

ORDINANCE NO. 069, 2019
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING SECTION 26-491 OF THE CODE OF THE CITY OF
FORT COLLINS TO ADD AND REVISE DEFINITIONS RELATED
TO THE CITY'S STORMWATER SYSTEM

WHEREAS, the City owns and operates a municipal separate storm sewer system ("MS4") that is used, among other purposes, to convey stormwater to the Cache la Poudre River and its tributaries; and

WHEREAS, said conveyance of stormwater by the City's MS4 may constitute a discharge of pollutants to state waters and the waters of the United States under two statutes: the Colorado Water Quality Control Act, C.R.S. §§25-8-101 *et seq.* and the federal Clean Water Act, 33 U.S.C. §1251 *et seq.*; and

WHEREAS, under said statutes, the Colorado Department of Public Health and Environment has issued *CDPS General Permit COR090000 Stormwater Discharges Associated with Municipal Separate Storm Sewer Systems (MS4s) Authorization to Discharge Under the Colorado Permit System* ("MS4 Permit"); and

WHEREAS, there are certain inconsistencies between the MS4 Permit and Article VII of Chapter 26 of the City Code, which concerns the City's Stormwater Utility and MS4, namely with respect to certain definitions in City Code Section 26-491; and

WHEREAS, while the MS4 Permit generally requires the City to effectively prohibit illicit discharges of pollutants into the City's MS4 (as those terms are used and defined in the MS4 Permit), under Part I(E)(2)(a)(v) of the MS4 Permit, the MS4 Permit does not require the City to effectively prohibit discharges from certain activities, including: non-residential lawn watering and dye testing in accordance with manufacturers recommendations (together, "Subject Activities"); and

WHEREAS, under the current definition of "contaminated water" and "pollutant" in City Code Section 26-491, City Code Section 26-498 prohibits discharges of water to the City's MS4 from the Subject Activities; and

WHEREAS, changing the definition of "contaminated water" and "pollutant" in City Code Section 26-491 to state that these terms do not include water generated from the Subject Activities will be beneficial to the City by, among other things, better aligning City Code with the MS4 Permit, providing greater clarity regarding the City's regulation of the Subject Activities, and prioritizing MS4 and stormwater-related education and enforcement activities on more significant sources of pollutants.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 26-491 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-491. - Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

Contaminated water shall mean that water which contains pollutants or constituents at concentrations which could cause, directly or indirectly, impairment of human health or the environment and which would not present in such concentrations in a natural state. This includes any water contaminated from industrial processes, land use activities, development or other man-induced practices. These constituents include, but are not limited to, toxic pollutants as defined in § 26-206 of this Code, nutrients such as nitrogen and phosphorous, substances which promote an excessive biochemical oxygen demand (BOD) or chemical oxygen demand (COD) as those terms are defined in § 26-206, substances which cause the pH of such water to deviate from acceptable standards, biological agents which may be the cause of disease in either humans or other desirable organisms, and physical contaminants such as excess sediments and/or temperature. U.S. Environmental Protection Agency's current publication of "Quality Criteria for Water," and/or the State of Colorado's "Basic Standards and Methodologies for Surface Water" and/or any other federal or state regulation or guideline may be used to interpret the impact of a particular constituent upon a water body. This definition does not include the following sources of water, unless water from such a source is determined to violate other applicable water quality restrictions or requirements:

- (1) Flows incidental to emergency fire fighting activities;
- (2) Landscape irrigation and lawn watering;
- (3) Irrigation return flows;
- (4) Springs, diverted stream flows and flows from riparian habitats and wetlands;
- (5) Flows incidental to street, sidewalk or median sweeping and not associated with construction;
- (6) Flows from condensation formed from the operation of air conditioning equipment installed and maintained in accordance with manufacturer's specifications;
- (7) Uncontaminated pumped, infiltrated or rising ground water;

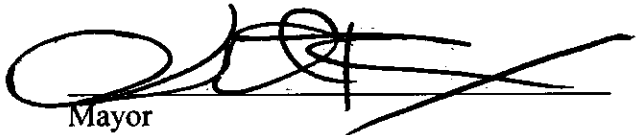
- (8) Flows from properly installed, operated and maintained and City-approved footing, foundation or crawl space drain or pump; and
- (9) Dye testing in accordance with manufacturers recommendations.

....

Pollutant shall mean contaminated water, dredged spoil, dirt, slurry, solid waste, incinerator residue, sewage, sewage sludge, garbage, trash, chemical waste, biological nutrient, biological material, disease causing agents, radioactive material, heat, wrecked or discarded equipment, rock, sand, automotive fluids, paint, cooking grease, process waste water, swimming pool discharges, discharges from cleaning of heat transfer equipment, or any industrial, commercial, construction, household, municipal, or agricultural waste.

....

Introduced, considered favorably on first reading, and ordered published this 21st day of May, A.D. 2019, and to be presented for final passage on the 4th day of June, A.D. 2019.

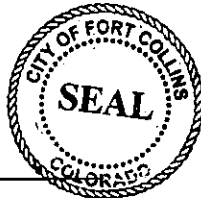


Mayor

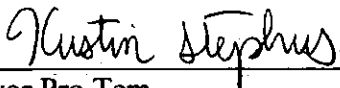
ATTEST:



Chief Deputy City Clerk



Passed and adopted on final reading on the 4th day of June, A.D. 2019.



Mayor Pro Tem

ATTEST:



City Clerk

