



## Legislation Details (With Text)

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|----------------------|--|----------------------|---|-----------------------|-------------------|
| <b>File #:</b>       | CPC CA 20-00150  | <b>Version:</b>      | 2 | <b>Name:</b>          | Repealing Part 15 |
| <b>Type:</b>         | Ordinance  | <b>Status:</b>       |   | <b>Mayor's Office</b> |                   |
| <b>File created:</b> | 11/3/2020  | <b>In control:</b>   |   | <b>City Council</b>   |                   |
| <b>On agenda:</b>    | 1/26/2021  | <b>Final action:</b> |   | <b>1/26/2021</b>      |                   |
| <b>Title:</b>        | Ordinance No. 21-05 repealing and reordaining Part 15 (Grading Plans and Erosion and Stormwater Quality Control Plans) of Article 7 (Subdivision Regulations) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to grading and erosion control and stormwater quality standards and providing penalties and remedies for the violation thereof. |                      |   |                       |                   |
|                      | Presenter:<br>Erin Powers, Senior Technical Engineer<br>Richard Mulledy, Stormwater Enterprise Manager   |                      |   |                       |                   |

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. SW-GEC-7-7-15-ORD-2020-11-10-clean, 2. Signed Ordinance 21-05

| Date       | Ver. | Action By            | Action                    | Result |
|------------|------|----------------------|---------------------------|--------|
| 1/26/2021  | 1    | City Council         | finally passed            | Pass   |
| 1/12/2021  | 1    | City Council         | approved on first reading | Pass   |
| 12/7/2020  | 1    | Council Work Session | referred                  |        |
| 11/19/2020 | 1    | Planning Commission  | recommended for approval  | Pass   |

Ordinance No. 21-05 repealing and reordaining Part 15 (Grading Plans and Erosion and Stormwater Quality Control Plans) of Article 7 (Subdivision Regulations) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to grading and erosion control and stormwater quality standards and providing penalties and remedies for the violation thereof.

### Presenter:

Erin Powers, Senior Technical Engineer  
Richard Mulledy, Stormwater Enterprise Manager

### Summary:

The proposed ordinance amends City Code Chapter 7 related to grading, erosion and stormwater quality control requirements.

The Colorado Springs Stormwater Enterprise is recommending the adoption of revisions to Code to allow for continued compliance with the City's Municipal Separate Storm Sewer System Permit (MS4 Permit), and to alleviate future conflicts between City Code and State criteria. The full language for the proposed ordinances is attached.

This item is addressing City Council requested Ordinance changes to occupancy and issued permit densities.

**Background:**

The MS4 Permit is required under the United States Clean Water Act, and is administered by the State on behalf of the United States Environmental Protection Agency. The permit governs the City's operation of stormwater infrastructure, aiming to control and limit pollutants to the City's drainage system and downstream waterways.

In response to ongoing litigation related to MS4 Permit compliance, the Stormwater Enterprise has worked with the State to develop a new Stormwater Construction Manual. This manual contains requirements related to grading and erosion control. Requirements related to stormwater quality remain in the Drainage Criteria Manual. The Stormwater Construction Manual has been approved by the State, and it is a State requirement to implement the new manual in the City of Colorado Springs to meet MS4 Permit requirements.

The proposed changes to code will update City Code to align with the new criteria. Specifically, the proposed language will accomplish the following:

1. Update grading, erosion, and stormwater quality control requirements to align with new State-approved criteria;
2. Amend old language to match updated State terminology and industry terms; and
3. Revise Hillside Overlay and Streamside Overlay sections to match new grading and erosion control requirements.

**General Changes**

References to former grading, erosion and stormwater quality control criteria were removed and replaced with references to the updated criteria. Language that duplicated or conflicted with other areas of code was removed to avoid repetition and potential future conflicts. References to City Engineering and the City Engineer were updated to refer to the Stormwater Enterprise and the Stormwater Enterprise Manager where appropriate. This was changed to clarify the decision-making authority for specific sections of Code. References to Best Management Practices (BMPs) were changed to reference control measures, construction control measures, or permanent control measures as appropriate to match updated language in criteria.

Summary of the proposed change for this ordinance is included below.

**Ordinance\_GECP\_SQCP**

**Part 7.7.15: Grading and Erosion Control Permitting and Permanent Control Measures**

The title of this part was updated to reflect the new code language and criteria requirements.

**Section 7.7.1502: Definitions**

Definitions for Associate Grading and Erosion Control (GEC) Permit, Construction Activity, Construction Control Measures, Control Measures, CSWMP, GEC Permit, GEC Plan, Permanent Control Measures, and SE Manager were added. These definitions match those contained in the Stormwater Construction Manual. The definitions for Best Management Practices (BMPs) and Manual were removed because they are no longer referenced in Part 7.7.15.

#### Section 7.7.1503: Grading and Erosion Control Permit

The title of this section was updated to reflect the new section contents. Activities requiring a Grading and Erosion Control Permit were updated to match the Stormwater Construction Manual and the City's MS4 Permit requirements. Additionally, language discussing specific requirements for grading plans was removed and replaced by a reference to permitting requirements contained in the Stormwater Construction Manual.

#### Section 7.7.1504: Plan Requirements

The title of this section was updated to reflect the new section contents. The section now discusses requirements for the Grading and Erosion Control Plan, City Stormwater Management Plan, and Permanent Control Measure Plan.

#### Section 7.7.1505: Basic Grading, Erosion and Stormwater Quality Requirements and General Prohibitions

Language in this section was updated to reference the Stormwater Construction Manual and Drainage Criteria Manual, rather than duplicating requirements found in criteria.

#### Section 7.7.1506: Nuisance to the Public Health, Safety and Welfare Declared

Language in this section was updated to reference new terms in criteria.

#### Section 7.7.1507: Inspections

Language containing criteria for inspections was removed and replaced with a reference to the Stormwater Construction Manual to avoid conflicts.

#### Section 7.7.1509: Enforcement Measures and Remedies

Language in this section was updated to reference new terms added to the definitions subsection in this part. A specific reference to the Stormwater Construction Manual was added.

#### Section 7.7.1510: Notice and Order to Correct

The requirement for statements advising of a person's appeal rights was revised to match changes made to the appeal process (see Section 7.7.1512: Appeal Procedures)

#### Section 7.7.1512: Appeal Procedures

The title of this section was changed to Appeal Procedures to better reflect the updated section contents. The appeal procedures for a grading notice and order were revised such that appeals will now be heard by the Public Works Director. This updated process will ensure that compliance with the City's MS4 Permit is maintained. The City's MS4 Permit does not allow for an appeal authority, which could deviate from MS4 Permit requirements.

#### Section 7.7.1514: No Stay of Order During Appeals

The language in this section was updated to reference the Public Works Director to match changes to Section 7.7.1512: Appeal Procedures.

#### Section 7.7.1515: Enforcement of Order and Compliance with the City Code

Language was added to this section to align with the Stormwater Construction Manual. A note regarding compliance with the Colorado Water Quality Control Act and the Clean Water Act was added to this section.

**Section 7.7.1516: Accounting of Expenses/Billing of Property Owner**

This section was updated to no longer refer to the Hillside Overlay Zone, as the requirements for hillside overlay and grading are no longer formally linked.

**Section 7.7.1525: Repayment of Correction Fund**

The language pertaining to credit for services performed by the Stormwater Enterprise was changed to direct the credit to the Stormwater Enterprise.

**Section 7.7.1526: Responsibility and Liability**

The language in this section was updated to match new terms added to the definitions subsection in this part.

**Section 7.7.1527: Inspections, Maintenance, and Enforcement of Permanent Control Measures**

The title of this section was changed to reference Permanent Control Measures rather than Stormwater Best Management Practices. The timing for release of erosion control and permanent control measure financial assurances was modified to match updated criteria and intended requirements.

These changes will also be incorporated into the ongoing RetoolCOS effort to revise Chapter 7 of City Code.

**Previous Council Action:**

City Council approved changes to the Drainage Criteria Manual on November 24, 2020. The proposed code change is mirrored after recent changes to stormwater criteria.

**Financial Implications:**

N/A

**City Council Appointed Board/Commission/Committee Recommendation:**

At the November 19, 2020 City Planning Commission meeting, Staff presented the ordinance for discussion and recommendation to City Council. City Planning Commission voted to recommend the ordinance for approval to City Council.

**Stakeholder Process:**

The development of the Stormwater Construction Manual involved a full stakeholder process with review and comment from industry stakeholders. The amendments involved in this code change have also been discussed with industry stakeholders, and there were no public comments at the Planning Commission meeting.

**Alternatives:**

Approve the proposed draft ordinance as presented.

Approve the draft ordinance with changes deemed necessary.

Disapprove the draft ordinance.

**Proposed Motion:**

Adopt an ordinance repealing and reordaining Part 15 (Grading Plans and Erosion and Stormwater Quality Control Plans) of Article 7 (Subdivision Regulations) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to grading and erosion control and stormwater quality standards and providing penalties and remedies for the violation thereof.

An ordinance repealing and reordaining Part 15 (Grading Plans and Erosion and Stormwater Quality Control Plans) of Article 7 (Subdivision Regulations) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to grading and erosion control and stormwater quality standards and providing penalties and remedies for the violation thereof.