

**TOWN OF EAGLE, COLORADO**  
**ORDINANCE NO. 7**  
**(Series of 2020)**

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE,  
COLORADO, ESTABLISHING THE TOWN OF EAGLE STORMWATER UTILITY  
ENTERPRISE AND ADOPTING A STORMWATER MANAGEMENT FEE

WHEREAS, the Board of Trustees is authorized by the laws of the State of Colorado to establish a stormwater utility enterprise and to adopt a system of charges to fund the implementation of stormwater facilities and systems;

WHEREAS, the Town wishes to establish a stormwater utility enterprise and to enact a dual stormwater management fee based on the fact that residential parcels tend to have less impervious surface than non-residential parcels;

WHEREAS, all real property in the Town, including property owned by public and tax-exempt entities, contributes to runoff and either uses or benefits from the stormwater system, with a greater contribution of runoff coming from non-residential parcels that generally have more impervious surface;

WHEREAS, stormwater runoff contributes to nonpoint source pollution to the streams of the Town's watersheds and a stormwater management program can reduce this type of pollution;

WHEREAS, the Town is subject to certain stormwater and drainage requirements imposed by the Environmental Protection Agency ("EPA") and the Federal Emergency Management Administration ("FEMA") requirements, which the Town wishes to fund by adoption of a stormwater management fee;

WHEREAS, a stormwater management fee system offers additional financial management options that could assist the Town in improving stormwater and drainage services and to comply with federal mandates and other requirements concerning the control and management of stormwater and runoff; AND

WHEREAS, it is in the interest of the public to fund stormwater management with a fee system that allocates the costs of stormwater management to all property owners in the Town and bases the amount of the stormwater management fee on the cost of needed capital improvement projects and the residential or non-residential character of a parcel.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE, COLORADO AS FOLLOWS:

Section 1. Title 3 of the Eagle Municipal Code is hereby amended by the addition of a new Chapter 3.09 to read as follows:

**CHAPTER 3.09. – SPECIAL FUNDS**

**Section 3.09.010 – Stormwater Utility Fund.**

There is established a special fund to be known as the Stormwater Utility Fund, which shall be segregated from the general and other funds of the Town, and into such fund shall be deposited all stormwater management fees collected pursuant to Chapter 12.05 of this Code. Monies in the Stormwater Utility Fund shall not be transferred therefrom to any other account of the Town and shall be used only for purposes authorized by Chapter 12.05.

Section 2. Title 12 of the Eagle Municipal Code is hereby amended by the addition of a new Chapter 12.05., which reads as follows:

**TITLE 12.05. – STORMWATER UTILITY ENTERPRISE**

**Section 12.05.010. – Definitions.**

*Director* means the Town Manager or designee.

*Impervious surface* means a surface area that is compacted or covered with material that is resistant to infiltration by water, including without limitation most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any oiled, compacted, or other surface that impedes the natural infiltration of surface water.

*Project costs* means those costs of administration, operation, management, planning, financing, engineering, testing, installation, construction, maintenance, reconstruction, replacement, land acquisition, contingencies, fiscal and legal costs of stormwater facilities, including those costs incurred to comply with federal, state or local laws regulating stormwater facilities or runoff.

*Property owner* means the current owner as shown in the records of the Eagle County Assessor, including an individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, or personal representative.

*Revenue bonds* means bonds, notes or other obligations lawfully issued or otherwise contracted for, payable from the revenues derived or to be derived from the functions, services, benefits, or facilities of the stormwater utility enterprise or from other available funds of the stormwater utility enterprise.

*Runoff* means that part of snowfall, rainfall or other stormwater that is not absorbed, transpired, evaporated, or left in surface depressions and that then flows controlled or uncontrolled into a watercourse or body of water.

*Stormwater facilities* means any one or more of the various devices used in the collection, disposition, or treatment of storm, flood or surface drainage waters, including without limitation manmade structures and natural watercourses for the conveyance of runoff, conduits and appurtenant features, canals, ditches, streams, gulches, gullies, flumes, culverts, streets, curbs, gutters, detention areas, pumping stations, pipes and related equipment and appurtenances; all extensions, improvements, remodeling, additions and alterations thereof; and any and all rights or interest in such stormwater facilities.

*Stormwater management fee* means the fee imposed by this Chapter in the amount set by resolution of the Board of Trustees.

*Stormwater system* means the network of stormwater facilities located in whole or in part in the Town, including without limitation inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities and other components, as well as all-natural waterways.

**Section 12.05.020. - Stormwater utility enterprise.**

- A. There is hereby created a stormwater utility enterprise in the Town.
- B. The stormwater utility enterprise is empowered to coordinate, design, conduct, manage, operate and maintain the stormwater and flood management systems and stormwater facilities of the Town; and implement the provisions of this Chapter;
- C. The Board of Trustees shall act *ex officio* as the governing body of the stormwater utility enterprise. It shall not be necessary for the governing body to meet separately from the regular and special meetings of the Board of Trustees, nor shall it be necessary for the governing body to specifically announce or acknowledge that actions taken thereby are taken by the governing body of the enterprise.

**Section 12.05.030. – Stormwater utility fee.**

- A. There is hereby imposed a stormwater management fee that allocates the costs of stormwater management to all property owners in the Town. The amount of such fee shall be set by resolution of the Board of Trustees, with one fee applicable to residential parcels of land within the Town and another fee applicable to non-residential parcels of land within the Town. All fees collected

shall be placed in the Stormwater Utility Fund established in Section 3.09.010 of this Code.

B. Monies in the Stormwater Utility Fund and income earned thereon shall be used only for the following purposes:

1. The acquisition by gift, purchase or condemnation of real and personal property, and interests therein, necessary to construct, operate, and maintain stormwater facilities;

2. Costs of administration and implementation of the Town's stormwater management program, including the establishment of reasonable operating and capital reserves to meet unanticipated or emergency stormwater management requirements;

3. Engineering and design, debt service and related financing expenses, construction costs for new facilities, and enlargement or improvement or existing facilities;

4. Operation and maintenance of the stormwater system;

5. Monitoring, surveillance, and inspection of stormwater control devices;

6. Water quality monitoring and water quality programs;

7. Retrofitting developed areas for pollution control;

8. Inspection and enforcement activities;

9. Billing and administrative costs;

10. Implementation of programs designed for education, public involvement, elimination of illicit discharges, construction site erosion control, post-construction monitoring, and municipal operations; and

11. Other activities reasonably required to manage stormwater runoff in the Town or to comply with applicable federal and state laws, rules and regulations that regulate the flow, treatment and discharge of runoff into the waters of the United States or the waters of the State of Colorado.

**Section 12.05.040. – Debt issuance.**

A. The stormwater utility enterprise is authorized to issue revenue bonds for the payment or other financing of eligible project costs or for the purpose of refunding any revenue bonds issued for such purpose.

B. The Town may pledge all or any portion of the Stormwater Utility Fund, including revenues anticipated to be collected, to the payment of principal, interest, premiums, if any, and reserves for revenue bonds, issued for the payment or other financing of any of the activities of this Chapter, including without limitation to eligible project costs, or for the purpose of refunding any revenue bonds issued for such purposes.

**Section 12.05.050. – Administration and review.**

A. The Director shall administer this Chapter and may prescribe forms and rules and regulations in conformity with this Chapter.

B. Every determination of the Director shall be in writing and notice thereof shall be served upon or mailed by first-class mail, postage prepaid to the affected person at his or her address shown on the records of the Town. Service by first-class mail as provided herein shall be conclusive evidence of service of such decision or determination.

C. Any person aggrieved by any determination of the Director may petition the Director for a hearing on such determination no later than thirty (30) days after the date of the determination, on a form provided by the Director.

D. The petition shall specify in detail the reasons that the determination should be modified or overturned and shall be accompanied by all documents or other evidence supporting the petition.

E. The Director shall schedule a hearing on the petition not less than sixty (60) days from the date the Director receives the petition, before the Board of Trustees or an appointed hearing officer. Notice of the hearing shall be given to the petitioner by first-class mail addressed to the petitioner at the address shown on the petition. At the hearing, the petitioner shall have the burden of proof.

F. Failure to timely file a petition or the failure of the petitioner or his or her representative to appear at the hearing shall constitute and be deemed to be a waiver of the right to a hearing by the aggrieved person.

G. Within thirty (30) days after the hearing, the Board of Trustees or hearing officer shall make findings of fact based upon information and evidence submitted

at the hearing. The decision after hearing shall be final, subject only to judicial review as permitted by state law.

H. A petition may be filed only once in connection with any decision or determination of the Director.

**Section 12.05.060. – Nonliability of Town.**

Runoff may occur that exceeds the capacity of Town's stormwater facilities. This Chapter does not imply that real property liable for the charges and fees established herein will be free from runoff or flood damage. This Chapter does not create any liability on the part of, or cause of action against, the Town or any officer or employee thereof for runoff or flood damage. This Chapter does not reduce the need or necessity for property owners to obtain flood insurance.

Section 3. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

Section 4. Safety. This Ordinance is deemed necessary for the protection of the public health, safety and welfare.

APRIL 14

INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED ON ~~MARCH 24~~, 2020.

TOWN OF EAGLE, COLORADO



Anne McKibbin, Mayor

ATTEST:

  
Jenny Rakow, Town Clerk