

ORDINANCE 486
AN ORDINANCE OF THE TOWN OF BAYFIELD POPULATING CHAPTER 15
ARTICLE III AND CREATING A STORMWATER ENTERPRISE

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF BAYFIELD, COLORADO AMENDING CHAPTER 15 OF THE BAYFIELD MUNICIPAL CODE TO ENACT A STORMWATER UTILITY ENTERPRISE AND REFERENCE TO THE IMPOSITION OF FLOOD REDUCTION FEES.

WHEREAS, the Town of Bayfield ("Town") is a municipal corporation duly organized and operating pursuant to the laws of the State of Colorado; and

WHEREAS, the Town is authorized pursuant to Article 15 of Title 31 of the Colorado Revised Statutes to adopt regulations in furtherance of the protection of health, safety and welfare of the community; and

WHEREAS, stormwater runoff has caused negative health and safety impacts to public and private property in the Town through flood losses causing inconvenience and damage resulting from uncontrolled and unplanned stormwater runoff that also contributes to non-point source pollution to the streams of the Town's watersheds; and

WHEREAS, prior to modern development standards Stormwater was directed towards irrigation ditches; and

WHEREAS, the Clean Water Act of 1972 established the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters including the need to address the critical problems posed by nonpoint source (NPS) pollution; and

WHEREAS, NPS pollution generally results from land runoff, precipitation, atmospheric deposition, drainage, seepage or hydrologic modification. NPS pollution, unlike pollution from industrial and sewage treatment plants, comes from many diffuse sources. NPS pollution is caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into lakes, rivers, wetlands and ground waters; and

WHEREAS, the Board of Trustees find it necessary to codify requirements and regulations governing the stormwater utility enterprise and to authorize the imposition of Pollution Control and Flood Reduction fees upon customers and properties in the Town to promote the protection of the public from damage from stormwater runoff; and

WHEREAS, this Ordinance establishing a Stormwater Utility Enterprise is retained with all authority established by Article X, Section 20 of the Colorado Constitution and Title 37, Article 45.1 Colorado Revised Statutes (the Water Activity Law).

BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF BAYFIELD, COLORADO, THAT:

The Bayfield Town Code, Chapter 15, Article III, Stormwater Utility Enterprise, is amended to include this Ordinance establishing a Stormwater Utility Enterprise is created with all authority established by Article X, Section 20 of the Colorado Constitution and Title 37, Article 45.1 Colorado Revised Statutes (Water Activities-Enterprise Status Law).

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ARTICLE III. STORMWATER

DIVISION 1. GENERALLY

Sec. 15-112. Necessity of article.

It is the intent of this Article to: promote the public health, safety and welfare by minimizing flood losses and the inconvenience and damage resulting from uncontrolled and unplanned stormwater runoff; to implement a stormwater utility to coordinate, design, construct, manage, operate and maintain the stormwater management system; to establish a reasonable and equitable program to implement and finance stormwater management and to encourage and facilitate urban water resources management techniques, including, without limitation, detention of stormwater, reduction of the need to construct storm sewers, reduction of pollution and enhancement of the environment.

Sec. 15-113. Article of contract.

All the provisions contained in this article shall be considered a part of a contract of every developed property within the Town of Bayfield. Each person shall be considered as having expressly consented to be bound hereby.

Sec. 15-114. Stormwater Utility Enterprise.

The entirety of stormwater management shall be known as the Town of Bayfield stormwater utility enterprise. The operation and management of the stormwater utility enterprise shall be under the control of the board of trustees through its designated management staff.

Sec. 15-115. Public Works Director.

In addition to his/her other duties, the Public Works Director shall, under the supervision and control of the Town Manager, have charge of all facilities of the stormwater utility, and it shall be his/her duty to supervise the stormwater utility and maintain and control the same as directed by the board of trustees and as provided in this article.

Sec. 15-116. Prohibited Acts.

It is unlawful for any person to injure or in any way damage or meddle or interfere with any property or appliance constituting or being part of the stormwater utility or any fence, guardrail, box-cover, ditch/swale, building or any other structure constructed or used to operate any part of the stormwater utility.

DIVISION 2. DEFINITIONS

Sec. 15-117. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this Article shall be as follows:

Culvert – means a tunnel carrying a stream, ditch or open drain under a road.

Customer – means the owner of record of a lot, tract or parcel of land within the Town boundaries.

Driveway Culvert – A culvert in a driveway used for vehicle access to cross from a street to a developed area over a natural swale or manmade ditch or storm drainage bar ditch.

HOA – means a homeowner association that makes and enforces rules for a subdivision, planned community, or condominium building; its members are residents.

Retention Basin/Detention Pond – means a retention basin, sometimes called a detention pond, or stormwater management pond (SWMP), is an artificial pond with vegetation around the perimeter and a permanent or temporary pool of water in its design. It is used to manage stormwater runoff, for protection against flooding, for erosion control, and to serve as an artificial wetland and improve the water quality in adjacent bodies of water.

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

Stormwater Facilities – means any one (1) or more of various devices used in the collection, treatment or disposition of storm, flood or surface drainage waters, including manmade structures and natural watercourses, for the conveyance of runoff, such as detention areas, berms, swales, improved watercourses, channels, facilities, inlets, collection, drainage or disposal lines, intercepting sewers, joint storm and sanitary sewers, sewage disposal plants, outfall sewers,

pumping plants and other equipment and appurtenances, and all extensions, improvements, remodeling, additions and alterations thereof; and any and all rights or interests in such sewerage or stormwater facilities.

Stormwater System – means all of the stormwater facilities used by the Town for the control of runoff.

User fees, rates or charges – means a monthly fee paid to the town for a proportionate share of the operation and maintenance expenses of the town's facilities and services, including depreciation.

Utility – means the stormwater drainage and flood control utility that is created under this Article.

DIVISION 3. STORMWATER UTILITY

Sec. 15-118. Stormwater Utility Considered a Town-Owned Enterprise.

There is hereby established a stormwater utility enterprise of the Town. Such utility shall construct, maintain and operate the stormwater system of the Town. The utility shall be considered an "enterprise" as defined in Article X, Section 20 of the Colorado Constitution. All funds collected by the Town from the various sources authorized herein shall be properly identified and transferred for deposit in the Stormwater Utility Enterprise Fund to be used for the operation of the utility.

Sec. 15-119. Authority.

The enterprise shall be authorized to have and exercise the following powers in furtherance of its purposes:

- (a) To hold meetings concurrently with regular and special meetings of the Board of Trustees;
- (b) To issue its revenue bonds for stormwater purposes in the manner in which Town revenue bonds may be issued;
- (c) To impose on each customer a stormwater user fee, rate or charge, the amount of which shall be set by the Board of Trustees in the fee schedule adopted by resolution and may be changed from time to time;
- (d) To pledge any revenues of the Town's stormwater system to the payment of such revenue bonds and to pay such revenue bonds therefrom;
- (e) To enter into contracts relating to the stormwater system in the manner in which Town contracts may be entered into;
- (f) To make representations, warranties and covenants relating to the stormwater system on behalf of the Town;
- (g) To exercise rights and privileges of the Town relating to the stormwater system; and
- (h) To bind the Town to perform any obligation relating to the stormwater system other than any multiple-fiscal-year direct or indirect debt or other financial obligation of the Town without adequate present cash reserves pledged irrevocably and held for payments in all future years; and,
- (i) All revenues and expenditures of the Town or of the enterprise relating to the stormwater utility system shall be considered revenues and expenditures of the enterprise, shall be limited to the costs of operating and administering the stormwater system and utility, and shall not be used for general governmental purposes.

Sec. 15-120. Administration of Stormwater Utility.

The Board of Trustees shall constitute the policy-making and governing board of the utility. Subject to direction by the Board of Trustees, the Town Manager shall manage and administer all matters pertaining to the operation and maintenance of the stormwater utility and shall perform all acts that may be necessary for the prudent, efficient and economical management, protection and enforcement of the stormwater utility. The Town Manager may create and approve forms, written administration interpretations and any other documentation deemed necessary to permit the administration of this Article. The Board of Trustees shall have the power by motion or resolution to prescribe such other and further rules and regulations governing the powers and duties of the Town Manager in the management of the stormwater utility and to establish such other rules and regulations not otherwise contained in this Article.

Sec. 15-121. Use of Stormwater Utility Fund.

The utility fund shall be used only to pay the costs of construction, operation and maintenance of the stormwater system and the costs of administration of the stormwater utility. The Town may pledge all or any portion of the fund, including revenues anticipated to be collected, to the payment of principal, interest, premium, if any, and reserves for general obligation bonds, revenue bonds or any other obligations lawfully issued or otherwise contracted for by the Town for the payment or other financing of costs of the stormwater system, or for the purpose of refunding any obligations issued or otherwise contracted for such purposes.

Sec. 15-122. Responsibility for Accepted Public Facilities.

All public facilities constructed, installed, or provided hereunder shall, upon acceptance of the same by the Town in writing, become the property of the Town, and the Town thereafter shall be responsible for the operation and maintenance of the same.

The Town shall maintain all accepted public facilities located within public lands, rights-of-way, and easements, and may maintain other accepted public facilities located within or adjacent to the Town. Such public facilities do not include facilities not accepted by the Town in writing for maintenance, or privately owned or maintained drainage facilities.

Sec. 15-123. Private or HOA Stormwater Facilities.

All stormwater facilities exempt from the Stormwater Utility Enterprise shall be maintained in a manner acceptable to the Town standards as it pertains to runoff and restricting natural and human-made pollutants draining into the Town Stormwater utility system, ditches, lakes, rivers, wetlands and ground waters.

DIVISION 4. SEVERABILITY

Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

DIVISION 5. REPEAL

All other ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this Ordinance are hereby repealed, provided that such repeal shall not repeal any repealer clauses in such ordinances nor revive any ordinance thereby.

DIVISION 6. CODIFICATION AMENDMENTS

The codifier of the Town’s Municipal Code, Municipal Code Corporation, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of Section 2 of this Ordinance withing the Town’s Municipal Code.

DIVISION 7. EFFECTIVE DATE

Except as otherwise provided herein, the provisions of this Ordinance shall become effective thirty (3) days after publication following final passage in accordance with Section 2-2-160 of the Town’s Municipal Code.

This Ordinance shall become effective thirty (30) days after publication following final passage.

ADOPTED AND ORDERED PUBLISHED THIS 2 DAY OF May 2023.

The Town of Bayfield, Colorado, Acting through the Bayfield Stormwater Utility Enterprise to prescribe regulations.

MAYOR:



Ashleigh Tarkington

ATTEST:



Amber Lamb, Deputy Town Clerk