

ORDINANCE NO. 22-04

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES
REPEALING AND REENACTING ARTICLE 6 OF CHAPTER 11 OF THE
MUNICIPAL CODE OF CASTLE PINES TO ADOPT BY REFERENCE THE 2022
EDITION OF THE CASTLE PINES GRADING, EROSION, AND SEDIMENT
CONTROL ("GESC") MANUAL AND ADOPTING PENALTIES FOR VIOLATIONS
THEREOF**

WHEREAS, the City of Castle Pines (the "City") is committed to protecting water resources and regulating future development in an environmentally sound manner;

WHEREAS, in pursuit of these goals, the City adopted the first edition of the GESC Manual on May 20, 2008;

WHEREAS, the City desires to amend the GESC Manual as codified herein;

WHEREAS, Section 6.7 of the Castle Pines Home Rule Charter allows City Council to adopt any code promulgated by any municipality by reference without publishing such code in full, provided that any penalty clause in any such code is set forth in full in the enacting ordinance; and

WHEREAS, the City Council hereby finds that the adoption of the 2022 edition of the GESC Manual is necessary for the protection of health, safety, and welfare of the public and desires to adopt such manual by reference.

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

Section 1. Article 6 of Chapter 11 is hereby repealed in its entirety and re-enacted to read as follows:

ARTICLE 6
**ILLICIT DISCHARGES AND STORMWATER QUALITY
REQUIREMENTS**

Sec. 11-6-10. – Purpose and Intent.

The purpose of this Article is to regulate non-stormwater discharges to the MS4, as defined in the Grading, Erosion, and Sediment Control ("GESC") Manual, as required by federal and state law, and to protect and enhance the water quality of our watercourses, water bodies, and wetlands in a manner consistent with the Clean Water Act. The objectives of this Article include:

- (1) To safeguard water quality within the City by requiring permanent stormwater control measures ("SCMs") for all applicable development sites;

(2) To enforce compliance with current stormwater regulations during construction; and

(3) To provide healthy and diverse natural habitats for flora and fauna and waterways in City-owned spaces and through partnerships with watershed groups, Cooperative for Local Environmental Awareness & Responsibility ("CLEAR", <http://www.onethingisclear.org/>), MHFD, and Cherry Creek Basis Water Quality Association ("CCBWQA").

Sec. 11-6-20. – Applicability of this Article and Exemptions.

This Article shall apply to all property within the City, including any lands annexed to or otherwise incorporated, and shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by this Article, Regulation 72, or Regulation 73.

Sec. 11-6-30. – Adoption of 2022 Edition of Grading, Erosion, and Sediment Control ("GESC") Manual

Pursuant to Section 6.7 of the City Charter, there is hereby adopted by reference the 2022 edition of the GESC Manual as promulgated and published by the City of Castle Pines. Copies of the GESC Manual adopted herein are on file with the office of the City Clerk and may be inspected during regular business hours.

Sec. 11-6-40. – Responsibility for Administration.

The Public Works Director, or his or her designee, shall administer, implement, and enforce the provisions of this Article.

Sec. 11-6-50. – Violation of the GESC Manual, GESC Permit, or Failure to Obtain a GESC Permit.

Failure to comply with any term, condition, limit, deadline, or other provision of the GESC Manual, a GESC Permit, or failure to obtain a GESC Permit when one is required shall constitute a violation of this Code.

Sec. 11-6-60. – Enforcement and Penalties.

(a) Violation. It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. Any person who violates any of the provisions of this Article may be subject to one (1) or more of the enforcement actions outlined in this Section and/or in the current version of the City's GESC Manual.

(b) Enforcement. All authorized personnel under the supervision of the Director shall have the power to conduct inspections, give verbal direction, issue notices of violations and implement other enforcement actions under this Article.

(c) Emergency abatement. In the event the violation of this Article constitutes an immediate danger to public health or public safety, the Director is authorized to enter upon the subject premises, without giving prior notice, and to take any and all measures necessary to abate the violation. Nonemergency entry onto any premises shall be accomplished in accordance with subsection 11-6-90(a) of this Article.

(d) Cost of abatement of the violation:

(1) If the City abates any violation of this Article or the GESC Manual, then, within ten (10) days after abatement of the violation, the owner of the premises will be notified of the cost of abatement, including administrative costs, by personal delivery or by certified mail to the last known address of the owner of the premises as shown in the records of the County Assessor. The notice shall be effective upon the date of mailing or personal delivery. The owner of the premises may file a written protest objecting to the amount of the assessment within ten (10) days of the effective date of the notice.

(2) If no protest is filed, then the charges shall become due and payable on the date set forth in the notice, which date shall be after the expiration of the time in which to file an appeal, and such charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(3) In the event a protest is filed, a hearing on such protest shall be held before the Director within fifteen (15) days from the date of receipt of the written protest. If any charges are upheld upon completion of such hearing, then such charges shall become due and payable ten (10) days after the issuance of the order upon such protest and, if not timely paid, such charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(4) If the amount due is not paid within ten (10) days of the decision of the Director or the expiration of the time in which to file an appeal under this Section, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. The assessment shall be certified by the City Manager or his or her designee to the office of the County Treasurer for collection in the same manner as the collection of general property taxes.

(e) Stop work order. Whenever the Director determines that any activity is occurring which is not in compliance with the requirements of this Article or the GESC Manual, the Director can order the activity stopped upon service of written notice upon the responsible owner or operator. The owner or operator shall immediately stop all activity until authorized in writing by the City to proceed. If the owner or operator cannot be located, the stop work order shall be posted in a conspicuous place upon the premises where the activity is occurring and shall state

the nature of the violation. It shall be unlawful for any owner or operator to fail to comply with a stop work order.

(f) Re-inspection fees. Whenever the Director determines that any activity is occurring that is not in compliance with the requirements of this Article and the City is required to inspect such activity, the person responsible for such non-compliance shall pay a re-inspection fee in accordance with the fee schedule established by resolution of the City Council.

(g) Criminal penalties; enforcement costs. It is unlawful for any person to violate or permit or cause violation of this Article, the GESC Manual or the provisions of the MS4 permit. Violations shall be punishable as provided in Chapter 1, Article 4 of this Code. Each day or part of a day any violation occurs or continues is a separate offense.

(h) Violations deemed a public nuisance. Any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to public health, safety and welfare and is declared and deemed a public nuisance and subject to enforcement and remedies set forth in Article 1, Chapter 7 of this Code. Any court of competent jurisdiction shall enjoin violations of this Article upon proof of such violations.

(i) Remedies not exclusive. Except as expressly provided above, the remedies in this Article are cumulative and the exercise of any one (1) or more remedies shall not prejudice any other remedies that may otherwise be pursued for a violation of this Article. The remedies listed in this Article are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

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.

[Remainder of page left intentionally blank.]

INTRODUCED, READ, AND PASSED ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 26th day of April, 2022.

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 24th day of May, 2022.



DocuSigned by:

Ben Price

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Ben Price, Mayor Pro Tem

ATTEST:

DocuSigned by:

Makenna Shaw

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Makenna Shaw, Deputy City Clerk

Approved as to form:

DocuSigned by:

Linda C Michow

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 April 26, 2022; 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 May 24, 2022”; and finally passed and adopted by the City Council on May 24, 2022, following a duly noticed public hearing and published on the City’s official website and posted at the City Clerk’s office on April 27, 2022.

ATTEST:

DocuSigned by:

Tobi Duffey

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Tobi Duffey, CMC, City Clerk