

## **EXPLANATORY COVER SHEET**

COUNCILMAN'S BILL NO. CB-1597

SPONSOR: COUNCIL MEMBER MARTIN

TITLE: A BILL FOR AN ORDINANCE REPEALING AND REENACTING ARTICLE 17 OF CHAPTER 16 OF THE NORTHGLENN MUNICIPAL CODE ADDRESSING STORMWATER QUALITY

PURPOSE: THE CITY PREVIOUSLY ADOPTED AN ORDINANCE ADDRESSING SOIL EROSION AND SEDIMENT CONTROL IN 1996. HOWEVER, IT DOES NOT ADEQUATELY ADDRESS THE CURRENT FEDERAL AND STATE REQUIREMENTS FOR THE PROTECTION OF STORMWATER QUALITY TO MEET THE REQUIREMENTS OF THE FEDERAL CLEAN WATER ACT. THE CITY IS REQUIRED UNDER FEDERAL AND STATE LAW TO UPDATE ITS ORDINANCES TO MATCH OR EXCEED THE FEDERAL AND STATE REQUIREMENTS FOR THE PROTECTION OF STORMWATER QUALITY IN THE LOCAL WATERWAYS, CREEKS AND STREAMS.

ADDITIONAL EXPLANATORY REMARKS:

THE REVISIONS TO THIS ORDINANCE ALLOW THE CITY TO BE CONSISTENT WITH STATE-WIDE MUNICIPALITIES IN THE PROTECTION OF STORMWATER QUALITY BY PROVIDING CONSISTENT LANGUAGE, DEFINITIONS AND RESTRICTIONS TO THE REGULATED PUBLIC. THESE REVISIONS ALSO PROVIDE MORE CONSISTENCY BETWEEN OTHER SECTIONS OF THE CITY CODE THAT HAVE A NEXUS WITH THE STORMWATER REGULATIONS.

SPONSORED BY: COUNCIL MEMBER MARTIN

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1597  
Series of 2006

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A BILL FOR AN ORDINANCE REPEALING AND REENACTING ARTICLE 17 OF CHAPTER 16 OF THE NORTHGLENN MUNICIPAL CODE ADDRESSING STORMWATER QUALITY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Article 17 of Chapter 16 of the Northglenn Municipal Code is hereby repealed and reenacted to read as follows

CHAPTER 16  
PUBLIC PROPERTY, UTILITIES AND SERVICES

ARTICLE 17. STORMWATER QUALITY

Section 16-17-1. Purposes.

(a) The purpose of this Article is to establish procedures to maintain and enhance the quality of water discharged into the City's storm drainage system by:

- (1) Making it unlawful to discharge any substance other than naturally occurring stormwater into the City's storm sewer system.
- (2) Requiring measures which prevent erosion and the loss of sediment and other pollutants from disturbed areas.
- (3) Requiring protection of soil surfaces before, during and after construction.
- (4) Establishing stormwater quality design requirements for the development and redevelopment of property.
- (5) Promoting the use of temporary and permanent best management practices to achieve a reduction in the pollutant loading of stormwater runoff.
- (6) Requiring proper provisions for water disposal and the protection of soil surfaces during and after construction, in order to promote the safety, public health, convenience and general welfare of the community.

(b) It shall be unlawful and constitutes a public nuisance for any person to discharge or cause to be discharged or spilled any substance other than naturally occurring stormwater runoff into the City's storm drainage system, except for: return flows from irrigation (*within the limits set by the Waste of Water Ordinance*), water from building foundation drainage, runoff from noncommercial car washing, dechlorinated water from private swimming pools, water from fire hydrants including water used for firefighting, air conditioner condensation, and other waters

determined by the City to be non-contaminated and acceptable for return to the storm drainage system and stream system. Nothing contained herein shall be construed to relieve any person discharging or causing to be discharged or allowing to be discharged water into the storm drainage system from any liability for damage caused by the volume or quality of water thus discharged. For purposes of this article the term "storm drainage system" shall be defined as provided in Section 16-17-2 and the term "stormwater runoff" shall be defined to include any flow of water resulting from rain or other forms of natural precipitation.

(c) Any person who undertakes or is responsible for an undertaking which involves earth disturbance is ultimately responsible to see that soil erosion and sedimentation as well as changed water flow characteristics resulting therefrom are controlled to the extent necessary to avoid damage to property and to avoid pollution of receiving waters. Nothing in this Ordinance shall be deemed or construed as lessening or modifying the ultimate responsibility of such persons. Nor do the permit requirements of this Ordinance imply the assumption of any liability therefore on the part of the City. The standards, criteria and requirements of this Ordinance are to be seen as minimum standards which are not necessarily adequate to meet the highly variable conditions which must be covered by effective control measures. Compliance with the requirements of this Ordinance may not, therefore, of itself discharge such person's responsibility to provide effective control measures.

Section 16-17-2. Definitions. The following definitions shall apply in the interpretation and enforcement of this Article.

(a) **"Accelerated soil erosion"**– The increased migration and movement of soils on all land surfaces that occur as a result of man's activities.

(b) **"Applicant"** – Any individual, partnership, corporation, non-profit agency, public agency or the assigns of the above, requesting permission to engage in land disturbance.

(c) **"Best Management Practices (BMPs)"** – The practices and activities designed to prevent or reduce the pollution of waters and minimize the impacts of development by nonstructural and structural devices. This includes prevention activities, treatment requirements, operating procedures, construction methods, maintenance practices and educational programs. Structural BMPs can be implemented before, during and after pollution producing activity areas to reduce or eliminate the introduction of pollutants into receiving waters.

(d) **"Certificate of Completion"** – A signed written statement by a licensed professional engineer, registered in the State of Colorado, working for the applicant stating that all construction, all earth disturbance work, and all permanent soil erosion control measures were inspected by the engineer and were installed in strict conformance with the approved plans and specifications.

(e) **"City Engineer"** – Means and includes the City Engineer of the City of Northglenn, an employee within the City of Northglenn appointed by the City Manager as City Engineer, or as Assistant City Engineer, and any employee of the City of Northglenn to whom the authority provided by this article shall be delegated by the City Manager. Any of the above must be a certified professional engineer in the State of Colorado.

(f) **“City of Northglenn Construction and Excavation Standards Supplement”** – Means the document entitled City of Northglenn Construction and Excavation Standards Supplement for Work in the Public Rights-of-Way, as adopted by resolution of the City Council and amended from time to time

(g) **“Construction activities”** – Clearing, grading, excavation, landscape, remodel, expansion and other earth disturbance activities. Construction does not include routine maintenance performed by public agencies, or their agents to maintain original line grade, hydraulic capacity or original purpose of the facility or preventative fire protection activities.

(h) **“Developer”** – Means the individual, partnership, corporation, or other legal entity improving a parcel of land within the City and being legally responsible to the City for the construction of infrastructure within a subdivision or as a condition of a building permit, right-of-way permit, or grading permit.

(i) **“Earth disturbance”** – A man-made change in the natural cover or topography of land, or changes to existing development for the purpose of redevelopment, including all grading, cut and fill, building, paving, landscaping and other activities, which may result in or contribute to soil erosion or sedimentation of the waters of the State.

(j) **“Erosion”** – The process by which the ground surface is worn away by action of wind, water, gravity, or a combination thereof and intensified by land-clearing practices related to residential, commercial or industrial development and/or vehicle or pedestrian uses.

(k) **“Erosion and Sediment Control Plan”** – A set of plans or documents prepared by or under the direction of a professional engineer licensed in the State of Colorado, indicating the specific best management practices and project sequencing to be used to control erosion and sediment on a development or redevelopment site during and after construction.

(l) **“Excavation”** – Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, relocated, or stockpiled, and also included shall be the conditions resulting therefrom.

(m) **“Filling”** – Any act by which soil, rock or other construction materials are placed, stockpiled, dumped, or a combination thereof onto the surface of the earth that may be exposed to rain or wind.

(n) **“Flood plain”** – An area adjacent to a watercourse, which area is subject to flooding as the result of the occurrence of the 100-year flood and which area thus is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or property.

(o) **“Grading”** – Any stripping, excavating, filling, stockpiling, or any combination thereof, and also included shall be the land in its excavated or filled condition.

(p) **“Inspector”** – The head of the Public Works Department of the City or his duly

authorized representative.

(q) **“Land Disturbance Permit”** – A permit issued to authorize work to be performed under this Ordinance.

(r) **“Land use”** – A use of land which may result in an earth disturbance, including, but not limited to, subdivision, residential, commercial, industrial, recreational, or other development, private and public highway, road and street construction, drainage construction, logging operations, agricultural practices and mining.

(s) **“Limits of allowable erosion”** – The natural or historic rate of soil loss without human influence.

(t) **“Permanent soil erosion control measures”** – Those control measures which are installed or constructed to control soil erosion and which are regularly maintained after completion of all grading and earth disturbance activities to control soil erosion and ensure long-term water quality benefits.

(u) **“Permittee”** – A natural person, firm, corporation, partnership, or association who holds a permit under this article.

(v) **“Person”** – A natural person, firm, corporation, partnership, or association.

(w) **“Pollutant”** – Any liquid, solid or semi-solid substances, or combination thereof, including but not limited to:

(1) Artificial materials, chips, pieces of natural or man-made materials, including but not limited to floatable plastics, wood or metal shavings.

(2) Household waste, including but not limited to trash, paper, plastics; lawn clippings and yard wastes; animal fecal materials; pesticides, herbicides and fertilizers; used oil and fluids from vehicles, lawn mowers, and other common household equipment.

(3) Metals, including but not limited to cadmium, chromium, copper, lead, mercury, molybdenum, nickel, selenium, silver, and zinc and non-metals including but not limited to phosphorus and arsenic.

(4) Petroleum hydrocarbons, including but not limited to fuels, lubricants, hydraulic fluids, surfactants, waste oils, solvents, coolants, and grease.

(5) Soil, sediment and particulate materials.

(6) Animal waste, including but not limited to discharge from confinement facilities, kennels, pens, recreational facilities, stables, show facilities, and polo fields.

(7) Substances having characteristics such as a pH less than 6.5 or greater than 8.5 or unusual coloration, or turbidity, or containing fecal coliform, fecal streptococcus, enterococcus, or other pathogens.

(8) Waste materials and wastewater generated, including but not limited to painting, staining; use of sealants, glues, limes; excessive pesticides, fertilizers or herbicides; use of wood preservatives and solvents; disturbance of asbestos fibers, paint flakes or stucco fragments; application of oils, lubricants, hydraulic, radiator or battery fluids; construction equipment washing, concrete pouring and cutting slurry wastes, and cleanup wash water or use

of concrete detergents; steam cleaning or sand blasting residues; use of chemical degreasing or diluting agents; and super chlorinated water generated by potable water line flushing.

(9) Wastewater from outdoor mobile power washing activities, including but not limited to building exteriors, cleaning of gas stations, vehicle service facilities, vehicle engines, car lots, restaurants, drive-throughs, dumpster areas and graffiti removal.

(10) Materials causing an increase in biochemical oxygen demand, chemical oxygen demand, total suspended solids or total organic carbon.

(11) Materials which contain base/neutral or acid extractable organic compounds.

(12) Pollutants as defined in §502(6) of the Clean Water Act, 33 U.S.C. 1362(6).

(x) **“Pollution”** – The human-made or human induced alteration of the quality of waters by pollutants to a degree which unreasonably affects, or has the potential to unreasonably affect, either the waters for beneficial uses or the facilities which serve these beneficial uses.

(y) **“Slope”** – Slope of land measured in horizontal distance necessary for the land to fall or rise one foot, expressed by horizontal distance in feet to one vertical foot.

(z) **“Storm Drainage System”** – Every pipe, culvert, flume, ditch, gutter, storm sewer, cistern, tank, drain, lake, pond, stream, ravine, gully or other facility or natural feature, that contains, holds, transports, diverts, channels, impounds, or drains water, into which any naturally occurring stormwater runoff within the city may seep, percolate or flow; and every street, sidewalk, alley, gutter, roof, parking lot, yard, field, driveway, patio and other surface within the city across which any naturally occurring stormwater runoff may seep, percolate or flow.

(aa) **“Stormwater Discharge Permit”** – A permit issued to developers or others undertaking land disturbance activities by the Colorado Department of Public Health and Environment, Water Quality Control Division to allow the discharge of stormwater runoff from construction activities.

(bb) **“Street and Drainage Standards and Specifications”** – Means the document entitled City of Northglenn, Street and Drainage Standards and Specifications as adopted by resolution of the City Council and amended from time to time.

(cc) **“Stripping”** – Any activity which removes or significantly disturbs the vegetative surface cover including clearing and grubbing operations.

(dd) **“Temporary soil erosion control measures”** – Interim control measures which are installed or constructed and maintained whenever grading or other earth disturbance is to occur for the purpose of controlling soil erosion until permanent soil erosion control is affected.

(ee) **“Water and Sewer Standards”** – Means the document entitled City of Northglenn Water and Sewer Utility Standards and Specifications and Ordinance 909 as adopted by City Council and amended from time to time.

Section 16-17-3. Compliance with Chapter Required for Site Plan or Plat Approval. No site plan, plot plan or plat shall be approved by the City staff, the Planning Commission or the City Council under the Zoning Ordinance or subdivision regulations unless said site plan, plot plan or plat states that all development shall include soil erosion and sediment control measures consistent with the requirements of this Article and related land development regulations.

[Source: Ord. 1144, 1996]

Section 16-17-4. Compliance with Chapter Required for Issuance of Building Permit. No building permit for any building shall be issued under Section 11-43-2 of this Code unless the applicant for said building permit submits a plan for soil erosion and sediment control measures consistent with the requirements of this Article to the City and said plan is approved by the City Engineer.

[Source: Ord. 1144, 1996]

Section 16-17-5. Compliance with Chapter Required for Issuance of Right-of-Way Permit. No right-of-way permit for any construction shall be issued under Section 16-2-4 of this Code unless the applicant for said right-of-way permit submits a plan for soil erosion and sediment control measures consistent with the requirements of this Article to the City and said plan is approved by the City Engineer.

Section 16-17-6. Adoption by Reference of Erosion and Sediment Control. There is hereby adopted by reference, as a part of this Ordinance, as if fully set forth herein, that certain code consisting of the published criteria of The Urban Drainage and Flood Control District (UDFCD), known as "Erosion and Sediment Control for Construction Activities", originally published in September, 1992, and any subsequent updates as part of the Urban Storm Drainage Criteria Manual, Volumes 1 through 3, which shall be known and referred to in this Ordinance by that name. Any updates shall be effective as of the date said update is published by UDFCD.

In addition to the provisions published by UDFCD, all construction activities shall comply with the following:

(a) The published criteria of the City of Northglenn, known as "City of Northglenn Construction and Excavation Standards Supplement", originally adopted August 16, 2004, and any subsequent updates as adopted by the City Council by Resolution;

(b) The published criteria of the City of Northglenn, known as "Street and Drainage Standards and Specifications", originally adopted April 7, 1983, and any subsequent updates as adopted by the City Council by Resolution; and

(c) The published criteria of the City of Northglenn, known as "Water and Sewer Standards", originally adopted April 14, 1988, and any subsequent updates as adopted by the City Council by Resolution.

The Inspector and the City Engineer shall be guided by and shall apply the criteria contained in the above referenced provisions in the Administration of this Ordinance.

Section 16-17-7. Permits and Fees.

(a) **Permit requirement.** Except as exempted by sections of this Ordinance, no person shall do any grading, stripping, excavating, or filling, or undertake any earth disturbance that will disturb one (1) or more acres, or disturb less than 1 acre that is part of a larger common plan of development or sale, or the total aggregate earth work involves moving more than two hundred (200) cubic yards, or if grading occurs on a property that has a slope in excess of eight percent (8%) unless a valid Land Disturbance Permit is issued by the City. Issuance by the City does not exempt any person from obtaining any other permits required by the State of Colorado or the Federal Government.

(b) **Permit application.** A separate application shall be required for each Land Disturbance Permit on a form furnished by the City, along with plans, specifications, and timing schedules for all earth disturbances. The plans shall be prepared by or under the supervision of a professional engineer licensed in the State of Colorado experienced in soil erosion and sedimentation control methods and techniques.

(c) **Application data required.** The plans and specifications shall include an Erosion and Sedimentation Control Plan and a Site Plan, which shall include and contain all of the requirements of the Land Disturbance Permit application information materials.

(d) **Fees.** Before a Land Disturbance Permit is issued, the applicant shall pay to the City a permit fee, which shall be determined in accordance with the fee schedule and the fees contained in the City of Northglenn Construction and Excavation Standards Supplement (reference §16-2). Permit fees shall be reasonably related to the costs of managing the Land Disturbance Permits. These costs include, but are not limited to, the costs of issuing Land Disturbance Permits, verifying erosion and sediment control measures, inspecting work, administering this Article, and, if applicable, costs relating to such work as is necessary to eliminate any danger to persons or property and to leave the site in a safe condition, and completion of all necessary temporary or permanent soil erosion control measures.

Section 16-17-8. Performance Bonds and Letters of Credit.

(a) Before a Land Disturbance Permit is issued, the applicant shall file with the City a bond or letter of credit, at the applicant's choice, in favor of the City in an amount equal to the total cost of all temporary and permanent soil erosion control measures, including labor and materials but excluding the cost of any private facilities being installed, or five thousand dollars, whichever is greater. The total cost shall be estimated by the applicant. The bond or letter of credit shall be executed by the applicant as principal and by at least one surety upon whom service of process may be had in the state. The bond shall be on the form provided by the City. The letter of credit shall be in a format approved by the City. The bond or letter of credit shall be conditioned upon the applicant fully complying with all provisions of City ordinances, resolutions and regulations, and upon payment of all judgments and costs rendered against the applicant for any violation of any City resolution, regulation or ordinances or state law arising out of any negligent or wrongful acts of the applicant in the performance of work pursuant to the permit.

(b) The City may bring an action on the bond or letter of credit on its own behalf or on behalf of any person so aggrieved as beneficiary following proper notifications and opportunity for corrective actions.



(c) The Performance bond or letter of credit, with an original signature, on the City approved form, shall be approved by the City prior to the issuance of the permit.

(d) A letter of responsibility or proof of self-insurance, in a form acceptable to the City, shall be accepted from special districts and governmental agencies in lieu of a performance bond or letter of credit.

(e) A blanket performance bond of sufficient amount to cover all proposed work during the upcoming year may be filed with the City on an annual basis in lieu of the project-specific Performance bonds or letters of credit required by subsection (a) of this section. The form and amount of the blanket bond shall be subject to the prior review and approval of the City. Should the blanket bond be deemed insufficient by the City based on the work to date, the City may require additional, project-specific performance bonds or letters of credit pursuant to subsection (a) of this section.

(f) The performance bond, blanket performance bond, letter of credit or letter of responsibility shall remain in full force and effect until the disturbed area has reached final stabilization and written acceptance by the City.

(g) If any provision of this section conflicts with any provision of a valid, effective franchise agreement between the applicant and the City, the conflicting provision of this section shall not apply to the franchisee, and the franchisee shall instead honor the provision of the franchise agreement.

(h) If any provision of this section conflicts with any provision of any valid, effective agreement between a special district or other public entity and the City, the conflicting provision of this section shall not apply, and the special district or other public entity shall instead honor the provision of the agreement.

Every bond and letter of credit shall be made on the conditions that the permittee shall comply with all of the provisions of this Ordinance and all of the terms and conditions of the Land Disturbance Permit, and shall complete all of the work contemplated under the Land Disturbance Permit within the time limit specified in the Land Disturbance Permit, or if no time limit is specified, within 180 days after the date of issuance of the Land Disturbance Permit.

Section 16-17-9. Extension of Time. If the permittee is unable to complete the work within the specified time, at least ten (10) days prior to the expiration of the permit a written request to the City Engineer for an extension of time shall be submitted setting forth the reasons for the requested extension. In the event such an extension is warranted, the City Engineer may grant additional time for the completion of the work, but no such extension shall release the owner or surety on the performance bond or the issuer of the letter of credit.

Section 16-17-10. Failure to Complete the Work. In the event of failure to complete the work or failure to comply with all the requirements, conditions, and terms of permit, the City Engineer may order such work as is necessary to eliminate any danger to persons or property and to leave the site in a safe condition, and he may authorize completion of all necessary temporary

or permanent soil erosion control measures. The permittee and the surety executing the performance bond or the issuer of the letter of credit, shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by the City in causing any and all such work to be done.

Section 16-17-11. Denial of Permit. Land Disturbance Permits shall not be issued where:

- (a) The proposed work would cause hazards to the public safety and welfare; or
- (b) The work as proposed by the applicant will damage any public or private property or interfere with any existing drainage course in such a manner as to cause damage to any adjacent property or result in the deposition of debris or sediment on any public way or into any waterway or create an unreasonable hazard to persons or property; or
- (c) The land area for which grading is proposed is subject to geological hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce settlement, slope instability, or any other such hazard to persons or property; or
- (d) The land area on which the grading is proposed may lie within the designated flood plain of any stream or watercourse (not specifically designated by the City as an area subject to flood hazard), unless a hydrologic report, prepared by a professional engineer licensed in the State of Colorado, is submitted to certify that the proposed grading will have, in his professional opinion, no detrimental influence on the public welfare or upon the total development of the watershed and is also consistent with flood plain ordinances and Federal Emergency Management Agency regulations.

Section 16-17-12. Modifications of Approved Plans. All proposed modifications of the approved sediment and erosion control plan must be submitted along with all supporting materials, to the City Engineer for review and approval. No work in connection with the proposed modifications shall be permitted without prior approval of the City Engineer, approval for which may be issued if the applicant can demonstrate that the modifications will provide sediment and erosion controls equivalent to or better than the originally approved sediment and erosion control plans.

Section 16-17-13. Responsibility of Permittee. During grading operations the permittee shall be responsible for:

- (a) The prevention of damage to any public utilities or services within the limits of construction activities or on adjacent properties and along any routes of travel of the equipment;
- (b) The prevention of damage to adjacent property or public utilities. No person shall grade on land so close to the property line as to endanger any adjoining public street, sidewalk, alley, or any public or private property including but not limited to any structure, fence or retaining wall, without supporting and protecting such property from settling, cracking, or other damage which might result;
- (c) Carrying out the proposed work in accordance with the approved plans and in

compliance with all the requirements of the permit and this ordinance;

(d) The prompt removal of all soil, miscellaneous debris, materials applied, dumped, or otherwise deposited on public streets, highways, sidewalks, or other public thoroughfares or any other non-authorized off-site location, during transit to and from the construction site, or otherwise, where such spillage constitutes a public nuisance, trespass or hazard in the determination of the City Engineer or a court of competent jurisdiction.

Section 16-17-14. General Requirements.

(a) All temporary erosion control facilities and all permanent facilities intended to control erosion of any earth disturbance operation shall be installed before any earth disturbance operations take place.

(b) Any earth disturbances shall be conducted in such a manner so as to effectively reduce accelerated soil erosion and resulting sedimentation, and should not exceed the erosion expected to occur for the site in its totally undeveloped state.

(c) All persons engaged in earth disturbances shall design, implement, and maintain acceptable soil erosion and sedimentation control measures, in conformance with the erosion control technical standards adopted by the City.

(d) All earth disturbances shall be designed, constructed and completed in such a manner so that the exposed area of any disturbed land shall be limited to the shortest possible period of time.

(e) Sediment caused by accelerated soil erosion shall be removed from runoff water before it leaves the site of the earth disturbance.

(f) Any temporary or permanent facility designed and constructed for the conveyance of water around, through, or from the earth disturbance area shall be designed to limit the water flow to a non-erosive velocity.

(g) Temporary soil erosion control facilities shall be removed and earth disturbance areas graded and stabilized with permanent soil erosion control measures pursuant to standards and specifications prescribed in accordance with the provisions of the "Erosion and Sediment Control for Construction Activities" and in accordance with the permanent erosion control features shown on the erosion and sediment control plan approved by the City.

(h) Permanent soil erosion control measures for all slopes, channels, ditches, or any disturbed land area shall be completed within fourteen (14) calendar days after final grading or the final earth disturbance has been completed. When it is not possible to permanently stabilize a disturbed area after an earth disturbance has been completed or where significant earth disturbance activity ceases, temporary soil erosion control measures shall be implemented within fourteen (14) calendar days. All temporary soil erosion control measures shall be maintained until permanent soil erosion measures are implemented.

Section 16-17-15. Maintenance Requirements. Persons carrying out soil erosion and

sediment control measures under this Article, and all subsequent owners of property concerning which such measures have been taken, shall maintain all permanent erosion control facilities, detention ponds, retaining wall, structures, plantings, and other protective devices. Should the applicant or any of the subsequent property owners fail to adequately maintain the permanent erosion control facilities, detention ponds, retaining walls, structures, plantings, and other protective devices, the City reserves the authority, after properly notifying the owner of needed maintenance and the owner failing to respond to the City's demand for such maintenance within ten (10) calendar days, to enter affected property, provide needed maintenance and to charge the owner for the work performed by the City or its contractors. Such assessment, plus a 15% administrative fee for the City's administrative and/or legal costs, shall become a lien against the property, recorded and collected in accordance with applicable law.

Section 16-17-16. Minimum Design Standards for Erosion and Sediment Control. All erosion control plans and specifications including extensions of previously approved plans shall include provisions for erosion and sediment control in accordance with the "Erosion and Sediment Control for Construction Activities." Erosion control plans are required on sites which are:

(a) One (1) acre in size or larger, and all sites smaller than one (1) acre if they are a part of a total development or subdivision that is larger than one (1) acre in size; or

(b) Excavations in excess of 200 cubic yards; or

(c) Where physical features have a cumulative effect and will create erosion problems such as:

(1) Steep slopes -- eight (8) feet (horizontal) to one (1) foot (vertical) or steeper, and

(2) Significantly erodible soils -- "K" in the universal soil loss equation is greater than or equal to 0.25.

Section 16-17-17. Variances and Exceptions.

(a) No permits shall be required for the following:

(1) Agricultural use of land zoned agricultural;

(2) Grading or an excavation below finished grade for basements, footings, retaining walls, or other structures on plots zoned R1 - R3 of less than one (1) acre in size unless required otherwise under Section 16-17-16 above;

(3) A sidewalk or driveway authorized by a valid permit under Section 16-1-1 of this Code;

(4) Gravel, sand, dirt or topsoil removal as authorized pursuant to approval of the Colorado Mined Land Reclamation Board, provided said approval includes an erosion plan that meets the minimums specified by this ordinance;

(5) Sites smaller than one (1) acre which are not a part of a larger development and which constitute an infill of an established older development within the City, unless required otherwise under Section 16-17-16 above;

(6) Where the City Engineer certifies in writing that the planned work and the final structures or topographical changes will not result in or contribute to soil erosion or sedimentation and will not interfere with any existing drainage course in such a manner as to cause damage to any adjacent property or result in the deposition of debris or sediment on any public way, will not present any hazard to any persons or property, and will have no detrimental influence upon the public welfare or upon the total development of the watershed;

(7) Even though no permits are required under subsections (1) a, b, c, d, and e of this section, those operations and construction activities which are exempted from obtaining permits must comply with the rules and regulations concerning grading and erosion specified in this Article, and shall provide appropriate controls to retain soil erosion on the construction site.

(b) Where it is alleged that there is error or misinterpretation in any order, requirements, decision, grant or refusal made by the City Engineer, the City Manager may appoint a technical hearing board that shall have the power to hear specific applications and all complaints regarding the decisions of the City Engineer and to determine if the decisions of the City Engineer were based on a misinterpretation of the requirements of this Article and referenced criteria. Whenever it is determined that an interpretation error was made, the case will be returned to the City Engineer, along with the Board's recommendations on how the Engineer's decision could be modified to be made consistent with the provisions of this Article.

Section 16-17-18. Inspection. The requirements of this Chapter shall be enforced by the City Engineer or duly authorized representative. The City Engineer shall inspect the work and shall require the owner to obtain services to provide adequate on-site inspections and/or compaction testing by a soil engineer, approved by the City Engineer, unless he determines that such inspection requirements may be waived due to the non-hazardous nature of the grading.

Where it is necessary to make an inspection to enforce the provisions of this code, or where the city engineer or duly authorized representative has reasonable cause to believe that there exists upon a premises a condition which is contrary to or in violation of this code which makes the premises unsafe, dangerous or hazardous, the city engineer or designee is authorized to enter the premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such premises be occupied that credentials be presented to the occupant and entry requested. If such premises be unoccupied, the city engineer or designee shall first make a reasonable effort to locate the owner or other person having charge or control of the premises and request entry. If entry is refused, the city engineer or designee shall have recourse to the remedies provided by law to secure entry.

Upon satisfactory execution of all approved grading plans and other requirements, the City Engineer shall issue a certification of occupancy. If the City Engineer finds any existing conditions not as stated in any application, Land Disturbance Permit, grading permit or approved plan, he may refuse to approve further work until a revised grading plan which will conform to the existing condition has been prepared and approved.

If the City Engineer finds that eroded soils are leaving the construction site, the City Engineer may direct the owner(s) or his agents or his contractor on the site by written order to install any and all erosion controls that are deemed necessary to prevent said soil erosion from migrating off-site. It shall be the duty of the owner(s) and his agent(s) and contractor(s) immediately to take all necessary steps to comply with such order and otherwise to take all necessary steps to prevent such migration off premises or from entering receiving waters. Delivery of such a written order by the City Engineer to the owner's agent(s) or contractor(s) shall be deemed to be notice thereof and binding upon the owner.

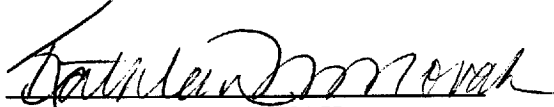
Section 16-17-19. Penalties.

(a) Any violation of this Ordinance shall be punishable as provided by the Northglenn Municipal Code for a nuisance violation as provided by Article 11 of Chapter 9 of the Northglenn Municipal Code, and Article 19-1 of the Northglenn Municipal Code, or at the discretion of the City, any violation of any of the provisions of this Article 17 of Chapter 16 shall be punishable as provided in Section 1-1-10(a) (2) of this Code.

(b) In addition, notwithstanding the existence or pursuit of any other remedy, the City may maintain an action in its own name in any court of competent jurisdiction for an injunction or other process against any person to restrain or prevent violations of this ordinance.

(c) All remedies set forth herein are cumulative, and the exercise of one shall not be deemed to prevent the exercise of another.

INTRODUCED, READ AND ORDERED POSTED this 9<sup>th</sup> day of November  
2006.

  
KATHLEEN M. NOVAK  
Mayor

ATTEST:

  
DIANA L. LENTZ, CMC  
City Clerk

PASSED ON SECOND AND FINAL READING this \_\_\_\_ day of \_\_\_\_\_,  
2006.

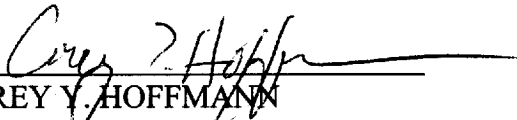
\_\_\_\_\_  
KATHLEEN M. NOVAK  
Mayor

ATTEST:

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DIANA L. LENTZ, CMC  
City Clerk

APPROVED AS TO FORM:



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COREY Y. HOFFMANN  
City Attorney