

**TOWN OF BUENA VISTA, COLORADO
ORDINANCE NO. 1
(SERIES OF 2017)**

**AN ORDINANCE OF THE TOWN OF BUENA VISTA, COLORADO,
ESTABLISHING THE TOWN OF BUENA VISTA STORM WATER
UTILITY ENTERPRISE AND ADOPTING A STORM WATER
MANAGEMENT FEE.**

WHEREAS, the Town of Buena Vista is responsible for stormwater management in the Town;

WHEREAS, the Board of Trustees of the Town of Buena Vista is authorized by the Constitution and 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 conducted an east and west side drainage study, resulting in recommendations for capital improvement projects to improve drainage, which capital improvement projects the Town wishes to fund by adoption of a stormwater management fee;

WHEREAS, the Town is subject to Environmental Protection Agency regulations and certain Federal Emergency Management Administration ("FEMA") requirements, which impose certain stormwater and drainage requirements 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;

WHEREAS, it is in the interests of the public to fund stormwater management with a user fee system that allocates the costs of stormwater management to all property owners in the Town and that 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 based on each parcel's typical amount of impervious surface; and

WHEREAS, using this method, the stormwater management fee for each parcel correlates with the parcel's general impact on and contribution to the need for stormwater management.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BUENA VISTA, COLORADO:

Section 1. Article III within Chapter 4 of the Buena Vista Municipal Code is hereby amended by the addition of a new section 4-37 to read as follows, with subsequent renumbering of existing Section 4-37 to Section 4-38:

Sec. 4-37. – Stormwater Utility Fund.

There is established a special fund to be known as the Stormwater Utility Fund, which shall be kept separate and segregated from the general and other funds of the Town, and into such fund shall be deposited all stormwater management fees paid and collected pursuant to Chapter 13, Article IX, 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 13, Article XI, of this Code.

Section 2. Chapter 13 of the Buena Vista Municipal Code is hereby amended by the addition of a new Article XI, which reads as follows:

Sec. 13-221. – Definitions.

(a) *Director* means the Town Administrator or the Town Administrator's designee.

(b) *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.

(c) *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.

(d) *Property owner* means the property owner of record as shown in the records of the Chaffee County Assessor. A property owner includes any

individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, or personal representative.

(e) *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.

(f) *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.

(g) *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.

(h) *Stormwater management fee* means the fee imposed by this Article in the amount set from time to time by resolution of the Board of Trustees.

(i) *Stormwater system* means the system or network of stormwater facilities located in whole or in part within 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.

Sec. 13-222. - Stormwater utility enterprise.

(a) There is hereby created a stormwater utility in the Town.

(b) 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 from time to time 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. Basing the amount of the stormwater management fee on the residential or non-residential nature of a parcel is found to be a valid basis of each parcel's typical amount of impervious surface and each parcel's general impact on and contribution to the need for stormwater management.

(c) The stormwater utility shall constitute an enterprise empowered to coordinate, design, conduct, manage, operate and maintain the stormwater and

flood management systems and stormwater facilities of the Town, and to implement the provisions of this Article. The stormwater utility enterprise is authorized to issue its own revenue bonds. The enterprise shall be wholly owned by the Town and operated in accordance with the Charter, ordinances and resolutions of the Town and other applicable law.

(d) The Board of Trustees shall act ex officio as the governing body of the stormwater utility enterprise. Whenever the Board of Trustees is in session, the governing body shall also be deemed to be in session. 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. The governing body may conduct its affairs in the same manner and subject to the same laws that apply to the Board of Trustees for the same or similar matters.

Sec. 13-223. – Stormwater Utility Fund.

Funds on deposit in the Stormwater Utility Fund established in Section 4-37 of this Code are stormwater management fees. Such fees and income earned thereon shall be used only for the following purposes:

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

(b) All 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.

(c) Engineering and design, debt service and related financing expenses, construction costs for new facilities, and enlargement or improvement or existing facilities.

(d) Operation and maintenance of the stormwater system.

(e) Monitoring, surveillance, and inspection of stormwater control devices.

(f) Water quality monitoring and water quality programs.

(g) Retrofitting developed areas for pollution control.

(h) Inspection and enforcement activities.

(i) Billing and administrative costs.

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

(k) Other activities reasonably required to manage stormwater runoff within 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.

Sec. 13-224. – Stormwater utility enterprise 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 Article, including but not limited to eligible project costs, or for the purpose of refunding any revenue bonds issued for such purposes.

Sec. 13-225. - Administration and review.

(a) The administration of the provisions of this Article is vested in and shall be exercised by the Director who may prescribe forms and rules and regulations in conformity with this Article for the proper administration and enforcement of this Article. The Director may delegate the administration of this Article, or any part thereof, to duly qualified persons in the Department of Public Works, the Town Engineer and/or the Finance Department.

(b) Every decision or 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. The decision or determination of the Director shall be final and conclusive upon the affected person unless he or she timely files a petition for hearing.

(c) Any person aggrieved by any decision or determination of the Director may petition the Director for a hearing on revision or modification of such decision or determination no later than thirty (30) days after notice thereof is served on the aggrieved person.

(d) Such petition shall be verified in writing upon forms approved by the Director and specify in detail the aggrieved person's reasons and grounds for

revision or modification. The petition 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. The Director may designate a representative of the Town as the hearing officer.

(f) The hearing shall take place at the time, date and location specified by the Director in the notice of hearing. Notice of the hearing shall be given to the petitioner by first class mail addressed to the petitioner at his or her address shown in the petition. The hearing shall be conducted in accordance with the rules and regulations issued by the Director. The petitioner shall have the burden of proof. 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 Director or hearing officer shall make findings of fact based upon relevant and competent information and evidence submitted at the hearing. The Director shall make a decision or determination based upon such findings and, if appropriate, modify his/her prior decision or determination accordingly. The decision or determination by the Director after hearing shall be final and conclusive upon the petitioner, 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.

Sec. 13-226. – Non-liability of Town.

Runoff may occur that exceeds the capacity of Town's stormwater facilities. This Article does not imply that real property liable for the charges and fees established herein will be free from runoff or flood damage. Nor does this Article 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 Article does not reduce the need or necessity for property owners to obtain flood insurance.

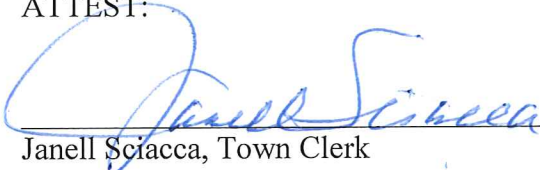
INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED this 10TH day of JANUARY, 2017.

THIS ORDINANCE SHALL BECOME EFFECTIVE THIRTY DAYS FROM PUBLICATION.

TOWN OF BUENA VISTA, COLORADO

By: 
Phillip Puckett, Mayor Pro Tem

ATTEST:


Janell Sciacca, Town Clerk

