

ORDINANCE NO. 21-04

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES
REPEALING AND REPLACING CHAPTER 7 OF THE CASTLE PINES
MUNICIPAL CODE CONCERNING HEALTH AND SAFETY REGULATIONS**

WHEREAS, the City of Castle Pines (the “City”) is a home rule municipality authorized to exercise its police powers to promote and protect the public health, safety and welfare; and

WHEREAS, the City previously adopted regulations concerning health, sanitation and animals, which regulations are codified in Chapter 7 of the Castle Pines Municipal Code; and

WHEREAS, the City desires to amend its health and safety regulations to provide for a more uniform procedure for nuisance abatement and update its nuisance regulations; and

WHEREAS, the City Council finds that this Ordinance is in the best interests of the public health, safety and welfare of the inhabitants of the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Castle Pines, Colorado:

Section 1. Chapter 7 of the Castle Pines Municipal Code, titled “Health, Sanitation and Animals” is hereby repealed, replaced, and re-titled to read in full as follows:

CHAPTER 7 – Health and Safety

ARTICLE 1 – Administration and Abatement of Nuisances

Sec. 7-1-10. – Purpose.

The purpose of this Chapter is to preserve and protect the health, safety, welfare, quality of life and quiet enjoyment of property through a uniform procedure for the identification and enforcement of public nuisances within the City. This Article 1 shall apply to all of Chapter 7 unless otherwise indicated.

Sec. 7-1-20. – Nuisances Prohibited.

- (a) It shall be a violation of this Chapter for any person:
 - (1) To create, operate, maintain or conduct any public nuisance, as that term is defined in this Chapter; or
 - (2) To interfere with, prevent, or attempt to interfere with or prevent, the abatement of any public nuisance by the City pursuant to the provisions of this Chapter.
- (b) Any person who has possession or control of any private ground or premises, whether such person is the owner of the property or not, where any public nuisance exists or is found shall be deemed the responsible party.
- (c) Each and every day during which any public nuisance continues shall be deemed a separate offense and shall be prosecutable and punishable as a separate offense.

Sec. 7-1-30. – Definitions.

Abatement agreement means a contract between the City and an owner or responsible party in which such owner or responsible party agrees to promptly take all lawful and reasonable actions; which shall be set forth in the agreement, to abate the nuisance within a specified time and according to specified conditions.

Agent means and includes any person acting on behalf of or in place of the owner.

Code enforcement official means a City-appointed code enforcement officer, an authorized law enforcement official, or other authorized City employee or agent engaged in the investigation and determination of the existence of a nuisance or other municipal code violation.

Emergency situation means any situation where there is an imminent danger of loss of, or injury or damage to, life, limb or property, or where there is an illicit discharge, as determined by a code enforcement official.

Inoperable vehicle means either of the following:

(1) A vehicle that is unable to be lawfully operated on a public street due to circumstances including but not limited to the lack of current and valid state license plate or registration or nonexistent, insufficient or inadequate safety or other equipment required by law for legal operation; or

(2) A vehicle that is unable to be mechanically operated due to circumstances including but not limited to the inability to start or operate as designed and intended due to a mechanical or physical defect or damage; is so worn or deteriorated or in such a condition as to be unusable in its existing state; has deflated tires, broken or inoperable turn signals, or broken or inoperable headlights; or whose operation is not currently possible due to the disassembly of vehicle parts preventing vehicle operation.

Litter means any and all rubbish, waste material, refuse, garbage, trash, debris, excrement, urine, dead bird, dead fish, fishing line, bait, chemical compound, petroleum product or compound, paper, cardboard, can, lid, bottle, cap, carton, wrapper, box, wooden object, plastic object, clothing, cloth, metal object, rubber object, leather object, hide, feathers, grass clippings, leaves, cut weeds, tree branches, bush clippings, sand, dirt, mud, gravel, stone, glass, ashes, cigarette, cigar, food or food product, solvent, dye (excluding dye necessary for dye testing as permitted under the City's illicit discharge regulations and where approved by the Colorado Department of Public Health and Environment), beverage, liquid except clean water, offal composed of animal matter or vegetable matter, or both, or any noxious or offensive matter whatsoever.

Non-noxious weed means any plant which is not classified as a noxious weed, which is not intentionally cultivated or which is unsightly and economically useless.

Noxious weed means any plant or part thereof which has been classified by the Commissioner of the Colorado Department of Agriculture as a "List A" or "List B" noxious weed under the provisions of Section 35-5.5-108, C.R.S.

Occupant means and includes any person who occupies the whole or a part of a building, premises or land, whether alone or with others.

Owner means and includes:

- (1) Any owner or holder of any legal or equitable interest in real property, including a dominant or servient tenement, except a future or reversionary interest and except the interest of a public trustee, lien holder, mortgagee or beneficiary of a deed of trust; or
- (2) The owner of record, as reflected by the records of the office of the Douglas County Clerk and Recorder.

Person means and includes any individual, partnership, corporation or association and the agent, servant or employee of any individual, partnership, corporation or association.

Public nuisance or nuisance includes, but is not limited to:

- (1) The conducting or maintaining of any business, occupation or activity prohibited by statute or by ordinance;
- (2) The continuous or repeated conducting or maintaining of any business, occupation, operation, activity, building, land or premises in violation of statute or ordinance;
- (3) Any building, structure or land open to or used by the general public, the condition of which presents a substantial danger or hazard to public health or safety;
- (4) Any illicit discharge or other unlawful pollution or contamination of any surface or subsurface waters in the City, of the air or of any water, substance or material intended for human consumption;
- (5) Any activity, operation or condition which, after being ordered abated, corrected or discontinued by a lawful order of a department or officer of the City or the County, continues to be conducted or continues to exist in violation of statute or ordinance or in violation of any regulation of the City, the County or the State;
- (6) Any activity, operation, condition, building, structure, place, premises or thing which is injurious to the health or safety of the citizens of the City, or which is indecent or offensive to the senses so as to interfere with the comfortable enjoyment of life or property; and
- (7) Any nuisance defined or declared as such by statute or ordinance.

Public or private property includes, but is not limited to, the real property, building or structure thereon of any person, state, county, city, public or private corporation, any governmental or quasi-governmental entity, or the United States; the right-of-way of any street, road, railroad or highway; and any body of water, irrigation ditch or watercourse, including frozen areas thereof and the shores and beaches thereof; any park, playground, building or recreation area; and any school grounds, school building or property used for school purposes, including vacant land owned by a school district or property used primarily for administrative purposes of the school district.

Public place means and includes:

- (1) Any street, highway, public right-of-way, sidewalk, driveway, alley, church, school building, school grounds, public building, library, fire station, park, parking lot or vacant land;
- (2) The entire premises of any shopping center, restaurant, bar, store, service establishment, service station, theater, auditorium or place of amusement, except

any portion of the premises reserved for the use of the owner or operator thereof or the employees of such owner or operator, and except any portion of the premises from which the general public is excluded; and

- (3) Any lobby, corridor, elevator, stairway, public room, common room or recreation room in a hotel, motel, office building or apartment building.

Responsible party means a person who is alleged to have caused, created, or maintained or who is alleged to have permitted to be caused, created, or maintained any public nuisance.

Statute means the statutes of the State of Colorado.

Sec. 7-1-40. – Methods of Enforcement.

The City may elect to initiate any one (1) or more of the following enforcement options:

- (a) Warning notice. Whenever the code enforcement official determines that a public nuisance exists or is reasonably likely to exist on public or private property within the City, the code enforcement official may issue a written or verbal warning notice to the owner or responsible party. Such warning notice shall include a request to abate the nuisance within seven (7) days of the date of the warning notice. The code enforcement officer shall document any verbal warning notice in writing as soon as practicable in the City's records following its issuance.
- (b) Voluntary abatement agreement. Whenever the City determines that a code violation under this Chapter has occurred or is occurring, the City will make reasonable efforts to secure voluntary compliance from the person responsible for the code violation.
 - (1) Upon contacting the person responsible for the code violation, the City may enter into a voluntary abatement agreement. The City is under no obligation to enter into a voluntary abatement agreement. It is the responsibility of the person having control of or in possession of the property to correct the violation within the time specified in the warning notice, notice of violation, and/or stop work order.
 - (2) A voluntary abatement agreement may be entered into at any time after issuance of a warning notice, notice of violation, or a stop work order.
 - (3) Upon entering into a voluntary abatement agreement, a person admits that the violations described in the voluntary compliance agreement existed and constituted a code violation.
 - (4) The voluntary abatement agreement shall incorporate the shortest reasonable time period for compliance. An extension of the time limit for compliance or a modification of the required corrective action may be granted by the City in writing.
 - (5) The voluntary abatement agreement is not a settlement agreement.
- (c) Administrative citation. If the responsible party has failed to correct the violation noted in a notice of violation, issued pursuant to Section 7-1-50 of this Chapter, within the time provided on such notice, a code enforcement official may issue an administrative citation to the responsible party.
 - (1) The code enforcement official may require that the responsible party provide evidence of the responsible party's identity and residential or working address.

- (2) The code enforcement official shall attempt to issue the administrative citation to the responsible party at the site of any violation. The code enforcement official may issue the administrative citation to the responsible party by the methods described in Section 7-1-50 of this Chapter.
- (3) The code enforcement official shall attempt to obtain the signature of the person receiving the administrative citation on the citation. If that person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation and subsequent proceedings.
- (4) Notice shall be deemed served on the earliest of:
 - (A) The date of receipt by the responsible party, if personally served;
 - (B) The fifth day after the mailing of the administrative citation; or
 - (C) The fifth day after posting the administrative citation.
- (5) At a minimum, any administrative citation issued pursuant to this Section shall include the following:
 - (A) The location of the violations and the date and approximate time the violations were observed;
 - (B) A description of the violation and the sections of this Code being violated;
 - (C) The actions required to correct the violation;
 - (D) The fine to be paid and instructions for paying such fine;
 - (E) The deadline by which the violation must be corrected and the fine paid;
 - (F) Instructions for filing an appeal; and
 - (G) The consequences of failing to meet the deadline and complete the actions outlined in the administrative citation.
- (6) A person served with an administrative citation may appeal the citation within five (5) business days from the date of service of the citation.
 - (A) Failure to file a timely appeal shall bar any appeal to the administrative citation.
 - (B) The appeal shall be made in writing and shall be filed with the Municipal Court in the manner indicated in the administrative citation.
 - (C) The Municipal Court shall then set the appeal for hearing before the Municipal Court.
- (d) Abatement order. If the responsible party has failed to correct the violation described in a notice of violation, issued pursuant to Section 7-1-50 of this Chapter, within the time provided on such notice, a code enforcement official may apply to the Municipal Court for an abatement order as follows:
 - (1) The code enforcement official shall submit an application for abatement to the Municipal Court, which shall be accompanied by an affidavit affirming that the code enforcement official has complied with the notice requirements in Section 7-

1-50 of this Chapter and that the owner or responsible party has failed to abate the code violation by the deadline set forth in the notice of violation. The application for abatement shall, at a minimum, include:

- (A) The date and time of issuance of the notice of violation;
 - (B) The name and address of the responsible party;
 - (C) The applicable code sections violated; and
 - (D) A brief description of the violation, its location, and a description of the actions necessary to correct the code violation.
- (2) Following receipt of the application for abatement, the Municipal Court shall set a hearing date. A copy of the application for abatement and a notice of hearing shall be served on the responsible party at least fourteen (14) days before the hearing date. Service shall be accomplished in accordance with the Colorado Rules of Municipal Procedure.
- (e) Summons and complaint. If the responsible party has failed to correct the violation described in a notice of violation, issued pursuant to Section 7-1-50 of this Chapter, within the time provided on such notice, a code enforcement official may initiate an action in the Municipal Court to have a nuisance declared as such by the Court and to have the Court impose an appropriate sentence.
- (1) The complaint shall be brought in the name of the people of the State of Colorado by serving a copy of the summons and complaint upon the responsible party and filing the original with the court. Summons and complaints and subpoenas shall be served as provided in the Colorado Rules of Municipal Procedure.
 - (2) The action shall follow the procedure as stated in the Colorado Rules of Municipal Procedure.
 - (3) If the responsible party is found guilty, the court shall impose a fine and order abatement. The following minimum fines are set forth as guidelines only, and the Municipal Court has the discretion to impose fines as it deems appropriate:
 - (A) First violation: \$250.00 plus court costs;
 - (B) Second violation: \$400.00 plus court costs;
 - (C) Third violation and each subsequent violation: \$500.00 plus court costs.

Sec. 7-1-50. – Notice of violation.

- (a) Upon becoming aware of a violation of an applicable section, a code enforcement official may issue a notice of violation to the responsible party. The notice shall provide the following information, as applicable:
- (1) The location of the violation;
 - (2) The date and approximate time the violation was observed;
 - (3) The property in violation by address or legal description;
 - (4) The applicable section violated together with a description of the violation;

- (5) A description of the actions required to correct the violation;
 - (6) A demand that the violation be corrected or abated on or before a specified time and date, which shall be no more than thirty (30) days from the date of the notice of violation; and
 - (7) A statement that, if the nuisance is not corrected or abated on or before the date and time stated in the notice, the City may at its option pursue enforcement alternatives, including issuance of an administrative citation or enforcement through the Municipal Court.
- (b) Service of a notice of violation on the responsible party shall be by any one or more of the following means:
- (1) A code enforcement official may personally deliver the notice of violation by delivering a copy directly to the responsible party or by delivering a copy to the responsible party's personal residence and providing it to any person who is eighteen (18) years of age or older and who is a member of the responsible party's family; or
 - (2) A copy of the notice of violation may be mailed by first class mail, return receipt requested, to the last known address of a responsible party as reflected in the County records; or
 - (3) A copy of the notice of violation may be posted in a conspicuous place at the site of the violation. In addition, a copy of the document, with a statement of the date, time, and place at which the posting was made, must be mailed to the property owner's last known address as reflected in County records.
- (c) The City's provision of notice under this Section to the last known address of a responsible party as reflected in the records of the Douglas County Clerk and Recorder's Office shall be considered adequate notwithstanding any error in the County's records. A code enforcement official may reasonably rely upon current County records to obtain an accurate address for a responsible party.

Sec. 7-1-60. – Inspection of property.

- (a) Authorized inspector. Any person designated as a code enforcement official by the City shall have the power and authority to examine any public or private property in the City for the purpose of ascertaining the nature and existence of any nuisance.
- (b) Right of entry. Whenever it is necessary to inspect a property pursuant to this Chapter or whenever a code enforcement official has reasonable cause to believe that a nuisance exists in any building or upon any premises, the code enforcement official may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the code enforcement official, provided that:
 - (1) If such building or premises is occupied, the code enforcement official shall first present proper credentials and request entry; or
 - (2) If such building or premises is unoccupied, the code enforcement official shall first make a reasonable effort to locate the owner or occupant or other person having

charge or control of the building or premises, and, upon locating such person, shall present proper credentials and request entry.

- (c) Refused entry. If entry is refused, or if the owner, occupant or other person having charge or control cannot be located after reasonable effort, the code enforcement official shall leave a written notice of intention to inspect at least twenty-four (24) hours prior to the inspection. The notice of intent to inspect shall state that the owner, occupant, or other person having charge or control has the right to refuse entry and that, if entry is refused, the City may seek an administrative search warrant from the Municipal Court, or other court of competent jurisdiction, authorizing entry by the City for the inspection.
- (d) Administrative search warrant.
 - (1) If entry is refused or there is no person available to permit entry into the building or onto the premises for an inspection after the expiration of the time period set forth in the notice of intent to inspect, the code enforcement official may appear before the Municipal Judge and seek a search warrant entitling the City to enter the building or upon the premises for the purpose of inspecting such building or premises.
 - (2) Upon presentation of the search warrant and proper credentials, or possession of the same in the case of an unoccupied building or premises, the code enforcement official and any other City employees or agents as are reasonably necessary may enter into the building or upon the premises using such reasonable force as may be necessary to gain entry.
 - (3) The Municipal Court shall have the authority to issue administrative search warrants upon a showing of probable cause by written affidavit of the code enforcement official.
 - (4) A determination of probable cause for the granting of an administrative search warrant will be based upon reasonableness. If a valid public interest and reasonable suspicion of violation justify the intrusion contemplated, there is probable cause to issue a search warrant. The person applying for such warrant shall not be required to demonstrate specific knowledge of the condition of the particular structure or premises at issue in order to obtain a search warrant, but must show some factual or practical circumstances that would cause an ordinary prudent person to believe a code violation may exist.
 - (5) It is unlawful for any owner or occupant of the building or premises to deny entry to or resist reasonable force used by any code enforcement official or other City employee or agent acting pursuant to a valid administrative search warrant.
- (e) Emergency abatement. Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this Chapter or other Code provision, a code enforcement official may enter into any building or upon any premises within the jurisdiction of the City, after presenting proper credentials, to inspect the building or premises and abate the nuisance.
 - (1) For occupied buildings or premises, a code enforcement official shall present the official's credentials to the owner or occupant of the building or premises. For

unoccupied buildings or premises, the code enforcement official must be in possession of appropriate credentials prior to entry.

- (2) In an emergency situation, a code enforcement official may use such reasonable force as is necessary to gain entry into the building or onto the premises.
 - (3) Nothing herein shall be deemed to limit the power of the City, in case of an emergency situation to summarily remedy, change, repair, abate, or order the evaluation of any dangerous or unhealthy condition found to exist without any notice or any hearing to any persons.
 - (4) Costs and expenses incurred by the City for any emergency repair or abatement may be assessed against the responsible party and recovered in the manner set forth in Section 7-1-70 of this Chapter.
- (f) Public property. The requirements of this Section shall not apply to public places, including privately owned vacant land, which may be inspected by a code enforcement official at any time without notice.

Sec. 7-1-70. – Collection of costs of abatement.

- (a) In the event that the City chooses to abate a nuisance when authorized by this Code or by court order or chooses to perform an emergency abatement under Section 7-1-60(e) of this Chapter, the responsible party shall be liable for the actual cost of abatement incurred by the City, plus an administrative fee equaling fifteen percent (15%) of the abatement cost.
- (b) The costs of abatement may be recovered by:
 - (1) Initiating a claim for restitution in Municipal Court;
 - (2) The institution of a civil action for damages; or
 - (3) If the costs of abatement have not been otherwise collected, the City may prepare a statement enumerating the actual costs of abatement and any other administrative fees and costs and file a first and prior lien upon the property relating back to the date upon which the abatement was performed. A copy of the City's statement shall be deposited in the United States mail or personally delivered to the responsible party.
- (c) The responsible party may request, in writing, a hearing before the Municipal Court to contest the amount of the abatement costs set forth in a statement of abatement costs from the City.
 - (A) The written request must be made within thirty (30) days of the date of mailing or service of the statement of costs.
 - (B) The property owner shall be given written notice at least two (2) weeks prior to the date, time and place of any hearing scheduled before the Municipal Court to contest the City's statement of costs.

Sec. 7-1-80. – Certain defenses not available.

- (a) Any person who is the record owner of the premises, location or structure at the time a notice of violation or other order or citation pursuant to this Chapter is issued and served upon such person, shall be responsible for complying with that order, and liable for any

costs and expenses incurred by the City, notwithstanding the fact that the person conveys interests in the property to another after such notice or order was issued and delivered.

- (b) It shall not be a defense to the determination that a nuisance exists or to an action to abate a nuisance that the property is boarded up or otherwise enclosed, or that the nuisance is not visible by the general public.

Sec. 7-1-90. – Administrative policies and forms.

The City Manager, or his or her designee, is authorized to promulgate policies and forms deemed desirable to assist in the administration of the provisions of this Chapter. No administrative policy or form shall conflict with a specific requirement of this Chapter. Failure to employ or follow administrative policies or use forms promulgated by the City Manager shall not constitute a procedural breach or defect in the administration of this Chapter and shall not preclude or limit the City's authority to investigate, address, enforce or abate nuisances.

Sec. 7-1-100. – Extension of deadlines.

A reasonable extension of any deadline established by this Chapter or in the administration of this Chapter may be granted by the code enforcement official upon a showing of just cause for an extension.

Sec. 7-1-110. – Cumulative and concurrent remedies.

No remedy provided in this Chapter shall be exclusive. All remedies shall be cumulative and available concurrently. The taking of any action authorized by this Chapter or any other provision of this Code, including a charge or conviction of violation of this Chapter, shall not preclude or prevent the taking of other action to abate any nuisance. Any application of this Chapter that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under this Code or any other provision of law.

ARTICLE 2 - Nuisances

Sec. 7-2-10. – Nuisances Declared.

Each of the conditions, events or circumstances described in this Article, existing in whole or in part upon public or private property located within the City, are hereby declared nuisances.

Sec. 7-2-20. – Inoperable Vehicles.

No person shall permit any inoperable vehicle to remain on public or private property for more than ten (10) consecutive days. This Section shall not apply to any vehicle completely enclosed within a building or structure and shall not apply to any vehicle on the premises of a lawfully operating motor vehicle repair business or on property lawfully zoned for a use that allows such vehicles. Inoperable vehicles abandoned in the public right-of-way may be impounded pursuant to Section 8-3-30 of this Code.

Sec. 7-2-30. – Littering.

- (a) It is unlawful and deemed a nuisance for any person to deposit, throw or place any litter upon any street, alley, sidewalk, or public property or public place in the City, or into any water in the City, except in public receptacles or authorized private receptacles.

- (b) It is unlawful and deemed a nuisance for any person, while an operator or passenger in any vehicle, to deposit, throw or place any litter in or upon any street, alley, sidewalk or public property or place in the City, except in public receptacles and authorized private receptacles.
- (c) It is unlawful and deemed a nuisance to operate any truck, trailer or vehicle in such a manner that the load or any portion of the content of such vehicle is blown or deposited in or upon any street, alley, sidewalk or public property or place in the City.
- (d) It is unlawful and deemed a nuisance for any person to deposit, throw or place any papers, newspapers, handbills, letters, samples or political literature in or upon any public street, alley, sidewalk or public property or place in the City without prior authorization from the City.
- (e) It is unlawful and deemed a nuisance for any person, except an authorized public employee or officer or a person who has previously obtained a permit, to:
 - (1) Post, place, glue, staple, nail, affix or attach any handbill, poster, placard, sign, announcement or other painted or printed material upon or to any street, alley, sidewalk, lawful sign, telephone pole, power pole or any public or private dwelling, store or other building or fence within the City without the permission of the owner or occupant of such property; or
 - (2) Post, place, glue, affix or attach any handbill, poster, placard, announcement or other painted or printed material in or upon any passenger automobile within the City without permission of the owner of such automobile.

Sec. 7-2-40. – Stockpiling and materials on property.

- (a) It is a nuisance and unlawful for any owner to permit, authorize, allow, store or keep the following items upon any property, whether wholly or partially visible from public or private property, the following items:
 - (1) Any stockpile, pile, stack, stand, collection, dismantling, assembly or other accumulation of material, including but not limited to: earth, dirt, stone, rock, sand, concrete, asphalt, cinders, lumber, wood, shingles, used or discarded building or construction materials, tires, inoperable equipment, household appliances, furniture and other items designed for indoor use, scrap metal, scrap plastic, rubbish, refuse, waste or junk;
 - (2) Any rat harborages, combustible materials, and similar materials or conditions which constitute fire, health or safety hazards;
 - (3) Individual items that are no longer being used for their intended purpose (e.g., broken machinery, indoor furniture, ladders, plumbing fixtures, etc.); or
 - (4) Any accumulation of items in a quantity not customarily found in residential zone districts, whether or not the same could be put to any reasonable use.
- (b) The nuisances described in Subsection (a) apply to all public and private property within the City, unless such items are:

- (1) Located within a fully enclosed and lawfully existing permanent structure or building, which does not include tarps, car covers or other similar means of concealment;
- (2) Directly associated with and necessary for the keeping of livestock located upon property zoned and lawfully used for agricultural uses and residential agriculture;
- (3) Directly associated with and necessary for an activity being conducted pursuant to a valid and effective building permit issued by the City for the same property upon which such conditions exist;
- (4) Directly associated with and necessary for the conduct of a use lawfully permitted and operated in accordance with this Code;
- (5) Earth, dirt, stone or rock integrated into and made part of a permanent landscape feature located upon a residentially zoned lot containing: a principal or primary residential structure; or
- (6) Trash containers, bagged trash, appliances and bundled materials that are temporarily placed on public property abutting private property within the City by the owner or lawful tenant of such private property to enable such containers to be emptied by a public or private entity charged with trash collection, provided that such temporary placement does not exceed twenty-four (24) hours in duration.

Sec. 7-2-50. – Offensive or Illicit Discharges.

- (a) Noxious liquids. It is unlawful and deemed a nuisance to discharge out of or from, or permit to flow from any house or place in the City, any foul or noxious liquid or substance of any kind whatsoever into or upon any adjacent ground or lot, into any street, alley or public place or into any municipal storm sewer system in the City, except discharges permitted under Article 6 of Chapter 11 of this Code.
- (b) Leaking receptacles. Any unclean, leaking, foul, unsafe or dangerous, defective or filthy drain, ditch, trail or gutter, or any leaking or broken slop, garbage or manure box or receptacle of like character, whenever or wherever found in the City, is deemed a nuisance.
- (c) Harmful chemicals. It is unlawful and deemed a nuisance for any property owner to apply or use any herbicide, pesticide, insecticide, rodenticide, disinfectant, fumigant or other harmful chemical, gas or vapor upon his or her property in such a manner that the harmful chemical, gas or vapor leaches, escapes, migrates or flows from his or her property and deposits in or on any other public or private property.

Sec. 7-2-60. – Offensive Locations.

- (a) Stagnant ponds. Any cellar, vault, drain, sewer, pond of water or other place in the City that is noxious or offensive to others, or injurious to public health, through an accumulation or deposition of noxious, offensive or foul water or other substances, or is conducive to the breeding of mosquitoes, is unlawful and deemed a nuisance.
- (b) Open wells, cisterns or excavations. It is declared that excavations exceeding five (5) feet in depth, cisterns and wells or an excavation used for storage of water within the City are public nuisances unless the same are adequately covered with a locked lid, or other covering weighing at least sixty (60) pounds or are securely fenced with a solid fence to a

height of at least five (5) feet; and it is unlawful for any person to permit such nuisance to remain on premises owned or occupied by such person.

- (c) Stale matter. It is unlawful and deemed a nuisance to keep, collect, use or cause to be kept, collected or used in the City, or permit to be kept or used, any stale, putrid or stinking fat or grease or other matter.
- (d) Sewer inlet. It is unlawful and deemed a nuisance to deposit in or throw into, or permit to be deposited in or thrown into, any sewer, sewer inlet or privy vault that shall have a sewer connection, any article whatsoever that might cause such sewer, sewer inlet or privy vault to overflow, back up or otherwise become noxious or offensive to others, or to become injurious to public health, safety or general welfare of the residents of the City.
- (e) Property in Disrepair. It is unlawful and deemed a nuisance to fail to maintain the condition of any property or improvement so as to prevent disrepair and to present a neat and orderly appearance.

Sec. 7-2-70. – Interference with pedestrian or vehicular traffic.

- (a) The City finds and declares that it is a nuisance and substantial danger to the preservation of public health and safety to dump trash, litter, construction materials, debris, landscape materials, snow, ice and other waste on public streets and sidewalks or other public property or to damage any street, alley, sidewalk, highway, public right-of-way, public park, recreation facility or other public property such that the items or damage interfere with pedestrian and vehicular traffic on public rights-of-way.
- (b) This Section shall not apply to:
 - (1) The State, its political subdivisions, special districts or other governmental entities or any employee, official or contractor of such entity acting within the scope of his or her official capacity, provided that such entity or person obtains written permission from the City to engage in any activity otherwise prohibited by this Section prior to engaging in such activity;
 - (2) Lawfully parked vehicles; or
 - (3) Items set forth in Section 7-2-40(b)(6).

Sec. 7-2-80. – Nuisance feeding of wildlife.

- (a) It is a nuisance to knowingly place, deposit, distribute, scatter or otherwise provide food or leave pet food, trash, salt blocks and other food attractants available for any wildlife so as to intentionally constitute a lure, attractant or enticement for wildlife within the City. As used in this Subsection, wildlife means non-domesticated mammals, including but not limited to skunks, raccoons, deer, coyotes, mountain lions, bear, fox and opossums. The prohibition in this Subsection shall not apply to squirrels or birds.
- (b) It is a nuisance and unlawful for any person to dispense, feed or otherwise make available to any birds and squirrels, either on such person's property or on the property of another or of the City, any type or amount of food in a manner that:
 - (1) Creates an unclean, unsafe or unsanitary condition either on such person's property or on the property of another or of the City;

- (2) Results in the accumulation of droppings, feces or feathers either on such person's property or on the property of another or of the City;
- (3) Attracts other wildlife, vermin or pests either to such person's property or to the property of another or of the City;
- (4) Creates an unreasonable disturbance either on such person's property or on the property of another or of the City; or
- (5) Otherwise deleteriously affects the quiet enjoyment by others of any private or public property.

Sec. 7-2-90. – Noxious weeds.

- (a) All owners and occupants of land within the City shall maintain such property free from noxious weeds, including any alleys behind and sidewalk areas in front or on the side of any lot or tract of land and any portion of the City's right-of-way located between the property line of such lot or open area and the curb face, flow line or edge of pavement of any public street. Disposal of the noxious weeds will be performed in a manner which will minimize the reproduction of the noxious weeds.
- (b) Noxious weeds shall be controlled by cutting, spraying or other lawful and suitable method of control, including eradication, containment and/or suppression, as appropriate and as deemed by the City to be consistent with Section 35-5.5-101 et seq., C.R.S.

Sec. 7-2-100. – Non-noxious weeds.

- (a) It is unlawful and deemed a nuisance for any person having ownership or possession of any real property zoned Business (B) Zone District or property platted and zoned Planned Development with land use designations of mixed use, business, commercial, community or civic within the City to permit the growth of non-noxious weeds upon any lot or tract, including any adjacent or abutting sidewalks, alleys and areas between the back of curb and edge of pavement of public rights-of-way, to a height of not more than ten (10) inches.
- (b) Non-noxious weeds shall be controlled by cutting, spraying or other lawful and suitable method of control, including eradication, containment and/or suppression, as appropriate.
- (c) The City Manager or his or her designee may exempt certain areas in the City, whether publicly or privately owned, from the non-noxious weed prohibitions contained in this Article if the City Manager determines that such areas are: natural open space, passive common areas, conservation areas, erosion control areas or utility, irrigation or drainage ditch rights-of-way. Such exemption may be granted by issuance of an administrative permit adequately identifying such area to be exempted.

Sec. 7-2-110. – Control of rodent infestations.

- (a) It is deemed a public nuisance to allow any real property within the City to become or remain infested with rodents.
- (b) For the purposes of this Section, the following terms shall have the following meanings:
 - (1) The term *rodents* shall mean any moles, voles, mice, rats, squirrels, skunks, rabbits, prairie dogs, gophers or ground hogs.

- (2) The term *infested* refers to the presence, within or around real property, of rodents of such kind or in such numbers to cause a hazard to health.
- (3) The term *hazard to health* shall include but shall not be limited to the presence of rodents on real property that is not an appropriate rodent habitat by virtue of its current or planned future land uses. A hazard to health also includes but is not limited to the presence of rodents that is determined by the code enforcement official to pose a danger or detriment to the health of City inhabitants.
- (c) Nothing contained in this Section shall be construed or intended to include within the definition of a public nuisance any animal designated by a state or federal agency as an endangered animal under state or federal law.
- (d) Abatements of the public nuisance defined in this Section shall be completed in accordance with the provisions of this Chapter 7 and applicable state and federal law. The requirements of this Section are in addition to, and do not supersede, any state or federal limitations on the destruction or relocation of rodents, including prairie dogs.

Sec. 7-2-120. – Offensive or unsafe uses or conditions.

- (a) No building, vehicle, structure, receptacle or other thing used or to be used, for any purpose whatsoever, shall be used, made, kept, maintained or operated in or retained within the City, if the use, keeping, maintaining or operation of the same shall be the occasion of any nuisance or danger or detriment to the public health, safety or welfare.
- (b) Every other act, condition, or thing done or made, committed or allowed or continued on any public or private property or place by any person, which is detrimental to health, offensive to sight, smell or hearing or causes damage or injury to any of the inhabitants of the City, and not otherwise specified in this Chapter, shall be deemed a nuisance.

ARTICLE 3 - Trees and Other Vegetation

Sec. 7-3-10. - Prohibited vegetation.

- (a) It is unlawful and deemed a nuisance to sell or import into the City or plant or cause to be planted upon any property within the City any plant or tree that is prohibited under the City's Zoning Ordinance or adopted land development code, and the planting of these certain plants or trees is declared to be a public nuisance.
- (b) The owner of any property within the City, upon which any prohibited plant or tree has been planted after the effective date of the ordinance codified herein, shall cut and remove such plant or tree from the owner's property in accordance with and following issuance of a warning notice pursuant to Article 1 of this Chapter.
- (c) In case of the failure of any owner of such property to cut and remove such tree as required by the warning notice, the City may cut and remove such plant or tree and collect the costs of such nuisance abatement pursuant to Section 7-1-70 of this Code.

Sec. 7-3-20. - Trees and limbs in public right-of-way.

It shall be the duty of the owner of any property adjacent to the public right-of-way to remove any trees or limbs located in or above the public right-of-way when such trees or limbs constitute a danger to public safety. Such trees and limbs shall constitute a nuisance. For the purposes of this Section, a *danger to public safety* shall include all trees and limbs which hinder visibility or which may otherwise affect public health, safety and welfare, and trees and limbs which present a structural defect which may cause the tree or limb to fall on a person or on property of value.

Sec. 7-3-30. - Control of trees and shrubs.

- (a) Trees, shrubs and other vegetation which are dead, broken, diseased or infested by insects so as to endanger the well-being of other trees, shrubs or vegetation or constitute a potential threat or hazard to people or property within the City are hereby declared a nuisance.
- (b) It is unlawful and deemed a nuisance for any owner or occupant of property abutting City rights-of-way or other public property to permit the creation or maintenance of any unsafe condition caused by trees and other vegetation overhanging or projecting from such abutting property and onto or over such right-of-way or other public property.
 - (1) Upon determining that such unsafe condition exists, the City shall issue a warning notice in accordance with Article 1 of this Chapter to the owner or occupant of such abutting property.
 - (2) If the owner or occupant fails to correct such unsafe condition pursuant to the warning notice, the City may correct any such unsafe condition immediately upon the expiration of the period specified in the warning notice and collect the costs of the City's abatement pursuant to Section 7-1-70 of this Code.
- (c) It is unlawful and deemed a nuisance for any person to cut, trim, spray, remove, treat or plant any tree, vine, shrub, hedge or other woody plant upon access-controlled arterials or other public parks and greenbelts within the City, unless authorized or directed by the City.
- (d) It is unlawful and deemed a nuisance for any person to injure, damage or destroy any tree, shrub, vine, hedge or other vegetation in or upon public rights-of-way or other public property within the City.

ARTICLE 4 - Noise Abatement**Sec. 7-4-10. - Intent.**

It is declared that at certain levels, noise is detrimental to public health, comfort, convenience, safety, and welfare of the citizens of the City. This Article is enacted to protect, preserve, and promote the health, welfare, peace, and quiet of the citizens of the City through the reduction, prohibition, and regulation of noise. It is the intent of this Article to establish and provide for sound levels that will eliminate unreasonable and excessive noise, reduce community noise, promote a comfortable enjoyment of life, property and conduct of business, and prevent sound levels that are physically harmful and detrimental to individuals and the community.

Sec. 7-4-20. - Definitions.

For purposes of this Article, certain words and phrases are defined as follows:

A-Weighted Sound Pressure Level means the sound pressure level as measured with a sound level meter using the A-weighting network. The standard notation is dB(A).

City Manager means the City Manager of Castle Pines as defined in Section 2-3-30 of this Code or their designee.

Construction activities shall have the meaning set forth in Section 7-3-140 of this Code.

Decibel means a logarithmic unit of measure often used in measuring magnitudes of sound. The symbol is dB.

Device means any mechanism that is intended to, or that actually produces, audible sound when operated or handled.

Emergency work means work necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from an imminent exposure to danger.

Motor vehicle means any vehicle such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, motorcycles, mini-bikes, go-carts, snowmobiles, motorboats, racing vehicles, and other devices propelled by mechanical power.

Person means any human being, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user, owner, or operator, including any municipal corporation or its officers or employees.

Property line means an imaginary line at the ground surface that separates the real property owned by one (1) person from that owned by another person, and its vertical extension.

Public right-of-way means any street, avenue, boulevard, highway, alley, premises, or public place owned or controlled by the City or another public governmental entity.

Sound amplification system means any loudspeaker or sound amplifier, or any system comprised of multiple loudspeakers and/or amplifiers.

Unreasonable noise means any sound that exceeds the maximum permissible levels set forth in this Article.

Sec. 7-4-30. - Classification and measurement.

For purposes of determining and classifying any noise as unreasonable, the following measurement must be applied:

- (a) Noise occurring within the jurisdiction of the City shall be measured at least ten (10) feet from the property line of the property on which the noise source is located, except as provided in Subsections (2) and (3) below.
- (b) Noise from a motor vehicle located within the public right-of-way shall be measured at a distance of at least ten (10) feet from the near side of the traffic lane marking of the lane being monitored and at a height of at least four (4) feet above the immediate surrounding surface.

- (c) Noise from a motor vehicle located other than within the public right-of-way shall be measured at a distance of at least ten (10) feet from such motor vehicle and at a height of at least four (4) feet above the immediate surrounding ground surface.
- (d) Sound level measurements.
 - (1) Noise shall be measured on the a-weighted scale with a calibrated sound level meter of standard design and quality having characteristics established by the American National Standards Institute.
 - (2) In all sound level measurements, consideration shall be given to the effect of the ambient noise level created by the encompassing noise of the environment from all sources at the time and place of such sound level measurement.

Sec. 7-4-40. - Prohibited noise generally.

The making and creating of an unreasonable noise within the City as heard and measured in the manner prescribed in this Article is hereby declared unlawful except as otherwise provided in this Article or when made under and in compliance with a permit issued pursuant to Section 7-4-90 or 7-4-100.

Sec. 7-4-50. - Noise in excess of permissible levels.

It shall be unlawful for any person to operate or permit to be operated a source of noise that creates a sound pressure level that exceeds the limits set forth in Table I in this Section for more than ninety (90) percent of any measurement period except as otherwise provided in this Article or when made under and in compliance with a permit issued pursuant to Section 7-4-90 or 7-4-100. The measurement period shall not be less than ten (10) minutes in any one (1) hour and shall be measured in accordance with Section 7-4-30. When a noise source can be measured from more than one (1) category, the permissible sound level of the more restrictive category shall govern.

Table I

Category	7:00 a.m. to Next 7:00 p.m.	7:00 p.m. to Next 7:00 a.m.
Residential	70 dB(A)	60 dB(A)
Commercial/ Mixed Use	80 dB(A)	75 dB(A)
Light Industrial/ Industrial	90 dB(A)	85 dB(A)

For purposes of this Section, the categories are defined as follows:

- (a) Residential: An area of single, two-family, or multifamily dwellings where businesses may or may not be conducted in the dwellings as a home occupation. The category includes areas where multiple-unit dwellings, apartments, and redevelopment districts are located. The residential category may include areas containing accommodations for transient

occupancy such as motels and hotels and residential areas with limited office development, but it may not include retail shopping facilities. The residential category includes hospitals, nursing homes, and similar institutions.

(b) Commercial/Mixed Use:

- (1) An area where offices, clinics, and the facilities needed to serve them are located;
- (2) An area with local shopping and service establishments located within walking distances of the residents served;
- (3) A shopping center;
- (4) An area containing offices, retail businesses, and commercial enterprises; or
- (5) A mixed-use area with commercial and multiple-unit dwellings.

(c) Light Industrial/Industrial:

- (1) An area containing research laboratories; or
- (2) An area containing industrial activities such as warehousing where the general environment is free from concentrated industrial activity.

Sec. 7-4-60. - Motor vehicles.

It shall be unlawful for any person who operates, drives, or is in possession of a motor vehicle that is stopped, standing, parked, or moving, to make, create, or permit a noise that creates a sound pressure level that exceeds the limits set forth in Table II below.

Table II

Vehicle Class	Maximum Level (DB(A))
Any vehicle with manufacturer's gross vehicle weight rating over 10,000 pounds	88
Motorcycles	80
All other motor vehicles	80

Sec. 7-4-70. - Sound amplification systems.

It shall be unlawful to use or operate a sound amplification system in a fixed or movable position or mounted upon any motor vehicle upon any street, alley, sidewalk, park, or public or private property within the City without a permit issued pursuant to Section 7-4-90 or 7-4-100. Nothing in this Section shall prohibit the use of a sound amplification system within a building or other fully enclosed area sealed off on all sides from the elements, as long as the noise created from such sound amplification system does not exceed the limitations set forth in this Article.

Sec. 7-4-80. - Exemptions.

- (a) Emergencies and Warning Devices. The provisions of this Article shall not apply to:
 - (1) The emission of sound necessary for protection of public safety, including for the purpose of alerting persons to the existence of an emergency;
 - (2) The emission of sound in the performance of emergency work or action.
- (b) Construction Activities. All construction activity is exempt from the maximum permissible levels set forth in Sections 7-4-50 and 7-4-60 provided such activity is conducted in accordance with Section 7-4-110 and any other applicable limitations. Any noise generated by construction activity outside of the limitations set forth in Section 7-4-110 is a violation of this Article unless the City Manager has granted written permission for such activity.
- (c) Service Activities and Places of Assembly. The provisions of this Article shall not apply to:
 - (1) Deliveries to commercial establishments and residences;
 - (2) Street and parking lot sweeping;
 - (3) Garbage, recycling, and green waste collection;
 - (4) Chimes, bells, or other temporary noise associated with places of assembly.
- (d) School and City Events. The provisions of this Article shall not apply to any event or activity organized by a school or the City and held on school or public property.

Sec. 7-4-90. - Noise hardship permits.

- (a) Applications for a permit, for other than vehicular traffic, for relief from the noise levels designated in this Article on the basis of undue hardship may be made to the City Manager. Any permit granted in accordance with this Section shall contain all conditions upon which the permit has been granted and shall specify a reasonable time for which the permit shall be effective.
- (b) A permit fee to cover the reasonable cost of review may be imposed by City Council as set forth in the City's comprehensive fee schedule.
- (c) The City Manager may grant the relief as applied for upon a finding of undue hardship for the applicant in considering the following:
 - (1) That additional time is necessary for the applicant to alter or modify the activity or operation to comply with this Article; or
 - (2) The activity, operation, or noise source will be of temporary duration and cannot be done in a manner that would comply with this Article, and no other reasonable alternative is available to the applicant.
- (d) The City Manager may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or surrounding neighborhood.

Sec. 7-4-100. - Special events noise waiver.

Applications for a special event permit pursuant to Article 7 of Chapter 11 of the Code may include a noise waiver to allow amplified sound or other noise that may violate the provisions of

this Article. Such waiver request shall be made at the time of application in accordance with Section 11-7-40, and if approved as part of the special events permit, shall be valid only at the specified times and dates and only upon the specified conditions noted in such permit. In considering whether to grant the permit, the City Manager shall consider the time of day that the noise is created, the duration of the noise, the loudness of the noise relative to the required limits, whether the noise is temporary or continuous in nature, and the extensiveness of the noise.

Sec. 7-4-110. – Permissible construction times.

- (a) For purposes of this Section, and unless the context clearly indicates otherwise, certain terms and words used herein shall be interpreted as follows:

City holidays means New Year's Day; Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving, Christmas Eve and Christmas Day.

Construction activity means any activity, relating but not limited to, operating or permitting the operation of any tools or equipment in connection with the erection, fabrication, installation, alteration, excavation or demolition of any structure, facility or addition thereto. Construction activity extends to site preparation, earth moving, blasting, drilling, and loading and unloading from construction vehicles.

Construction site means real property, as defined by its boundary lines, over any part of which there is a construction activity, along with the public or private right-of-way adjacent to such property.

Construction vehicle means any car, truck, tractor, trailer or other vehicle or equipment of any type that is used to perform any part of a construction activity or to transport equipment, supplies or workers to a construction site.

Emergency work means work required to protect persons or property from exposure to imminent danger.

Homeowner construction activity means construction activity limited to repair, upgrade, remodel, fence repair and similar maintenance-type work performed by a property owner on their property on which they reside or intend to reside in the City.

- (b) Construction activity, including homeowner construction activity, may be performed subject to the following restrictions:

Day	Permissible Hours
Monday through Friday	7:00 a.m. to 7:00 p.m.
Saturday	8:00 a.m. to 4:00 p.m.
Sundays and City holidays	Construction activity limited to homeowner construction activity only as defined in Section 7-4-110(a) from 8:00 a.m. to 4:00 p.m.

- (c) Exceptions. The following construction activities shall be exempt from the limitations on construction hours set forth in Section 7-4-110(a):
- (1) Emergency work as defined in Section 7-4-110(a);
 - (2) Construction activity granted by written permission by the City Manager or their designee based on evidence of special need or unique or unusual circumstances;
 - (3) Construction activity that occurs solely within a fully enclosed structure; or
 - (4) Construction activity performed by or on behalf of the City.
- (d) Enforcement. If construction activity occurs on a construction site in violation of this Section, the City may, at its discretion, take one (1) or more of the following actions:
- (1) Issue a stop work order;
 - (2) Withhold any certificate of occupancy for any improvement on the construction site;
 - (3) Withhold any required construction or building inspection approvals;
 - (4) Reject any necessary acceptance by the City of construction or improvements;
 - (5) Prosecute the violation in accordance with the City's laws governing nuisances or in accordance with the provisions set forth in Section 1-4-20 of this Code.

Sec. 7-4-120. – Violations and penalty.

- (a) A violation of this Article is hereby declared a nuisance that may be abated in accordance with the provisions of Article 1 of Chapter 7 of this Code.
- (b) Every person convicted of a violation of this Article shall be punished by a fine not to exceed five hundred dollars (\$500.00) for the first offense and not more than one thousand dollars (\$1,000.00) for any subsequent violations, but shall not be subject to imprisonment or jail sentence.

Section 2. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect, in accordance with Section 6.8 of the Charter.

Section 3. No Existing Violation Affected. Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any ordinance hereby repealed or amended by this Ordinance, or any just or legal right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 4. Publication and Effective Date. The City Clerk is hereby directed to cause publication of this Ordinance in accordance with Section 6.5 of the Charter. This Ordinance shall be effective thirty (30) days after final publication on the City's official website and posting at the City Clerk's office pursuant to Section 1-3-40 of the Municipal Code.

INTRODUCED, READ, AND PASSED ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 13th day of July, 2021.

READ, PASSED, AND ADOPTED ON SECOND READING, FOLLOWING A PUBLIC HEARING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 27th day of July, 2021.



DocuSigned by:

Tera Stave Radloff

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Tera Stave Radloff, Mayor

ATTEST:

Approved as to form:

DocuSigned by:

Tobi Basile

358362674C9C43F...

Tobi Basile, CMC, City Clerk

DocuSigned by:

Linda Michow

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Linda C. Michow, City Attorney

CERTIFICATION OF PUBLICATION

I hereby attest and certify that the within and foregoing Ordinance was introduced and read on first reading on July 13, 2021; published by title only in the *Douglas County News-Press*, together with the statement that "[t]he complete text of the ordinance is available through the City Clerk's office and on the City's official website with second reading and public hearing to be held on July 27, 2021"; and finally passed and adopted by the City Council on July 27, 2021, following a duly noticed public hearing and published on the City's official website and posted at the City Clerk's office on July 14, 2021.

ATTEST:

DocuSigned by:

Tobi Basile

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Tobi Basile, CMC, City Clerk