



AGENDA ITEM: 3 .

MEETING DATE: January 24, 2012

STAFF PERSON RESPONSIBLE: Erik Nelson, Stormwater Management Engineer
Community Planning and Sustainable Development – Engineering Division

DESCRIPTION: **First Reading of the Douglas County Stormwater Ordinance Douglas County Stormwater Ordinance Regarding Grading, Erosion and Sediment Control, Drainage, Erosion and Sediment Control, Operations and Maintenance of Stormwater Management Facilities and Illicit Discharge Detection and Elimination.**

SUMMARY: The Douglas County Stormwater Ordinance was developed in order to meet the requirements of Douglas County’s Colorado Discharge Permit System (CDPS) MS4 Phase II Permit and to help protect the health, safety, and general welfare of the citizens and residents of Douglas County.

RECOMMENDED BOARD ACTION: Approval of the First Reading of the Douglas County Stormwater Ordinance.

APPROVED FOR AGENDA: Frederick H. Koch, P.E.
Engineering Services Director

REVIEWED BY THE COUNTY ATTORNEY: Lance Ingalls
County Attorney

REVIEWED FOR FISCAL CONTENT: Andrew Copland
Director of Finance

REVIEWED BY THE COUNTY MANAGER: Douglas J. DeBord
County Manager

ATTACHMENTS: Draft Copy of the Douglas County Stormwater Ordinance.

ORDINANCE NO. O-012-___

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO**

**DOUGLAS COUNTY STORMWATER ORDINANCE REGARDING GRADING,
EROSION AND SEDIMENT CONTROL; DRAINAGE, EROSION AND
SEDIMENT CONTROL; OPERATIONS AND MAINTENANCE OF
STORMWATER MANAGEMENT FACILITIES; AND ILLICIT
DISCHARGE DETECTION AND ELIMINATION**

WHEREAS, section 30-15-401, *et seq.*, C.R.S., enables counties to adopt ordinances for the control or licensing of those matters of purely local concern and to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease; and

WHEREAS, section 30-15-401(11)(a)(I), C.R.S., authorizes counties that have been issued municipal separate storm sewer system (MS4) permits pursuant to Part 5 of Article 8 of Title 25, C.R.S., to adopt a stormwater ordinance to develop, implement, and enforce the stormwater management program required by the MS4 permit; and

WHEREAS, section 30-15-401(11)(a)(II)(A), C.R.S., authorizes counties to provide for and compel the abatement of any condition that causes or contributes to a violation of a MS4 permit or requirement from any property located within the unincorporated portion of a county at such time, upon such notice, and in such manner consistent with the terms of the MS4 permit as the Board of County Commissioners may prescribe by ordinance; and

WHEREAS, Douglas County has been issued an MS4 permit and must comply with all permit requirements; and

WHEREAS, with regard to grading, erosion and sediment control and drainage, erosion and sediment control:

- Section I(B)(4)(a)(2) of the Colorado Discharge Permit System (CDPS) General Permit, Permit No. COR-080000 and CDPS General Permit, Permit No. COR-090000, *Stormwater Discharges Associated with Municipal Separate Storm Sewer Systems* require Douglas County to develop and implement a program to assure adequate design, implementation, and maintenance of best management practices (BMPs) at construction sites within the MS4 to reduce pollutant discharges and protect water quality.
- Section I(B)(4)(a)(2)(i)(A) of the CDPS General Permit, Permit No. COR-080000 and Section I(B)(4)(a)(2)(i)(A) of the CDPS General Permit, Permit No. COR-090000, *Stormwater Discharges Associated with Municipal Separate Storm Sewer Systems* require Douglas County to utilize an ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions and procedures adequate to ensure compliance to the extent allowable under State or local law.

- Section I(B)(4)(a)(2)(iii)(A) of the CDPS General Permit, Permit No. COR-080000 and Section I(B)(4)(a)(2)(iii)(A) of the CDPS General Permit, Permit No. COR-090000, *Stormwater Discharges Associated with Municipal Separate Storm Sewer Systems* require Douglas County to utilize procedures for enforcement of control measures that include documented procedures for response to violations of its program requirements.
- Section I(B)(4)(a)(2)(iii)(A) of the CDPS General Permit, Permit No. COR-080000 and Section I(B)(4)(a)(2)(iii)(A) of the CDPS General Permit, Permit No. COR-090000, *Stormwater Discharges Associated with Municipal Separate Storm Sewer Systems* require Douglas County to utilize procedures that include specific processes and sanctions adequate to minimize the occurrence of, and obtain compliance from, chronic and recalcitrant violators of control measures.
- Section 61.8(11)(a)(ii)(D)(I) of the Colorado Department of Public Health and Environment, Water Quality Control Commission, Regulation 61, *Colorado Discharge Permit System* requires Douglas County to develop, implement, and enforce a program to reduce pollutants in any stormwater runoff to the MS4 from construction activities that result in a land disturbance of greater than or equal to one acre.
- Section 61.8(11)(a)(ii)(D)(II)(a) of the Colorado Department of Public Health and Environment, Water Quality Control Commission, Regulation 61, *Colorado Discharge Permit System* requires Douglas County to utilize an ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance to the extent allowable under State or local law.
- Section 72.7(2)(b)(1) of the Colorado Department of Public Health and Environment, Water Quality Control Commission, Regulation 72, *Cherry Creek Reservoir Control Regulation* requires Douglas County to develop, implement, and enforce a program to reduce pollutants in any stormwater runoff to the MS4 from construction activities that disturb land, including, but not limited to, the following: (i) clearing, grading, or excavation of land; (ii) construction, including expansion or alteration, of a residential, commercial, or industrial site or development; and (iii) construction of public improvements and facilities such as roads, transportation corridors, airports, and schools.
- Section 73.6(2) of the Colorado Department of Public Health and Environment, Water Quality Control Commission, Regulation 73, *Chatfield Reservoir Control Regulation* requires Douglas County to implement nonpoint source control programs for those areas within its jurisdiction with the goal of reducing nonpoint source phosphorus in the Chatfield Watershed.

WHEREAS, with regard to operation and maintenance of stormwater management facilities:

- Section I(B)(5)(a)(2) of the CDPS General Permit, Permit No. COR-080000 and CDPS General Permit, Permit No. COR-090000, *Stormwater Discharges Associated with Municipal Separate Storm Sewer Systems* require Douglas County to use an ordinance or

other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State or local law.

- Section I(B)(5)(a)(4) of the CDPS General Permit, Permit No. COR-080000, and Section I(B)(4)(a)(2)(4) of the CDPS General Permit, Permit No. COR-090000, *Stormwater Discharges Associated with Municipal Separate Storm Sewer Systems* require Douglas County to develop, implement, and document procedures to ensure adequate long-term operation and maintenance of BMPs, including procedures to enforce the requirements for other parties to maintain BMPs when necessary.
- Section I(B)(5)(a)(5) of the CDPS General Permit, Permit No. COR-080000, *Stormwater Discharges Associated with Municipal Separate Storm Sewer Systems* requires Douglas County to develop, implement, and document an enforcement program, which addresses appropriate responses to common noncompliance issues, including those associated with both installation and long-term operation and maintenance of the required control measures.
- Section 61.8(11)(a)(ii)(E)(II)(b) of the Colorado Department of Public Health and Environment, Water Quality Control Commission, Regulation 61, *Colorado Discharge Permit System Regulation* requires Douglas County to use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State or local law.
- Section 61.8(11)(a)(ii)(E)(II)(c) of the Colorado Department of Public Health and Environment, Water Quality Control Commission, Regulation 61, *Colorado Discharge Permit System Regulation* requires Douglas County to ensure adequate long-term operation and maintenance of BMPs.
- Section 72.7.2(c)(6)(iv) of the Colorado Department of Public Health and Environment, Water Quality Control Commission, Regulation 72, *Cherry Creek Reservoir Control Regulation* requires Douglas County to develop a program that requires owners to be responsible for operation and maintenance of BMPs and requires that they provide sufficient legal access by dedicating easements for the sites of the permanent BMPs and access thereto for inspections by the authorized enforcement agent.

WHEREAS, with regard to illicit discharge detection and elimination:

- Section I(B)(3)(a)(2) of the CDPS General Permit, Permit No. COR-080000 and Section I(B)(3)(a)(2) of the CDPS General Permit, Permit No. COR-090000, *Stormwater Discharges Associated with Municipal Separate Storm Sewer Systems* require Douglas County to effectively prohibit, through ordinance or other regulatory mechanism, illicit discharges into the MS4 and implement appropriate enforcement procedures and actions to the extent allowable under State or local law.
- Section 61.8(11)(a)(ii)(C) of the Colorado Department of Public Health and Environment, Water Quality Control Commission, Regulation 61, *Colorado Discharge*

Permit System requires Douglas County to develop, implement, and enforce a program to detect and eliminate illicit discharges into the MS4.

- Section 61.8(11)(a)(ii)(C)(I)(b) of the Colorado Department of Public Health and Environment, Water Quality Control Commission, Regulation 61, *Colorado Discharge Permit System* requires Douglas County to prohibit, through ordinance or other regulatory mechanism, non-stormwater discharges into the MS4 and implement appropriate enforcement procedures and actions to the extent allowable under State or local law.

WHEREAS, Douglas County desires to implement this Ordinance to provide for the health, safety, and general welfare of the citizens and residents of Douglas County; now, therefore,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS, STATE OF COLORADO, as follows:

SECTION 1. TITLE

This ordinance shall be titled *Douglas County Stormwater Ordinance Regarding Grading, Erosion and Sediment Control; Drainage, Erosion and Sediment Control; Operations and Maintenance of Stormwater Management Facilities; and Illicit Discharge Detection and Elimination* (“Ordinance”).

SECTION 2. PURPOSE/INTENT

2.1 Grading, Erosion and Sediment Control and Drainage, Erosion and Sediment Control

The overall objectives of this Ordinance related to grading, erosion and sediment control and drainage, erosion and sediment control are:

- (1) To ensure the adequate design, implementation, and maintenance of BMPs at applicable construction sites; and
- (2) To establish a process to require erosion and sediment controls, as well as sanctions and procedures, adequate to ensure compliance with this Ordinance; and
- (3) To ensure Douglas County is in compliance with its CDPS Permit No. COR-080000 and No. COR-090000, along with the Colorado Department of Public Health and Environment, Water Quality Control Commissioner’s Regulations No. 61 (*Colorado Discharge Permit System Regulations*), 72 (*Cherry Creek Reservoir Control Regulation*), and 73 (*Chatfield Reservoir Control Regulation*).

2.2 Operations and Maintenance

The overall objectives of this Ordinance related to operations and maintenance of stormwater management facilities are:

- (1) To ensure the adequate long-term operation and maintenance of stormwater management facilities; and
- (2) To ensure County access to stormwater management facilities; and
- (3) To establish processes to carry out inspection, surveillance, monitoring, and enforcement necessary to ensure compliance with this Ordinance; and
- (4) To ensure Douglas County is in compliance with its CDPS Permit No. COR-080000 and No. COR-090000, along with the Colorado Department of Public Health and Environment, Water Quality Control Commission's Regulations No. 61 (*Colorado Discharge Permit System Regulations*), 72 (*Cherry Creek Reservoir Control Regulation*), and 73 (*Chatfield Reservoir Control Regulation*).

2.3 Illicit Discharge Detection and Elimination Ordinance

The overall objectives of this Ordinance related to illicit discharge detection and elimination are:

- (1) To regulate and prohibit and eliminate the illicit discharge of non-stormwater discharges on and into the MS4;
- (2) To prohibit illicit connections to the MS4; and
- (3) To establish processes to carry out inspection, surveillance, monitoring, and enforcement necessary to ensure compliance with this Ordinance.
- (4) To ensure Douglas County is in compliance with its CDPS Permit No. COR-080000 and No. COR-090000, along with the Colorado Department of Public Health and Environment, Water Quality Control Commission's Regulations No. 61 (*Colorado Discharge Permit System Regulations*), 72 (*Cherry Creek Reservoir Control Regulation*), and 73 (*Chatfield Reservoir Control Regulation*).

SECTION 3. APPLICABILITY

3.1 Construction Activities

This Ordinance shall apply to all land disturbance activities requiring a GESC and/or DESC permit, as outlined in the GESC manual and/or DESC manual, on any land within unincorporated Douglas County.

3.2 Operations and Maintenance of Stormwater Management Facilities

This Ordinance shall apply to all stormwater management facilities on any developed and undeveloped lands located within unincorporated Douglas County, unless explicitly exempted by the authorized enforcement agent.

3.3 Illicit Discharge Detection and Elimination

This Ordinance shall apply to all non-stormwater discharges and/or connections entering Douglas County's MS4 generated on any developed and undeveloped lands located within unincorporated Douglas County, unless explicitly exempted by an authorized enforcement agent.

SECTION 4. DEFINITIONS

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated:

Authorized Enforcement Agent: The Douglas County Engineering Services Director and/or his/her designated agents.

Best Management Practices (BMPs): 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 non-stormwater directly or indirectly into stormwater, the MS4, receiving waters, or any other 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.

Construction Sites: The premises on which land disturbance activities requiring a GESC permit and/or DESC permit, as outlined in the GESC manual and/or DESC manual, take place or are proposed to take place.

Construction Activities: Any construction activity occurring on the premises, excluding safety related items and activity required to correct a cited violation.

Discharge: Any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the MS4 or into waters of the State.

Drainage, Erosion and Sediment Control (DESC) Manual: The Douglas County drainage, erosion and sediment control manual, as amended.

Drainage, Erosion and Sediment Control (DESC) Permit: A permit obtained from Douglas County Building Division prior to commencement of land disturbing activities as required by the Douglas County DESC manual.

Emergency Fire Fighting Discharge: A discharge of non-stormwater to the MS4 or waters of the State resulting from the act of extinguishing destructive fires.

Grading, Erosion and Sediment Control (GESC) Manual: The Douglas County grading, erosion and sediment control manual adopted by the Douglas County Board of County Commissioners on March 30, 2004, as amended.

Grading, Erosion and Sediment Control (GESC) Permit: A permit obtained from Douglas County Engineering Services prior to commencement of land disturbing activities as required by the Douglas County GESC manual.

Hazardous Materials: 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 Discharge: Any prohibited direct or indirect non-stormwater discharge into the MS4.

Illicit Connections: (1) Any drain or conveyance, whether on the surface or subsurface, which allows or may allow an illicit discharge to enter the MS4, including, but not limited to, any conveyances which allow any non-stormwater discharge to enter the MS4 and any connections to the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agent; or, (2) any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records or approved by the authorized enforcement agent.

Municipal Separate Storm Sewer System (MS4): 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 Douglas County and designed or used for collecting or conveying stormwater and which is not used for collecting or conveying sewage.

Non-Stormwater Discharge: Any discharge to the MS4 that is not composed entirely of stormwater, except as specifically allowed herein. Non-stormwater discharges may include, but are not limited to: soil sediments from erosion of soils at construction sites; excessive nutrients such as nitrates and phosphates; paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects and accumulations that may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous materials 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.

Non-stormwater discharges specifically do not include water line flushing or other potable water sources; landscape irrigation or lawn watering; diverted stream flows; rising groundwater; groundwater infiltration to storm drainages; uncontaminated pumped groundwater; foundation or footing drains (not including active groundwater dewatering systems); crawl space pumps; air conditioning condensation; springs; water from non-commercial washing of vehicles; natural riparian habitat or wet-land flows; dechlorinated water (less than one PPM chlorine) from swimming pools; discharges from emergency fire fighting activities; dye testing providing that verbal notification is given to the authorized enforcement agent prior to the time of the test; and any non-stormwater discharge permitted under a NPDES or CDPS permit, waiver or waste

discharge order issued to the discharger and administered under the authority of the Environmental Protection Agency or the Colorado Department of Public Health and Environment, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

Person: Any individual, association, organization, partnership, firm, corporation, business, or other entity recognized by law, whether public or private, corporate or politic.

Pollutant: Pollutants include, but are not limited to: dredged spoil; solid waste; incinerator residue; sewage; garbage; sewage sludge; filter backwash; munitions; chemical wastes; biological materials; toxic materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; and industrial, municipal, recreational, and agricultural waste discharged into waters of the State or into the MS4.

Pollute/Pollution: Alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water of the State that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

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

Stormwater: Any surface flow, runoff, or drainage from any form of natural precipitation, including snowmelt.

Stormwater Management Facilities: A facility that includes, but is not limited to, ponds, pipes, channels, and other facilities that store, treat, or convey stormwater runoff.

Watercourse: A channel, natural depression, slough, artificial channel, gulch, arroyo, stream, creek, pond, reservoir, or lake, including major drainageways, in which stormwater and flood water flows either regularly or infrequently.

Waters of the State: Any and all surface and subsurface waters which are contained in or flow in or through the State of Colorado, but does not include waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use and treatment until use and treatment have been completed.

SECTION 5. VIOLATIONS

5.1 Grading, Erosion and Sediment Control and Drainage, Erosion and Sediment Control

It shall be unlawful for any person to cause or allow any land disturbing activity to be conducted in a manner that violates the MS4 permit, GESC manual and/or DESC manual, both of which are incorporated herein in their entirety by this reference.

5.2 Operations and Maintenance of Stormwater Management Facilities

It shall be unlawful for any person to cause or allow any stormwater management facilities to be operated and/or maintained in a manner that violates the MS4 permit and/or the *Douglas County Storm Drainage Design and Technical Criteria Manual*, as amended, which is incorporated herein in its entirety by this reference.

(a) Stormwater management facilities shall be operated and maintained at all times so that their water quantity control functions, water quality control functions, and maintenance access are not impaired, which shall include keeping all stormwater management facilities and access areas free of accumulated debris, trash, and sediment. Proper water quantity and water quality control functions are defined within the Douglas County accepted drainage report and associated construction drawings, which are required by the *Douglas County Storm Drainage Design and Technical Criteria Manual*, as amended.

(b) Operation and maintenance of all stormwater management facilities shall at all times be conducted in compliance with the *Douglas County Storm Drainage Design and Technical Criteria Manual*, as amended.

(c) Any modification to a specific, previously approved stormwater management facility, for operation and maintenance, shall require re-submittal of premises-specific plans to the County for approval prior to modification.

5.3 Illicit Discharge Detection and Elimination

(a) Prohibition of Illicit Discharges

(i) It shall be unlawful for any person to discharge or cause to be discharged non-stormwater into the MS4 or waters of the State.

(ii) It shall be unlawful for any person to dump or deposit any non-stormwater onto public or private premises when such dumping or deposit may result in an illicit discharge to the MS4.

(b) Prohibition of Illicit Connections

(i) It shall be unlawful for any person to construct, use, maintain, or continue the existence of illicit connections to the MS4.

(ii) It shall be unlawful to connect a line conveying sewage or other non-stormwater discharges to the MS4 or allow such a connection to continue.

(iii) 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.

(c) Implementation of BMPs

(i) Persons shall provide, at their own expense, and it shall be unlawful to fail to provide, reasonable protection from release of non-stormwater discharges on or into the MS4 or into watercourses through the use of Douglas County approved structural and non-structural BMPs.

(ii) The authorized enforcement agent may require any person owning, occupying, or otherwise responsible for a premises, which is, or may be, the source of a non-stormwater discharge to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further release of non-stormwater discharges to the MS4, and it shall be unlawful to fail to provide such BMPs.

(d) Notification of Spills

Notwithstanding other requirements of law, as soon as any person has information of any known or suspected release of a non-stormwater discharge into stormwater, or into or on the MS4, or into waters of the State, said person shall take all necessary steps to ensure the containment and cleanup of such release.

In the event of a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-stormwater discharges, said person shall notify the authorized enforcement agent in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the authorized enforcement agent within three (3) business days of the phone notice.

If the discharge of hazardous materials or non-stormwater discharges emanates from a commercial or industrial establishment, an on-site written record of the discharge and the actions taken to prevent its recurrence shall be retained for at least three (3) years.

It shall be unlawful for any person not to provide the appropriate notice or recordkeeping as outlined herein.

SECTION 6. EASEMENTS FOR STORMWATER MANAGEMENT FACILITIES

In order to access the stormwater management facilities to ensure adequate operation and maintenance, appropriate easements shall be granted to Douglas County. For subdivision plats, the easements shall be recorded prior to the issuance of any construction permits. For site improvement plans, the easements shall be recorded prior to the release of a certificate of occupancy. For 35-acre developments and all other projects, the easements shall be recorded prior to the issuance of a GESC permit. All easements shall be granted by a person authorized to do so for the right to enter the premises, at the discretion of Douglas County, for the purpose of inspecting, maintaining, modifying, or replacing stormwater management facilities in accordance with the *Douglas County Storm Drainage Design and Technical Criteria Manual*, as amended. The easements shall be in a form approved by Douglas County.

Existing stormwater management facilities that do not have the required width may be required to be increased by the authorized enforcement agent to the minimum extent necessary when the authorized enforcement agent determines there are special circumstances applicable to the premises or the intended use, for which a wider easement is necessary to allow adequate maintenance of the proposed stormwater management facility; or

The required width may be allowed to be reduced by the authorized enforcement agent, upon receipt of a written variance request, when the authorized enforcement agent determines there are special circumstances applicable to the premises or the intended use, including but not limited to, shape, topography, location, or surroundings, which do not generally occur on other sites and which render it infeasible to develop the premises for uses allowed under the Douglas County Zoning Resolution, or which impose undue hardship, provided that the authorized enforcement agent also determines the proposed stormwater management facility can be adequately maintained with the reduced easement width.

Prior to accepting the easement, the authorized enforcement agent may require the removal of all encumbrances which are inconsistent with the purposes for which the easement is being granted. The easement shall be signed by an authorized person and recorded in the office of the Douglas County Clerk & Recorder.

SECTION 7. RESPONSIBILITY FOR ADMINISTRATION AND ENFORCEMENT

The authorized enforcement agent and/or the Douglas County Sheriff's Office shall administer, implement, and enforce the provisions of this Ordinance.

SECTION 8. ENFORCEMENT

8.1 Notice of Violation

(a) Except where emergency suspension is necessary pursuant to Section 8.2 of this Ordinance, the authorized enforcement agent shall provide written notice to persons violating this Ordinance. Such notice shall describe the violation and the level of such violation if it is related to the GESC manual and/or DESC manual, and may require, without limitation:

- (i) Corrective actions necessary to remediate violations of the GESC manual and/or DESC manual; and/or
- (ii) Corrective actions necessary to ensure proper functioning of the stormwater management facility or easement; and/or
- (iii) For illicit discharges, that monitoring, analyses, and reporting be performed; that illicit connections and illicit discharges be eliminated; that non-stormwater pollution or contamination hazards be contained, abated, and/or remediated and any affected property be restored; and/or that source control or treatment BMPs be implemented.

(b) If abatement of a violation and/or restoration of affected premises is/are required, the notice shall set forth a deadline within which such abatement, remediation, and/or restoration must be completed.

(c) The notice of violation shall be served by hand-delivery or by certified mail, return receipt requested. Any such notice shall be deemed valid if it is mailed to the address of the owner of the premises on file with the Douglas County Assessor's Office for the receipt of tax notices or mailed as otherwise set forth herein. If a person violates this Ordinance and such violation is not associated with a specific premise, then: if the violation is committed by a person that is a legal entity, notice to such entity shall be deemed valid if sent to the registered agent's address on file with the Secretary of State; or, if the violation is committed by a person other than a legal entity, notice shall be deemed valid if sent to such person at the person's residence, if known, or to any address of such person reported by such person in any political subdivision or State official records, kept for any purpose whatsoever. If a person refuses certified mail, notice shall be deemed valid if sent by prepaid first class U.S. mail, and such notice shall be deemed effective upon receipt or three (3) days after the date of mailing, whichever is earlier.

(d) If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, the authorized enforcement agent may pursue civil or criminal enforcement pursuant to Sections 8.3 or 8.4 of this Ordinance.

8.2 Emergency Suspension of Non-stormwater Discharges

(a) The authorized enforcement agent may, without prior notice, order the suspension of construction activities, discharge of non-stormwater into the MS4, and any other activity when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4, or to the waters of the State.

(b) If the person discharging non-stormwater fails to comply with such suspension order, the authorized enforcement agent may take such actions as deemed necessary to prevent or minimize damage to the MS4 or waters of the State. The authorized enforcement agent shall collect all costs incurred in taking such additional action pursuant to the procedures set out in Sections 8.3 and 8.4.

8.3 Civil Enforcement Action

(a) The authorized enforcement agent may apply to the Douglas County Court or Douglas County District Court for an administrative entry and seizure warrant permitting the authorized enforcement agent and/or any additional persons deemed necessary and appropriate to abate the violation to enter the premises and take any and all actions necessary to abate the conditions violating this Ordinance and for restoration of the affected premises.

(b) Such application to the court shall include a copy of this Ordinance, a sworn or affirmed affidavit stating the factual basis for such warrant, evidence that notice of violation has been provided or that reasonable efforts to serve the notice of violation have been made to no avail and such person has failed to abate the condition within the prescribed period, and a general

description of the location of the premises that is the subject of the warrant and a list of corrective actions needed.

(c) Within ten (10) days after the date of issuance of an administrative entry and seizure warrant, the authorized enforcement agent shall execute the warrant in accordance with directions by the issuing court, deliver or mail a copy of such warrant to the person violating this Ordinance by both certified mail return-receipt requested and by regular mail, and submit proof of the execution of such warrant to the court, including a written inventory of any property impounded by the authorized enforcement agent.

(d) The authorized enforcement agent shall submit to the person violating this Ordinance an invoice for the costs of the abatement, plus an additional five percent (5%) for inspection and other incidental costs in connection therewith. Such costs shall be paid within ten (10) days of the date of the invoice. If not paid, the costs shall be a lien against the premises that were the subject of the abatement until paid and shall have priority based upon the lien's date of recording.

(e) The Douglas County Clerk and Recorder may certify the amount of the lien to the Douglas County Treasurer who shall collect the amount of the lien, together with a ten percent (10%) penalty for the cost of collection, in the same manner as other taxes are collected. The laws of Colorado for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of liens pursuant to this Ordinance.

(f) Nothing in this Section shall be construed to limit the authorized enforcement agent's institution of actions for injunction, mandamus, abatement, or other appropriate actions to prevent, enjoin, abate, or remove a violation of this Ordinance or to enforce this Ordinance.

Section 8.4 Criminal Prosecution

(a) Any person who violates any provision of this Ordinance commits, pursuant to section 30-15-402(1), C.R.S., a class 2 petty offense, and upon conviction thereof, shall be punished by a fine of \$250 for the first offense, \$500 for the second repeat offense, and \$1,000 for the third and subsequent repeat offenses. Each day during which such violation of this Ordinance continues shall be deemed a separate offense.

(b) The penalty assessment procedure set out in section 16-2-201, C.R.S., shall be followed in enforcing this Ordinance pursuant to this Section.

(c) In addition to the penalties prescribed in these Sections 8.3 and 8.4, persons convicted of a violation of this Ordinance shall be subject to a surcharge of ten dollars (\$10) that shall be paid to the clerk of the court by the defendant as provided by section 30-15-402(2)(a), C.R.S. and any other fines or surcharges deemed appropriate by the court.

(d) This Section 8.4 shall be enforced by the Douglas County Sheriff's Office.

Section 8.5 Remedies Not Exclusive

The remedies listed in this Ordinance 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 agent to seek cumulative remedies. This shall include, but not be limited to, remedies available to the Douglas County Sheriff's Office, the Colorado Department of Public Health and Environment, and the U.S. Environmental Protection Agency.

SECTION 9. VIOLATIONS DEEMED A PUBLIC NUISANCE

Any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

SECTION 10. DISPOSITION OF FINES

All fines and forfeitures collected by the court for violation of this Ordinance shall be paid to the Douglas County Treasurer within thirty (30) days of receipt and shall be deposited into the general fund of Douglas County.

SECTION 11. EMERGENCY

The Board of County Commissioners hereby finds, determines, and declares that this Ordinance is necessary for the immediate preservation and protection of the health, safety, and welfare of the citizens of Douglas County, Colorado.

SECTION 12. SEVERABILITY

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 13. RECITALS

All recitals included in this Ordinance are expressly incorporated herein.

INTRODUCED, READ AND ADOPTED ON FIRST READING ON this ____ day of _____, 2012 and ordered published in full in the *Douglas County News-Press* in Castle Rock, Douglas County, Colorado.

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO**

BY: _____
Jack A. Hilbert, Chair

ATTEST:

Melissa Pelletier, Deputy Clerk to the Board

ADOPTED ON SECOND AND FINAL READING ON _____, 2012, and ordered published by reference to title only in the *Douglas County News-Press*.

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO**

BY: _____
Jack A. Hilbert, Chair

ATTEST:

Melissa Pelletier, Deputy Clerk to the Board

CERTIFICATE

I hereby certify that the foregoing Ordinance No. O-012-___ was introduced, read, and adopted on first reading at the regulation meeting of the Board of County Commissioners of the County of Douglas on _____, and the same was published in full in the *Douglas County News-Press*, a newspaper of general circulation published in Douglas County, on _____, and thereafter was adopted, as amended, on second and final reading at a regular public hearing of the Board of County Commissioners of the County of Douglas on _____. Said Ordinance was published in its entirety on _____. Said Ordinance went into effect on _____.

Melissa Pelletier, Deputy Clerk

State of Colorado)
)ss.
County of Douglas)

Subscribed and sworn to before me this ____ day of _____, 2012, by Melissa Pelletier, Deputy Clerk to the Board.

Notary Public
My Commission expires:

CERTIFICATION

I, Melissa Pelletier, Douglas County Deputy Clerk, do hereby certify that the foregoing Ordinance No. O-012-___, entitled: *Douglas County Stormwater Ordinance Regarding Grading, Erosion and Sediment Control; Drainage, Erosion and Sediment Control; Operations and Maintenance Of Stormwater Management Facilities; and Illicit Discharge Detection and Elimination* is a true, correct and complete copy from the records in my office that said Ordinance was duly adopted by the Board of County Commissioners of Douglas County and is in full force and effect.

Melissa Pelletier, Deputy Clerk

State of Colorado)
)ss.
County of Douglas)

Subscribed and sworn to before me this ____ day of _____, 2012, by Melissa Pelletier, Deputy Clerk to the Board.

Notary Public
My Commission expires: