

ORDINANCE NO. 2019-013

AN ORDINANCE REPEALING AND REENACTING CHAPTER 15.34 AND 15.36 OF THE CASTLE ROCK MUNICIPAL CODE; ADOPTING BY REFERENCE AS PRIMARY CODES THE TEMPORARY EROSION AND SEDIMENT CONTROL MANUAL AND THE STORM DRAINAGE DESIGN AND TECHNICAL CRITERIA MANUAL; PROVIDING PENALTIES FOR VIOLATIONS THEREOF; AND AMENDING CHAPTER 4.03 CONCERNING ILLICIT DISCHARGE AND CONNECTION

WHEREAS, the Town of Castle Rock is a home rule municipal corporation and the Town Council is empowered to adopt such ordinances as are necessary and convenient to protect the health, safety and welfare of the community; and

WHEREAS, the Town Council has determined the necessity of adopting regulations and standards to govern in a safe, fair and equitable manner the construction of buildings and structures in the Town; and

WHEREAS, the codes and standards are established and periodically updated by nationally recognized professional and technical organizations, together with local amendments and serve as the most practical basis for regulating construction;

WHEREAS, it is necessary to amend Chapter 4.03 of the Code concerning the regulation of non-stormwater discharges into the Town's storm drain system to align with the State permitting requirements.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO:

Section 1. Repeal and Reenactment. Chapter 15.34 of the Castle Rock Municipal Code is repealed and reenacted to read as follows:

**Chapter 15.34
Temporary Erosion and Sediment Control (TESC) Manual**

15.34.010 Adoption.

The Town adopts by reference the following code: the *2019 Temporary Erosion and Sediment Control (TESC) Manual*, published June, 2019 by the Castle Rock Water department, Town of Castle Rock, 100 N. Wilcox Street, Castle Rock, Colorado, and all secondary codes referenced therein (collectively, the "TESC Manual"). One copy and an electronic version of the TESC Manual shall be maintained in the office of the Town Clerk and may be inspected during regular business hours, the same being adopted as if set out at length herein.

Note: The TESC Manual replaces what was formerly known and referred to as the Grading, Erosion and Sediment Control (GESC) Manual and Drainage, Erosion and Sediment Control (DESC) Manual.

15.34.020 Applicability.

A. The provisions of the TESC Manual shall apply to all land within the incorporated areas of the Town of Castle Rock or served by the Town, including public lands. These criteria shall apply to all systems and facilities constructed in or on the Town right-of-way, easements dedicated for utilities across public or private property, easements for public use, and to all privately owned and maintained system facilities.

B. Where, in any specific case, there is a conflict between different sections of the TESC Manual or between the TESC Manual and any secondary code referenced therein or other Town regulation, the most restrictive provision shall apply.

15.34.030 Amendments (Reserved).

15.34.040 Violation; penalty.

A. Any person who violates any of the provisions of this Chapter shall be punished by a fine of not more than \$1,000.00 or by imprisonment not to exceed one year, or by both such fine and imprisonment.

B. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation is committed, continued or permitted by such person.

Section 2. Repeal and Reenactment. Chapter 15.36 of the Castle Rock Municipal Code is repealed and reenacted in its entirety to read as follows:

**Chapter 15.36
Storm Drainage Design and Technical Criteria Manual**

15.36.010 - Adoption.

The Town adopts by reference the following code: the *Town of Castle Rock Storm Drainage Design and Technical Criteria Manual*, published June 2019 by the Castle Rock Water department, Town of Castle Rock, 100 N. Wilcox Street, Castle Rock, Colorado 80104, and all secondary codes referenced therein. One original and an electronic copy of the Storm Drainage Design and Technical Criteria Manual shall be maintained on file in the office of the Town Clerk and may be inspected during regular business hours, the same being adopted as if set out at length herein.

15.36.020 - Applicability.

A. The provisions of the Storm Drainage Design and Technical Criteria Manual shall apply to all land within the incorporated areas of the Town of Castle Rock or served by the Town, including public lands. These criteria shall apply to all systems and facilities constructed in or on the Town right-of-way, easements dedicated for utilities across public or private property, easements for public use, and to all privately owned and maintained system facilities.

B. Where, in any specific case, there is a conflict between different sections of the Storm Drainage Design and Technical Criteria Manual or between the Storm Drainage Design and Technical Criteria Manual and any secondary code referenced therein or other Town regulation, the most restrictive provision shall apply.

15.36.030 - Amendments (Reserved).

15.36.040 - Violation; penalty.

A. Any person who violates any of the provisions of this Chapter shall be punished by a fine of not more than \$1,000.00 or by imprisonment not to exceed one year, or by both such fine and imprisonment.

B. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation is committed, continued or permitted by such person.

Section 3. Amendment. Section 4.03.020 of the Castle Rock Municipal Code entitled Definitions, is amended in its entirety to read as follows:

4.03.020 - Definitions.

For the purposes of this Chapter, the following shall mean:

Authorized enforcement agency means employees or designees of the Town of Castle Rock.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters or stormwater conveyance systems. *BMPs* also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CDPS means Colorado Discharge Permit System.

Construction Sites means the premises on which land disturbance activities requiring a Temporary Erosion and Sediment Control (TESC) permit, as provided in the TESC Manual (see Chapter 15.34), take place or is proposed to take place.

Discharge means any additional or introduction of any pollutant stormwater or any other substance whatsoever into the municipal separate storm sewer system.

Division means the Water Quality Control Division of the Colorado Department of Public

Health and Environment.

Hazardous materials means any material, including any substance, waste or combination thereof, which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system, including but not limited to any conveyances that allow any non-stormwater discharge, including sewage, process wastewater and wash water, to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by an authorized enforcement agency; or
2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps or equivalent records and approved by an authorized enforcement agency.

Illicit discharge means any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Subsection 4.03.080.A of this Chapter.

Industrial activity means activities subject to NPDES industrial permits as defined in 40 C.F.R. § 122.26(b)(14).

Municipal Separate Storm Sewer System (MS4) means the system of conveyances, including but not limited to sidewalks, roads with drainage systems, streets, catch basins, curbs, gutters, inlets, pumping facilities, retention and detention basins, reservoirs, ditches, natural or human-made channels, or storm drains owned and/or operated by the Town of Castle Rock and designed or used for collecting or conveying stormwater, which is not used for collecting or conveying sewage.

National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit means a permit issued by the EPA (or by a state under authority delegated pursuant to 33 U.S.C. § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

Non-stormwater discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

Person means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or the owner's agent.

Pollutant means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes and solvents; oil and other automotive fluids; nonhazardous liquid

and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, ordnance and accumulations so that the same may cause or contribute to pollution; floatables; pesticides, herbicides and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises means any building, lot, parcel of land or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

Storm drainage system means publicly owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs and other drainage structures.

Stormwater means any surface flow, runoff and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Pollution Management Plan means a document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems and/or receiving waters to the maximum extent practicable.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Section 4. Amendment. Section 4.03.080 of the Castle Rock Municipal Code entitled Discharge Prohibitions is amended in its entirety to read as follows:

4.03.080 - Discharge prohibitions.

A. Prohibition of illicit discharges. No person shall throw, drain or otherwise discharge, cause or allow others under his or her control to throw, drain or otherwise discharge into the MS4 any pollutants or waters containing pollutants, other than stormwater. The commencement, conduct or continuance of any illicit discharge to the storm drain system is prohibited. The following discharges are excluded from discharge prohibition established by this Chapter:

1. Landscape irrigation
2. Lawn watering
3. Diverted stream flow
4. Irrigation return flow
5. Rising ground waters
6. Uncontaminated groundwater infiltration
7. Uncontaminated pumped groundwater
8. Springs
9. Flows from riparian habitats and wetlands

10. Waterline flushing (in accordance with the Division's *Low Risk Policy Discharge Guidance: Potable Water*)
11. Discharges from potable water sources (in accordance with the Division's *Low Risk Discharge Guidance: Potable Water*)
12. Foundation drains
13. Air conditioning condensation
14. Water from crawl space pumps
15. Footing drains
16. Individual residential car washing
17. De-chlorinated swimming pools discharges (in accordance with the Divisions *Low Risk Discharge Guidance: Swimming Pools*)
18. Water incidental to street sweeping (including associated sidewalks and medians) and not associated with construction
19. Dye testing in accordance with the manufacturer's recommendations
20. Stormwater runoff with incidental pollutants
21. Discharges resulting from firefighting activities
22. Discharges authorized by a CDPS or NPDES permit
23. Agricultural stormwater runoff
24. Discharges that are in accordance with the Divisions *Low Risk Guidance* documents or other Division policies and guidance documents where the Division has stated that it will not pursue permit coverage or enforcement for specified point source discharges.

(Note: Discharges containing groundwater that comes into contact with construction activity is not considered "uncontaminated" due to the potential for sediment content.

B. Prohibition of illicit connections.

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. A person is considered to be in violation of this Chapter if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
4. Improper connections in violation of this Chapter must be disconnected and redirected, if necessary, to an approved onsite wastewater management system, or the sanitary sewer system upon approval of Castle Rock Water.
5. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from Castle Rock Water requiring that such locating be completed. Such notice will specify a reasonable time

period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to Castle Rock Water.

Section 5. Amendment. Section 4.03.120 of the Castle Rock Municipal Code, entitled Best management practices, is amended in its entirety to read as follows:

4.03.120 (Reserved)

Section 6. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect the remaining provisions of this ordinance.

Section 7. Safety Clause. The Town Council finds and declares that this ordinance is promulgated and adopted for the public health, safety and welfare and this ordinance bears a rational relation to the legislative objective sought to be obtained.

APPROVED ON FIRST READING this 21st day of May, 2019 by a vote of 7 for and 0 against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2019, by the Town Council of the Town of Castle Rock by a vote of __ for and __ against.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Robert J. Slentz, Town Attorney

Mark Marlowe, Director of Castle Rock Water