

**SUMMIT COUNTY LAND USE AND DEVELOPMENT CODE
CHAPTER 7: Water Quality Control Regulations**

DEVELOPMENT CODE REVISIONS CHAPTER 7			
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7000: INTRODUCTION

7001: Purpose and Intent

- A. The purpose of the Water Quality Control Regulations is to prevent degradation of water quality in Dillon and Green Mountain Reservoirs by reducing the amount of phosphorus contributed from run-off and erosion. Phosphorus above certain levels will lead to eventual eutrophication of these reservoirs, thus undermining their value as recreational and aesthetic resources for Summit County (“County”). The reservoirs play an important role in the County's summertime economy and are essential to its continued prosperity.
- B. Phosphorus levels in Dillon Reservoir have reached the point where the Colorado Water Quality Control Commission (“WQCC”) has established limits on the amount of phosphorus that can be discharged from point sources such as wastewater treatment plants. The WQCC has, however, agreed to a trade-off program whereby reductions in the amount of phosphorus reaching Dillon Reservoir through the control of non-point source loading, such as run-off from parking lots and roads, and from soil disturbance and erosion, will allow increases in the amount of phosphorus contributed by point sources. Continued growth in the County depends on the ability of wastewater treatment plants to expand, and thus on increases in phosphorus allocated to these plants. These regulations will enable the County to implement a trade-off program and to provide for continued growth.

7002: Authority

The County is authorized by Colorado State Statutes (C.R.S.) to plan for and regulate the use of land to provide planned and orderly use of land, and protection of the environment in a manner consistent with constitutional rights [C.R.S. § 29-20-104(1)(h)]; to plan for and regulate the uses of land for trade, industry, recreation or other purposes [C.R.S. § 30-28-111]; and to provide for enforcement through necessary guarantees, penalties and appropriate action to abate or remove unlawful alterations, maintenance or use of property [C.R.S. § 30-28-114, C.R.S. § 30-28-124 and C.R.S. § 30-28-137]. The adoption of the County Water Quality Control Regulations (Chapter 7) is based on this authority.

7003: Requirement for Grading Permit

- A. A grading permit must be obtained from the County Engineering Department prior to conducting any earth-disturbing activity, with the exceptions as provided in Section 6400 and as referenced in Section 7202. Grading plans and specifications approved in conjunction with the issuance of a grading permit must comply with the Water Quality Control Regulations herein. The application requirements and procedures for obtaining a grading permit shall be as set forth in Chapter 6 of this Code.
- B. Activities exempt from grading permit requirements are not exempt from meeting the requirements of the Water Quality Control Regulations except as provided in Section 7200.

7004: Water Quality Control Manual

The Engineering Department, as the administrative authority for these regulations, shall formulate such rules, procedures and interpretations, design criteria and guidelines as may be necessary to administer these regulations. Such requirements, interpretations and guidelines may be published in the form of a manual and be made available to the public. Any earth-disturbing activity that must comply with the Water Quality Control Regulations must also comply with the water quality control manual. In the event of any conflict between the manual and the Water Quality Control Regulations, these regulations shall govern.

7100: DEVELOPMENT STANDARDS FOR CONTROL OF WATER QUALITY

7101: Performance Standards for Construction Activities

7101.01: Plan Requirements

Prior to final approval of a proposed subdivision, site plan or issuance of any building permit for a development proposal, plans that meet one or more of the following standards shall be submitted to and approved by the Engineering Department:

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- A. Prevention of soil loss from the construction site as a result of erosion produced by a 25-year, 24-hour design storm (2.2 inches). This standard shall be met both during and after construction.
- B. Prevention of any increase in the historic rate of run-off from the development site produced by the 25-year, 24-hour design storm (2.2 inches). This standard shall be met both during and after construction.
- C. Prevention of any direct discharge of storm water to a lake, stream or intermittent stream.
- D. Provision for revegetation which:
 - 1. Provides for site coverage of disturbed areas after development equal to or better than vegetative coverage prior to development, where such areas are not intended to be used for roads, driveways or parking areas; and,
 - 2. Provides for coverage with native species, or alternatively, other hardy species provided with an irrigation system.
- E. Diversion of run-off from snow storage areas into detention facilities.
- F. Provision for adequately sized detention facilities where dewatering of excavations is needed.

7101.02: Financial Guarantee

A site improvements agreement or a subdivision improvements agreement, and associated financial guarantee, shall be posted by the permit holder to ensure the provisions of Chapter 7 are met when a site plan improvements agreement or subdivision improvements agreement is required by the provisions of this Code. Such improvement agreements and the associated financial guarantees shall be in accordance with the applicable regulations contained within Sections 8602 and 12607 et seq. of this Code. If a site plan or subdivision improvements agreement is not required by other provisions of this Code, the County may require that a site plan improvements agreement and associated financial guarantee be posted in accordance with the provisions of Section 12607 et seq. to ensure a site is constructed in accordance with these Water Quality Control Regulations.

7102: Slope Limitations

With respect to development that is permitted by zoning, construction is allowed on 3.33:1 (30 percent (“%”)) or steeper slopes only if (1) such disturbance is sought at the time of site plan review, or grading permit review for a legally created lot or parcel; and (2) the provisions of Sections 7102.01 through 7102.09 are met.

7102.01: Extent of Site Disturbance

Site disturbance shall not exceed 15% of that portion of a site where slopes are 3.33:1 or greater, unless evidence can be presented to the satisfaction of the County Engineer that no water quality impacts will occur. The area to remain undisturbed shall be protected by a barrier (e.g., snow fencing) to prevent its disturbance. Lots platted or legally created prior to September 1986 may be exempted from this requirement if:

- A. The disturbance limitation of 15% would prevent reasonable use of the lot for construction; and,
- B. The remaining standards in Sections 7102.02 through 7102.09 are met as deemed necessary by the Engineering Department.

7102.02: Design of Roads and Driveways

All roads and driveways shall comply with County requirements as set forth by the Summit County Road & Bridge Standards (Chapter 5 of this Code).

7102.03: Compliance with Soils Report

Areas intended to be used for roads, driveways or structures shall be approved for such use by a geologist in a soils report. The permit holder is responsible for submitting a soils report as part of their application for subdivision, or if no subdivision is involved, at the time application for grading permits is made (the soils report is to be submitted as part of the geotechnical report required in grading permit applications). All roads, driveways and foundations shall be designed by a licensed engineer consistent with the soils report. The County Engineer shall approve designs of roads and driveways prior to the issuance of grading permits. The County Building Official shall approve foundation designs prior to issuance of building permits. Inspections shall be conducted in accordance

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with the County's Grading and Excavation Regulations (Chapter 6 of this Code) and the applicable Building Code to ensure site work and construction conform to approved plans.

7102.04: Design of Utilities

All utilities shall be designed by a licensed engineer.

7102.05: Erosion Control Plan

An erosion control plan for the site that meets the standards set forth in Sections 7101.01.A through 7101.01.C and 7101.01.F shall be prepared by a licensed engineer having knowledge and experience in civil engineering and hydrology. Approval of the erosion control plan shall be obtained from the County Engineer prior to issuance of any grading or building permits for the site. The Engineering Department shall inspect the site periodically during construction to ensure compliance with the approved plan and must inspect and approve long-term erosion control measures before a Certificate of Occupancy ("CO") is granted.

7102.06: Revegetation Plan

A revegetation plan that meets the standards set forth in Section 7101.01.D shall be prepared by an individual having a degree in landscape architecture or comparable expertise, and sufficient experience in landscaping installation and maintenance to ensure the success of the plans they propose. Approval of the revegetation plan shall be obtained from the Engineering Department prior to issuance of any grading or building permits for the site. The Engineering Department shall inspect the site periodically for four (4) years from the date revegetation work is done to ensure compliance with the plan.

7102.07: Urban Run-Off Control Plan

An Urban Run-Off Control Plan which meets the standards set forth in Section 7101.01.B, 7101.01.C and 7101.01.E shall be prepared by a licensed engineer having knowledge and experience in civil engineering and hydrology. Approval of an Urban Run-Off Control Plan shall be obtained from the County Engineer prior to issuance of any grading or building permits for the site. The Engineering Department shall inspect the site periodically during construction to ensure compliance with the approved plan and must inspect and approve long-term urban run-off control measures before a CO is granted.

7102.08: Financial Guarantee

The County may require that a site plan improvements agreement and associated financial guarantee be posted in accordance with Section 7101.02.

7102.09: Compliance with Other County Requirements

In addition to the requirements of this Section 7102, development proposals must comply with all other County standards applicable to construction or soil disturbance on slopes greater than 3.33:1.

7103: Streamside Setbacks

7103.01: Restrictions on Soil Disturbance Adjacent to Water Bodies

Soil disturbance is prohibited within 25 feet of a lake, stream or intermittent stream except when approved by the Engineering Department and when the water body or intermittent stream is hydrologically isolated from all earth disturbance according to the following procedures:

- A. **Installation of Cofferd Dam:** An acceptable coffer dam is installed to isolate the water body from construction and is maintained in place until revegetation and bank stabilization is complete and permission is granted by the Engineering Department to remove the dam.
- B. **Containment of Stream:** If a stream or intermittent stream is involved, the stream is completely contained during construction from 50 feet upstream of any site disturbance to 50 feet downstream of any site

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disturbance. For streams and intermittent streams, the conveyance shall be sized for a minimum flow with a ten percent (10%) chance of occurrence. The conveyance shall be installed prior to any construction and shall be removed only when permission is granted by the Engineering Department.

- C. **Alternative Methods:** An alternative method for protection of water bodies to those required in Sections 7103.01.A and 7103.01.B may be used if approved by the County Engineer.

7103.02: Placement of Cantilevered Structures

A cantilevered structure may overhang the streamside setback, but not any required wetland setback per the Wetland Regulations as set forth in Section 7105 et seq., as long as no disturbance occurs within the setback area, floodplain requirements are met, and approval is granted by the Engineering Department.

7103.03: Exemption for Work Authorized by the Division of Wildlife

Work within a lake, stream or river corridor is exempt from the requirements in Section 7103.01 if the purpose of the work is to restore the wildlife habitat, the work will be done under the supervision of the Colorado Division of Wildlife (DOW), and the DOW has granted approval for the work to be done under the auspices of the DOW's nationwide 404 permit. Evidence of approval from the DOW must be submitted to the Engineering Department prior to commencement of any work.

7104: Stream Crossings by Roads and Utilities

The number of stream crossings by roads and utilities shall be minimized. In designing such crossings, the standards set forth in Section 7103.01 shall be met.

7105: Wetland Regulations

Purpose and Intent: The wetland regulations set forth in this section are intended to complement and operate in conjunction with the distinct jurisdictional wetland disturbance process set forth in Section 404 of the Federal Clean Water Act and administered by the U.S. Army Corps of Engineers. Accordingly, the wetland disturbance provisions of this Code may apply notwithstanding the determination of the jurisdictional nature of the wetlands by the U.S. Army Corps.

Independent Survey Requirements: In light of the purpose and intent of this section, if there is any evidence that a site subject to disturbance may contain wetlands as such term is defined in Chapter 15 of this Code, the County may require the developer to obtain and submit a wetlands survey by an independent third party consultant specializing in wetlands delineations as recognized by the U.S. Army Corps of Engineers on its periodically updated "Wetlands Delineation Consultants List".

7105.01: Disturbance of Wetland Areas or Wetland Setbacks

- A. Soil disturbance and structures are prohibited within 25 feet of a wetland area as such term is defined in Chapter 15 of this Code, and recognized as such by the County, notwithstanding any contrary determination by the U.S. Army Corps of Engineers. Exceptions include single-family and duplex developments on lots that were platted prior to February 26, 1996 (the date of the adoption of the County's first Wetland Regulations). After February 26, 1996, the County applied the Wetland Regulations to all development reviews acted on by a Commission, the Board of Adjustment ("BOA") or the Board of County Commissioners ("BOCC").
- B. The Review Authority may reduce the 25-foot setback if the disturbance of the wetland area or the wetland setback is minimized using the criteria listed in Sections 7105.03, 7105.04 and 7105.05. Unless an activity is exempt from the wetland setback regulations as provided for in this section, the wetland setback impacts and/or other relevant concerns shall be evaluated concurrently with each type of development review as provided for in this Code, including but not limited to zoning amendments, Planned Unit Development ("PUD") modifications, non-conforming parcel plan reviews, site plan reviews, conditional use permits and temporary use permits.
- C. Work in a wetland area or a wetland setback is exempt from this requirement if 1) the work is to revegetate the setback to a natural, weed-free state without extensive grading; or 2) the purpose of the work is to restore the wildlife habitat, and the work will be done under the supervision of the Colorado DOW and the DOW has

granted approval for the work to be done under the auspices of the Division's nationwide 404 permit. Evidence of approval from the DOW must be submitted to the Planning or Engineering Department prior to commencement of any work conducted under this exemption.

7105.02: Compliance with Disturbance and Mitigation Plans and Applicable 404 Permit Requirements

Prior to final approval of a subdivision, site plan or grading plan, the project proponent shall submit a plan to meet the standards set forth in Section 7105.04 and 7105.05. If the site contains areas deemed a jurisdictional wetland by the U.S. Army Corps of Engineers, the applicant must either present evidence of compliance with Section 404 of the Federal Clean Water Act ("CWA"), or present evidence that work will be done under the auspices of the Colorado DOW nationwide 404 permit as provided in Section 7105.01. Documentation and compliance with all potential Section 404 matters shall remain the sole and ongoing responsibility of the project proponent, and any failure to maintain such compliance may lead to suspension or revocation of any approvals provided under this Code.

7105.03: Criteria for Disturbing Wetland Areas and the Associated Setbacks

The Review Authority may allow disturbance of wetland areas or the wetland setback if the disturbance activity to the wetland area and the associated setback meet all of the following criteria:

- A. A wetland or the associated wetland setback cannot have soil disturbance unless there is no practicable alternative to avoiding a wetland or the wetland setback, and such activity is to either: 1) meet a master plan policy; or 2) meet a policy of this Code; or 3) allow reasonable use of the property.
- B. The project will limit the degree of impact on the wetland area and the associated setback to the greatest extent practical using the mitigation procedures outlined in Section 7105.05.
- C. The impact on the wetland area or the required setbacks will be mitigated by preservation and maintenance operations.
- D. The loss of a wetland area will be compensated for by replacing or substituting the wetland resource lost in terms of quantity and quality.
- E. The project's discharges will not violate other applicable regulations and laws (e.g., state water quality standards, Endangered Species Act, National Environmental Policy Act), or significantly degrade the waters of the United States or any other wetland as such term is defined in Chapter 15 of this Code and recognized as such by the County.

An activity is exempt from this setback requirement if the proposed activity is: 1) water dependent such as docks and piers or; 2) necessary to achieve either vehicular or utility access to property, and no other access route avoiding the wetland areas or the associated setbacks is technically feasible, provided the impacts of such access shall be mitigated in conformance with the standards contained in Section 7105.05; or 3) farming, ranching and silviculture.

7105.04: Submittal Requirements for a Wetlands Disturbance Plan

Where all or part of a wetland area or the associated setback is disturbed or substantially altered by development, an applicant for development review shall submit a wetlands disturbance plan which shows:

- A. The amount, location and acreage of wetland fill, removal or other alteration proposed;
- B. The proposed mitigation improvements, including those wetland areas to be restored or created in accordance with Section 7105.05; and,
- C. A grading and erosion control plan, including plant material to be used for revegetation and soil stabilization measures.
- D. A narrative explaining how a proposed activity in the wetland setback or a wetland area will meet the criteria contained in Section 7105.03

7105.05: Mitigation Procedures for Developing Within or Adjacent to Wetlands Areas

A mitigation plan shall be required, in accordance with Section 7105.04, for any unavoidable earth disturbing activities within wetland areas or the associated setbacks. Any earth disturbance within any wetland areas or the associated setbacks shall use the following mitigation and be drawn in accordance with the guidelines for temporary and permanent control measures set forth in the Guide to Water Quality Protection and Erosion Control (prepared

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for the Summit Water Quality Committee):

- A. Time grading and construction to minimize soil exposure during periods of snowmelt and rainy periods;
- B. Retain and protect natural vegetation; strip only the area required for construction in stages;
- C. Infiltrate runoff from impervious surfaces by locating infiltration trenches below driplines, walkways, parking areas and driveways;
- D. Minimize length and steepness of exposed slopes by designing with the natural topography; prevent erosion on exposed slopes by placing barriers, such as straw bale dikes;
- E. Keep runoff velocities low to prevent high erosive powers by using flow barriers (vegetation, rip-rap, etc.);
- F. Protect drainageways and outlets from increased flows by using rip-rap;
- G. Trap sediment on-site by using straw bales, filter fences and sand bags;
- H. Any disturbed areas must be replanted with native vegetation;
- I. Natural hydrologic flows will be maintained through the site;
- J. Minimize earth movement by avoiding cut and fill slopes;
- K. Foundations shall be stepped down the slope to minimize cut and fill;
- L. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety;
- M. Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills must be permanently stabilized at the earliest practicable date;
- N. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species which normally migrate through the area, unless the activities primary purpose is to impound water;
- O. Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance; and,
- P. Any other appropriate measure as deemed necessary by the County Engineer, the Planning Department, the Planning Commission, or the BOCC.

7105.06: Financial Guarantee

A subdivision improvements agreement or site plan improvements agreement and associated financial guarantee to ensure the requirements of the Wetland Regulations are met shall be posted in accordance with Section 8602 et seq. or Section 12607 et seq. or as otherwise provided for in this Code. Notwithstanding the forgoing, the term of the financial guarantee for the period following installation shall be a minimum of three (3) years in order to ensure that successful, stable plant establishment is achieved for all wetland plantings.

7106: Road Construction and Maintenance Standards

Any private or public road construction in the County shall meet the standards set forth in Sections 7101.01.A, B, D, and F, Sections 7102, 7103, 7104, and 7105. Routine road and recreation path maintenance, such as snow removal, grading of gravel roads and cleaning drainage ditches shall be exempted from complying with the provisions contained within these sections.

7200: EXEMPTIONS FROM WATER QUALITY CONTROL REQUIREMENTS

7201: Single-Family Construction

Construction of single family residential units shall be exempt from these regulations if:

- A. The entire subdivision is provided with central erosion and run-off controls such as a community desilting pond for all drainage from the subdivision; or,
- B. The Engineering Department determines that exempting construction will not have a significant impact on water quality.

The Engineering Department retains the authority to apply these standards when water quality impacts are likely to be significant, such as, but not limited to, construction on slopes greater than 3.33:1, construction within 25 feet of a lake, stream or river or if wetland disturbance will result.

7202: Activities Exempted from Grading Permits

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Activities exempt from the requirement to obtain a grading permit are also exempt from compliance with these Water Quality Control Regulations, except if the Engineering Department determines the location, method of construction or other factors associated with a particular activity will cause water quality impacts. The criteria for making such determinations may be stated in the County Water Quality Control Manual.

Activities exempt from grading permit requirements include:

- A. Regular agricultural operations on land in the County's Agricultural ("A-1") Zoning District.
- B. Routine road and recreation path maintenance such as snow removal, grading of gravel roads and cleaning of drainage ditches.
- C. Any earth disturbing activity involving less than 500 square feet of surface area; however, if the Engineering Department has determined an activity of this type will result in water quality impacts, the requirement for obtaining a grading permit shall be met. The criteria for making such determinations shall be stated in the County water quality control manual.
- D. Any activity specifically covered by an approved road cut or access permit issued by the Summit County Road & Bridge Department.
- E. Any emergency work on utility, water and sewer lines as provided in Section 6303.06.

7300: REQUIRED FEES

Applicants for grading permits shall pay fees for plan review and inspections as required by a resolution adopted by the BOCC. The cost of plan review and inspection necessary to enforce these Water Quality Control Regulations shall be included in the grading permit fees.

7400: ENFORCEMENT OF WATER QUALITY CONTROL REGULATIONS

7401: Requirement for Improvements Agreement

A grading and drainage plan shall be approved in conjunction with each development review approved by the County. This plan shall show drainage improvements necessary to meet the requirements of these Water Quality Control Regulations. A subdivision improvements agreement or site plan improvements agreement and associated financial guarantee shall be posted in accordance with Section 8602 et seq. or Section 12607 et seq.

7402: Guarantee of Grading Work

Grading plans required by Chapter 6 of this Code shall be approved only if they include drainage improvements necessary to meet the requirements of these Water Quality Control Regulations. Grading permits may not be issued unless the applicant first executes a site plan improvements agreement in accordance with Section 12607 et seq. of this Code, and also posts a Letter of Credit ("LOC") or cash escrow with the County if required by the Engineering Department. The purpose of this financial guarantee is to assure drainage and water quality control devices will be constructed and disturbed areas will be revegetated as required by the approved grading plans and these regulations.