists in violation of the provisions of this Chapter. Said notice shall further specify the actions to be undertaken by the owner to comply with the provisions of this Article within five (5) days after the date of such notice. Every notice issued pursuant to this subsection shall state that, if the specified work required is not done within the time period set forth herein, the Town shall cause the same to be done at the expense of the owner. The notice required by this subsection shall state that the cost of such work shall constitute a lien upon such property as provided in sub-section (f) below.
- (2) Citation, notice without citation. The Direct may (but shall not be required to) issue a citation to the owner, the operator or both. In cases in which no citation is issued to the owner or occupant, or both, of the property, the notice given pursuant to sub-section (1) above shall set forth a date and time certain at which the Director or Town Prosecutor will appear before the Municipal Court to obtain an order for entry into the property and abatement of the nuisance. In cases in which a citation is issued to the owner or operator, or both, the return date on the citation shall serve as the date upon which the Director or Town Prosecutor will appear before the Municipal Court to obtain an order for entry into the property and abatement of the nuisance.
- (3) Notice, service. Every notice issued pursuant to sub-section (1) above shall be served by mailing a copy of the notice via first-class mail to the owner's address as maintained by the County Assessor's Office and by posting on the property in a conspicuous place. Service on one (1) owner of the property shall be deemed service on all owners.
- (4) Authority to issue administrative orders, mailing and posting. The Municipal Judge is empowered to issue administrative orders for the abatement of any stormwater nuisance determined by the Director to exist, after notice and an opportunity for hearing as described herein. Every such order shall be mailed by the Municipal Court within twenty-four (24) hours of its issuance to the owner address maintained by the County Assessor's Office by first-class mail. At or prior to the time of stormwater nuisance abatement by the Town, a copy of the administrative order for stormwater nuisance abatement shall be posted on the property in a conspicuous place.
- (5) Disposition of citation. In cases in which a citation has been issued to the owner, the determination of a stormwater nuisance prohibited by this Article shall be made in conjunction with the usual and customary practices of the Municipal Court presiding in criminal matters. In the event of a conviction or approval of a deferred sentence arising out of any citation issued for a violation of this Article, the Municipal Court shall order that the Town may immediately enter into the property for the purpose of stormwater nuisance abatement. As a condition of sentencing, the Municipal Court shall order the defendant to pay all costs which may be incurred by the Town for abatement of the stormwater nuisance in addition to any other sentence or assessment of court costs.

(f) Town's Lien for Nuisance Abatement Costs. The following provisions shall apply to the establishment and effect of Town stormwater nuisance abatement liens:

- (1) Lien certification, administrative matters. In all cases in which the determination of stormwater nuisance abatement costs is made by the Municipal Court as an administrative matter, the Municipal Court shall issue a Certification of Nuisance Abatement Costs containing the amount of nuisance abatement costs determined as due and owing to the Town. Such Certification shall be mailed by the Municipal Court by first-class mail to both the owner to the property address if different from the owner's address. Such Certification may be recorded in the books and records of the County Clerk and Recorder as evidence of the principal amount due.
- (2) Lien certification, disposition of citations. In all cases where the determination of stormwater nuisance abatement costs is made by the Municipal Court in the context of criminal sentencing, the Municipal Court shall issue a Certification of Nuisance Abatement Costs containing the amount of stormwater nuisance abatement costs determined as due and owing to the Town. Such Certification shall be mailed by the Municipal Court by first-class mail to both the owner and to the property address if different from the owner's address. Such Certification may be recorded in the books and records of the County Clerk and Recorder as evidence of the principal amount due.
- (3) Lien certification, enforcement of sentencing orders. In all cases where the Municipal Court has issued a sentencing order pursuant to sub-section (d) (6) above, a person with personal knowledge shall certify under oath, in writing, the costs of stormwater nuisance abatement incurred by the Town in carrying out such order. Such Certification may be recorded in the books and records of the County Clerk and Recorder as evidence of the principal amount due.
- (4) Lien perpetual. The amount of any stormwater nuisance abatement costs incurred by the Town pursuant to this Article shall constitute a perpetual lien on the property upon which nuisance abatement measures were undertaken in accordance with this Article.
- (5) First and prior lien; rate of interest. The attachment of any lien established under this Article is not dependent on the recording of written notice, and the lien is prior and superior to all other liens, claims, titles and encumbrances, whether or not prior in time, except liens for general taxes. The lien remains attached to the property from the date the stormwater nuisance abatement costs are incurred until all nuisance abatement costs, together with simple interest at the rate of eight percent (8%) per annum from the date the costs were incurred, are paid.

- (6) Owner responsibility; lien not affected by changes in ownership. The Town is not required to seek payment of stormwater nuisance abatement costs from any person other than the owner. No change of ownership, occupancy or possession affects the application of this Section, and the failure of any owner to discover that property was purchased against which a lien for nuisance abatement costs exists in no way affects such owner's liability for payment in full.
- (7) Foreclosure rights. The Town may enforce its lien by a suit for foreclosure and sale of the property subject to the lien. The proceeds of the sale shall be applied to the unpaid stormwater nuisance abatement costs and allowable court costs in the manner provided for foreclosure of statutory liens.
- (8) Tax assessment rights. The lien may also be enforced by certification of assessment upon the property to the treasurer of the county wherein the property is located for collection by the county in the same manner as delinquent general taxes and special assessments upon such property are collected or by any other means provided by law.
- (9) Civil suit. Unpaid stormwater nuisance abatement costs, together with simple interest at eight percent (8%) per annum and costs of collection, may also be collected by civil suit against the owner, commenced at any time after the charges become due.

(g) Re-inspection fees. Whenever the Director determines that any activity is occurring which is not in compliance with the requirements of this Article, the Director may impose a re-inspection fee of not more than two-hundred-fifty dollars (\$250.00), which fee may be adjusted from time to time by resolution adopted by the Town Board.

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 by certified mail, return receipt requested, of written notice upon the responsible owner and/or operator. The owner and/or operator shall immediately cease all activity until authorized in writing by the Town to proceed. Upon issuance of a stop-work order, the stop-work notice shall be posted in a conspicuous place upon the area where the activity is occurring and shall state the nature of the violation, and shall take effect immediately after posting. It shall be unlawful for any owner and/or operator to fail to comply with a stop work order issued or posted as provided herein.

(h) Criminal penalties; enforcement costs. It shall be unlawful for any person to violate or permit or cause a violation of this Article or any GESCP issued under this Article. Upon conviction, violators shall be subject to punishment as provided in Section 1-4-20 of the *Windsor Municipal Code*. Each day such violation continues shall be considered a separate offense.

(i) Injunctive Relief. Any condition caused or permitted to exist in violation of any of the provisions of this Article is hereby declared to be a threat to public health, safety, and welfare, and is declared and deemed a public nuisance. The Town may apply to any court of competent jurisdiction to enjoin violations of this Article.

(j) Remedies not exclusive. The remedies set forth in this Article are non-exclusive and cumulative.

(k) Attorney fees. In addition to any other relief granted, the Town shall be entitled to an award of its reasonable attorney fees, costs of suit and expert witness expenses associated with any action brought to enforce the terms of this Article.

Sec. 13-5-150. Effective Date.

This Article shall take effect at 12:01 a.m. on July 1, 2020, and its requirements shall apply to all completed applications for subdivision approval filed on or after such date.

Introduced, passed on first reading, and ordered published this [date].

TOWN OF WINDSOR, COLORADO

By _____
Kristie Melendez, Mayor

ATTEST:

Krystal Eucker
Town Clerk

[Seal]

Introduced, passed on second reading, and ordered published this [date].

TOWN OF WINDSOR, COLORADO

By _____
Kristie Melendez, Mayor

ATTEST:

Krystal Eucker
Town Clerk

[Seal]



MS4 PROGRAM STATUS

February 2019

Brief History of Stormwater Regulation

- Stormwater regulation started with the Federal Water Pollution Act of 1948
- Amendments to this Act brought about the Clean Water Act (CWA) of 1972
- National Pollutant Detection and Elimination System (NPDES) permitting created via the CWA:
 - Large construction sites 5 acres or more
 - Industry, sewage plants
 - Phase I MS4 (Municipal Separate Storm Sewer System) permitting started in 1990 for cities with populations 100,000 or more



Brief History of Stormwater Regulation con't

- Phase II stormwater discharge regulations were activated under NPDES in 1996
 - Construction sites disturbing 1 acre or more, and small municipalities start to receive permit certification under NPDES (MS4 Phase II)
 - Multiple permits administered in NPDES; Municipal Separate Storm Sewer System (**MS4**) is our focus

Brief History of Stormwater Regulation con't

- There are approximately 855 Phase I MS4s covered by 250 Individual Permits
- Most of the 6,695 Phase II MS4s are covered by statewide General Permits, however some states use individual permits

Source: <https://www.epa.gov/npdes/stormwater-discharges-municipal-sources>



Phase I MS4s

The 1990 Phase I regulation requires medium and large cities or certain counties with populations of 100,000 or more to obtain NPDES permit coverage for their stormwater discharges.

Phase II MS4s

The 1999 Phase II regulation requires small MS4s in U.S. Census Bureau defined urbanized areas, as well as MS4s designated by the permitting authority, to obtain NPDES permit coverage for their stormwater discharges. Phase II also includes non-traditional MS4s such as public universities, departments of transportation, hospitals and prisons.



Brief History of Stormwater Regulation con't

- In Colorado, the Colorado Department of Health and Environment (CDPHE) administers NPDES through the Colorado Discharge Permitting System (CDPS)
- CDPHE first notified Windsor of its MS4 designation in 2012, and Windsor received certification in February of 2018

MS4 Program Status

- Where is Windsor at now?
 - Stormwater Program Coordinator (SPC) - Engineering Department hire in Sept. 2018
 - Windsor is a member of the Colorado Stormwater Council – wealth of accessible assistance in setting up an MS4 program; there are 50 Phase II MS4s in Colorado and most are members of CSC
 - Revision to Municipal Code urgently needed to **IMPLEMENT and ENFORCE MS4**



STATUS: PDD

- Developing the Program Description Document (PDD) – document with links to required info
- Must be:
 - updated to reflect current implementation
 - presentable to the CDPHE within 10 days of a request, and available to the public upon request

Compliance schedule: *Completed by Jan.1, 2018 (for conditions in effect, updated as additional programs are initiated)*



STATUS: Programs and Process

- Five pollution prevention programs required:
 - Public Education and Outreach*
 - Illicit Discharge Detection and Elimination (IDDE)*
 - Construction Sites*
 - Post Construction*
 - Municipal Operations*
- One public involvement process required:
 - Public Involvement and Participation*
- Graduated implementation process; Compliance schedule
- File system set up on O drive for tracking documentation and fast turnaround for State/Public Requests for information



STATUS: Public Education and Outreach

- **Compliance schedule:** *Completed by July 2018* (substantially complete Dec 2018)
- **Waiting –**
 - This element of the pollution prevention requirements is in place
- **Completed**
 - All requirements in PDD EXCEPT references to the IDDE program (this is still in Draft Form, no impact on compliance schedule)
 - Program Document (no impact on compliance schedule, continuous)
 - Final Program Document signed (Shane, Dennis, Kim, Janine)
- **In Progress**
 - Communications plan as developed with Kim



STATUS: IDDE Program

- **Compliance schedule:** *Completed by July 1, 2019*
 - Map completed, but with numerous gaps in storm sewer system connections; GIS tracking mechanism on SPC phone
 - Priority Areas – will be developed as program continues to be implemented
 - Training – No compliance schedule, continuous: Engineering, Parks completed; Public Works scheduled for March 7,8
 - Program Document, Regulatory Mechanism & Exemptions – on track for completion *no later than July 2019*



STATUS: IDDE Program

- **Waiting**
 - Ordinance finalization
 - Approval of Hazardous materials section in Program Document – Public Works, Police, Fire
 - Upcoming training, Public Works March 7 and 8
 - Sign off on Final Program Document – Shane, Dennis, Terry, myself, Fire Chief and others?



STATUS: IDDE Program

- **In Progress**

- Program document (exceptions as noted and hazardous materials management agreement with Fire Dept.)
- Researching potential agreement with Clean Harbors Environmental Services for backup (no cost to Town unless used)
- Meeting with Fire Dept. to ensure consistency



STATUS: IDDE Program

- **Completed**

- Phone for tracing ID and Mapping outfalls activated by IT
- Training, Engineering Dept. Dec. 10



STATUS: Construction Sites Program

- **Compliance Schedule:** *Completed by July 1, 2019*
 - Site plan review for stormwater compliance: process is underway, on track for completion July, 2019
 - Site inspections, on track to start July, 2019
 - Program Document, Regulatory Mechanism & Exemptions tracking – on track for completion July, 2019



STATUS: Construction Sites Program

- **Waiting**

- Code finalization

- Completion of Program Document – draft started, reviewing with Engineering and Planning

- Finalize revisions to documents currently used in the intake, review and final acceptance process

- Sign off on Final Program Document – Shane, Dennis, Scott, myself, ?



STATUS: Construction Sites Program

- **In Progress**

- Revising numerous documents (Storm Drainage Criteria Manual, Pre-construction meeting agenda, Plot plan requirements, etc.) to reflect MS4 requirements
- SPC is conducting plan reviews now for stormwater compliance on projects that will be under construction on or after July 1, 2019



STATUS: Construction Sites Program

- **Completed**

- Phone for completing inspections activated by IT
- Meeting with NOCO HBA Government Affairs board
Dec 12, 2018 education on upcoming MS4
requirements
- Informational meeting with Construction site operators
Jan 15, 2019
- Weekly document revision meetings on-going



STATUS: Post-Construction Program

- **Compliance Schedule:** *Completed by July 1, 2020*
 - The Storm Drainage Criteria Manual has been updated to guide consultants designing water quality structures for future construction
 - PDD and Program Document planned for completion by July, 2020



STATUS: Post-Construction Program

- **Waiting**
 - Code finalization
 - Completion of Program Document to include inspection procedures
 - Sign off on Final Program Document – Shane, Dennis, Scott, myself, ?



STATUS: Municipal Operations Program

- **Compliance Schedule:** *Completed by July 1, 2020 PDD and all Requirements (except Bulk Storage)*
Completed by July 1, 2021 Bulk Storage

Note: Current plan is that Public Works and Parks will be housed in expanded facilities at the PWF; good opportunity NOW to ensure bulk storage and other requirements are included in designs



STATUS: Municipal Operations Program

- **Waiting**

- Code finalization

- Completion of Program Document – draft started, reviewing with Public Works, Parks, Recreation and Cultural

- Finalize revisions to documents currently used in the intake, review and final acceptance process

- Sign off on Final Program Document – Shane, Eric, Terry, myself, ?



STATUS: Municipal Operations Program

- **In Progress**

- A chart of all Municipal facilities and MS4 SOPs applicable to each; in review with Parks, Public Works

- Creating “Runoff Control Plans” for each facility or for a group of facilities (example – Community Parks) based on this chart

- IT will be able to produce current aerial photos of facilities to complete the Runoff Control Plans



MEMORANDUM

Date: February 25, 2019
To: Mayor and Town Board
Via: Shane Hale, Town Manager
From: Shane Hale, Town Manager
Re: Future Meetings Agenda
Item #: 3.

ATTACHMENTS:

- Future Meetings Agenda



FUTURE TOWN BOARD MEETINGS

March 4, 2019 6:00 p.m.	Town Board Work Session Weld RE-4 cash-in-lieu fee increase proposal
March 11, 2019 5:30 p.m.	Board/Manager/Attorney Monthly Meeting Colorado River Compact Presentation – Northern Water District
March 11, 2019 7:00 p.m.	Town Board Regular Meeting Kern Board
March 18, 2019 6:00 p.m.	Town Board Work Session Advisory Board Review Economic Development/business incentive review
March 25, 2019 5:30 p.m.	Town Board Work Session Land Use Code Update - Joint meeting with Planning Commission
March 25, 2019 7:00 p.m.	Town Board Regular Meeting
April 1, 2019 6:00 p.m.	Town Board Work Session RO Plant Presentation
April 8, 2019 5:30 p.m.	Town Board Special Meeting
April 8, 2019 7:00 p.m.	Town Board Regular Meeting
April 15, 2019 6:00 p.m.	Town Board Work Session
April 22, 2019 6:00 p.m.	Town Board Work Session
April 22, 2019 7:00 p.m.	Town Board Regular Meeting
April 29, 2019	Fifth Monday – No Meeting
May 6, 2019 6:00 p.m.	Town Board Work Session
May 13, 2019 5:30 p.m.	Board/Manager/Attorney Monthly Meeting
May 13, 2019	Town Board Regular Meeting

Kern Board

Additional Events

February 27, 2019	Upstate Annual Meeting, Pelican Lakes Golf Club, Windsor, CO
March 6, 2019	Community Conversation with Barry Wilson 6:00-7:30 p.m., Clearview Library, Winsor, CO
March 13, 2019	CDOT Windsor Area Network Study Public Open House 4:00-6:30 p.m., WSFR Station #1, Windsor, CO
March 16, 2019	Coffee with the Mayor, Community Recreation Center, Windsor, CO

Future Work Session Topics

- Investment Strategy Discussion
- Land Use Code Update meeting with Planning Commission (next code section in series) – Planning
- Residential buildout at 60,000 population
- Economic development/retail needs at 60,000 population
- Transportation—20 year projection
- 2018 Building Code Updates/Contractor licensing
- Smoking in Parks