

Section 1. Introduction

Overview of Section 1

1.0

Section 1 addresses the following introductory topics:

Section 1.1, **The TESC Permit**, introduces the Town of Castle Rock's Temporary Erosion and Sediment Control (TESC) Permit Program .

Section 1.2, **Reasons for the Permit**, points out the need to control the high rates of erosion and sedimentation from construction sites in an effort to protect valuable land and water resources.

Section 1.3, **Legislative Mandate**, summarizes how the TESC Permit Program is mandated by legislation, including the Federal Clean Water Act's National Pollutant Discharge Elimination System (NPDES) Stormwater Phase II Regulations and the Colorado Water Quality Control Act.

Section 1.4, **Projects Requiring a TESC Permit**, indicates the types of land-disturbing activities within the Town of Castle Rock that require a TESC Permit.

Section 1.5, **Types of TESC Permits**, identifies the following two types of TESC Permits issued by the Town and describes the projects they apply to:

1. *Low Impact TESC Permit*
2. *Standard TESC Permit*

The Standard TESC Permit is addressed in **Sections 2 through 6 and 8** of the *TESC Manual*. The Low Impact TESC Permit is covered in **Section 7**.

Section 1.6, **Who Obtains a TESC Permit**, states that the Property Owner and Contractor, together referred to as "Applicants" before a TESC Permit is issued and "Permittee(s)" afterwards, are the parties who sign the TESC Permit Application form and are legally responsible for complying with the requirements of the TESC Permit.

Section 1.7, **What Steps are Included in the TESC Permit Process?**, outlines the twenty steps involved in the Standard TESC Permit Process.

Section 1.8, **Authorization of the TESC Manual**, states that the *TESC Manual* is authorized by passage and adoption of an ordinance by the Town Council. This section discusses the interpretation and enforcement of the TESC Permit requirements described herein.

The Permit Steps. Each of the twenty steps in the Standard TESC Permit Process are highlighted in Section 2 through 6 and 8 of the TESC Manual. The ten steps in the Low Impact TESC Permit Process are highlighted in Section 7. Each step is shown in a blue box that looks just like this. A header is provided on each page identifying the step currently being addressed.

Temporary Erosion and Sediment Control



Rates of erosion increase dramatically during construction.

The TESC Permit

1.1

The Town of Castle Rock has a permitting program for erosion and sediment control on public and private construction projects within the limits of the Town. The Temporary Erosion and Sediment Control (TESC) program covers all other development and construction projects. This TESC manual describes the permitting programs that have been adopted to promote environmentally-sound construction practices in the Town.

Terminology

The Temporary Erosion and Sediment Control Permit is termed simply the "TESC" Permit for short

Reasons for the TESC Permit

1.2

The goal of the TESC Permit program is to implement effective erosion and sediment control measures as a standard for all land disturbance activities to reduce increases in erosion and sedimentation over pre-development conditions. During the relatively short period of time when undeveloped land is converted to urban uses, a significant amount of sediment can erode from a construction site and be transported to adjacent properties and receiving waters. Erosion caused by construction and downstream sedimentation can damage property and degrade the quality of streams and lakes. Sediment is a transport mechanism for many stormwater pollutants.

Sediment can disturb riparian and aquatic habitat and, since eroded sediments often contain significant phosphorus, can lead to unwanted algae growth in lakes and reservoirs.

The Town of Castle Rock is committed to protecting water resources and ensuring that future development continues in an environmentally-sound manner.



Eroded sediment can clog downstream receiving waters.



Nutrients associated with eroding sediments can lead to undesirable algae blooms.

**Legislative
Mandate**

1.3

1.3.1 NPDES Regulations. The development, implementation, and enforcement of the Town of Castle Rock TESC Permit Program is mandated by both the Federal Government and the State of Colorado. The Federal Clean Water Act’s National Pollutant Discharge Elimination System (NPDES) Stormwater Regulations require that stormwater discharges from certain types of facilities be authorized under discharge permits (40 C.F.R., 122.26). The goal of the NPDES stormwater permits program is to reduce the amount of pollutants entering streams, lakes, and rivers as a result of stormwater runoff from residential, commercial, and industrial areas.

The original 1990 regulation (**Phase I**) covered municipal (i.e., publicly-owned) storm sewer systems for municipalities over 100,000 population. The regulation was expanded in 1999 to include smaller municipalities, as well as some counties, including the Town of Castle Rock. This expansion of the program is referred to as **Phase II**.

In Colorado, stormwater discharge permits are issued by the Colorado Department of Public Health and Environment, Water Quality Control Division (“Division”). Such permits are part of the Colorado Discharge Permit System, or CDPS, under Regulation No. 61. Regulation No. 61 was promulgated to assist the Division in implementing its stormwater permits program. The Phase II municipal separate storm sewer systems (MS4s) are covered under a general permit for stormwater discharges from MS4s. As per the Division’s regulation, the main requirement of this general permit will be for the Town of Castle Rock to reduce or prevent the discharge of pollutants to the MS4 from applicable construction activities.

Regulation No. 61 states that the Town must “develop, implement, and enforce a stormwater management program designed to reduce the discharge of pollutants from lands in the Town to the Maximum Extent Practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Colorado Water Quality Control Act (CWQCA) (Colorado Code of Regulations (CCR) 61.8(11) (a)(i)).”



Control of construction site erosion in the Town of Castle Rock is mandated by Federal and State law.

Section 1. Introduction

Legislative Mandate, continued

In short, the Town must develop a stormwater management program that meets the requirements of the MS4 Permit and protects state waters from pollution, contamination, and/or degradation.

Requirements of the Colorado Water Quality Control Act (CCR 61.8(11)(a)(ii)(D))

The Town of Castle Rock is required 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. Reduction of pollutants in stormwater discharges from construction activity disturbing less than one acre must be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. The program must be developed and implemented to assure adequate design, implementation, and maintenance of control measures at construction sites within the MS4 (Town of Castle Rock) to reduce pollutant discharges and protect water quality. The program must include the development and implementation of, at a minimum:

- ◆ *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;*
- ◆ *Requirements for construction site operators to implement appropriate erosion and sediment control measures;*
- ◆ *Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;*
- ◆ *Procedures for site plan review which incorporate consideration of potential water quality impacts;*
- ◆ *Procedures for receipt and consideration of information submitted by the public; and*
- ◆ *Procedures for site inspection and enforcement of control measures.”*

The TESC Permit Program complies with these requirements.

1.3.2 Cherry Creek Reservoir Control Regulation No. 72. In addition to the CDPS program requirements, the Town of Castle Rock is responsible for complying with Cherry Creek Reservoir Control Regulation No. 72, promulgated by the Division pursuant to the CWQCA, Sections 25-8-202(1)(c) and 25-8-205, *et seq.*, CRS. This regulation, affecting the eastern part of Castle Rock within the Cherry Creek Watershed, identifies specific requirements for erosion and sediment control measures on construction sites, including placing limits on the area of land that can be disturbed at any one time. The intent of the regulation is to protect the water quality of Cherry Creek Reservoir.

1.3.3 Chatfield Reservoir Control Regulation No. 73. The Town of Castle Rock is also responsible for complying with Chatfield Reservoir Control Regulation No. 73, promulgated by the Division pursuant to the CWQCA, Section 25-8-205, *et seq.*, CRS. This regulation applies to the Plum Creek Watershed and requires the Town of Castle Rock to implement construction erosion and sediment control measures.

Section 1. Introduction

Projects Requiring a TESC Permit

1.4

1.4.1 Projects that Require a TESC Permit. The Town of Castle Rock requires that a TESC Permit be obtained prior to the start of the following land-disturbing activities within the Town:

Projects Requiring a Standard TESC Permit

- ◆ *New development and redevelopment, including residential projects. (Refer to Section 8 for Residential TESC Permitting)*
- ◆ *Installation of utility lines in excess of 1000 linear feet (outside of the Town right-of-way).*
- ◆ *Installation of utilities for a new development, prior to the start of overlot clearing or grading.*
- ◆ *Any clearing, grubbing, grading or filling operations located within 100 feet of a drainageway.*
- ◆ *Fill or excavation of fifty or more cubic yards of material, not related to building of a detached single family residential unit.*
- ◆ *Mining projects, even when subject to a State mining permit.*
- ◆ *Drilling sites, excluding wells that serve a stand-alone detached single-family residential unit.*
- ◆ *Temporary batch plants.*
- ◆ *Any project that the Town determines to have a potential impact to the health, safety and welfare of people and/or the environment.*
- ◆ *Vertical Residential Construction*

1.4.2 Projects that do not require a TESC Permit. Some types of projects, listed below, are automatically exempt from the TESC Permit Program. The projects shown that do not need a TESC Permit are not free from the obligation to control erosion and sediment; control measures shall still be required in accordance with the *TESC Manual*.

Projects that do not require a TESC Permit

- ◆ *Routine agricultural practices, including tilling, planting, harvesting, or livestock operations. (Activities not considered as routine agricultural practices, and therefore requiring a TESC Permit, include land grading and work in or adjacent to streams and drainage channels.)*
- ◆ *Pavement repair, resurfacing, graveling, or re-grading that does not materially change the original vertical or horizontal alignment or original width of public and private roadways and driveways. (Although a TESC Permit is not required, erosion and sediment control measures and a Right-of-Way Use and Construction Permit for public roadways are required.)*
- ◆ *Emergency situations that pose an imminent risk to life or property, such as hazardous waste clean-up operations and fire.*
- ◆ *Livestock grazing*
- ◆ *Mowing*
- ◆ *Weed control*
- ◆ *Burning*
- ◆ *Irrigation and associated activities (including: operation and maintenance of irrigation facilities; ditch maintenance and pumping; and maintenance, operation and construction of diversions and headgate structures).*
- ◆ *Fencing and maintenance of existing fencing.*
- ◆ *Routine maintenance activities that are performed to maintain the original line and grade, hydraulic capacity, or original purpose of constructed ditches, constructed channels and constructed ponds.*

Section 1. Introduction

Projects Requiring a TESC Permit, continued

Types of TESC Permits

The permit applications for Low Impact and Standard TESC Permits can be found at CRgov.com/TESC

1.4.3 Projects Covered Under Other Permits.

TESC Permits are required for projects meeting the criteria identified herein even if a Federal or State agency or another jurisdiction has approved the project and issued a permit for the work. Examples include mining projects possessing a State mining permit and projects for which a Nationwide or Individual Section 404 Permit has been obtained from the Corps of Engineers.

Town of Castle Rock TESC Permits are required even for projects covered under a State or Federal permit.

1.5

The following two types of TESC Permits are issued by the Town of Castle Rock:

1. Low Impact TESC Permit,
2. Standard TESC Permit.

1.5.1 Low Impact TESC Permit. Some land-disturbing activities may have a negligible negative impact on adjacent properties and downstream receiving waters. For projects lasting three months or less with a disturbed area less than one acre that do not require re-establishment of native vegetation, and where insignificant negative impact can be adequately demonstrated to the Town, streamlined submittal requirements apply. If, after reviewing the submitted information, Town staff concur that there is low impact, a Low Impact TESC Permit will be designated for the project.

1.5.2 Standard TESC Permit. A Standard TESC Permit is required for all of the land-disturbing activities identified in Section 1.4.1 other than the activities qualifying for a Low Impact TESC Permit.

1.5.3 Standard TESC Permit for a Temporary Batch Plant.



A Temporary Batch Plant requires its own control measures.

Because of their potential impact on land, vegetation, and receiving waters, temporary batch plants require specific control measures.

In addition to other submittal documents, the Temporary Batch Plant requires a copy of the Lease Agreement between the Property Owner and the Batch Plant Operator.

1.5.4 Standard TESC Permit for Vertical Residential Construction. A Standard TESC Permit for Vertical Residential construction is required prior to release of residential building permits and is required separate from the Standard TESC Permit for land development activities.



Information

Low Impact TESC Permits have a streamlined permitting and inspection process, as described in Section 7

Section 1. Introduction

Types of TESC Permits, continued

Several Town divisions have authority over the construction of residential projects. Castle Rock Water, through the TESC Permit Program, and the Public Works Department, through the Construction Permit Program, act as the regulatory authorities for the project from the start of grading operations through Initial Close-out Acceptance (discussed in Section 6). When a phase or project is issued Initial Close-out Acceptance by the Town's TESC and Public Works Inspectors, the TESC Permit remains in effect until final close-out acceptance (after vegetation is established) for that phase or project. New disturbances associated with residential lot construction are required to be permitted through Castle Rock Water, (through a Standard TESC Permit for Vertical Residential construction or Low Impact TESC Permit for single-family custom homes), and the Development Services Building Division, (through the Building Permit).

Separate TESC Permits are required for each builder in a subdivision and will include all lots under common ownership. A Low Impact TESC Permit is required for each single custom lot within a subdivision.

All TESC Permits are issued through the Development Services Department, then are turned over to Castle Rock Water for inspection and close-out.

Multi-family residential projects, other than paired-home construction, are subject to the regulatory authority of the Standard TESC Permit Program from the start of grading operations through Final Close-out Acceptance (discussed in Section 6). They do not require a separate Standard TESC Permit for Vertical Residential construction.

Table 2-1 summarizes the permit types, acreage, duration, and other requirements for the three types of TESC Permits.

Table 1-1. Types of TESC Permits

Type of TESC Permit	Acreage	Duration	Other Requirements
<i>Low Impact</i>	<i>Less than 1 acre</i>	<i>Maximum of 3 months</i>	<ul style="list-style-type: none"> • <i>Project does <u>not</u> require any native revegetation</i> • <i>Project must be fully re-stabilized within the 3 months</i> • <i>Project involves <u>custom</u> single-family residential lots (one permit per lot)</i>
<i>Standard</i>	<i>Less than 1 acre</i>	<i>Max. of 12 months/ renewable</i>	<ul style="list-style-type: none"> • <i>Project will take longer than 3 months</i> • AND/OR • <i>Project requires native revegetation</i>
	<i>Greater than 1 acre</i>	<i>Max. of 12 months/ renewable</i>	<ul style="list-style-type: none"> • <i>Projects greater than 40 acres must be phased</i>
<i>Standard for Vertical Residential Construction</i>	<i>Any</i>	<i>Max. of 12 months/ renewable</i>	<i>Required prior to any single-family Building Permit issuance within a common plan of development of a single builder/ owner.</i>

Section 1. Introduction

Who Obtains a TESC Permit?

1.6

Typically, TESC Permits are signed by both the Project Owner and the Contractor. Prior to issuance of a TESC Permit, the Owner and the Contractor are referred to as “Applicants”. After the Permit is issued, both are considered “Permittee(s)”. A permittee is defined as “any person who is issued a TESC Permit by the Town”. The permittee(s) shall be legally responsible for compliance with the TESC Permit. If an Applicant is a corporation, a manager or officer of the corporation or other authorized person must sign the permit as the permittee.

Permittee(s) (Owners and Contractors) undertaking land-disturbing activities are responsible for meeting all of the requirements of the Town’s TESC Permit Program that are summarized in Section 1.5, and described in detail within the *TESC Manual*. Failure to meet the requirements of the TESC Permit may lead to enforcement action, as described in Section 5.

Important! Failure to meet the requirements of a TESC Permit may lead to enforcement action against the Permittee(s).

What steps are included in the TESC Permit process?

1.7

A flow chart of the Town’s Development Review Process is shown in Figure 1-1. The twenty steps involved in the Town’s TESC Permit process for the Standard TESC Permit is shown in Figure 1.2.

Each page of Sections 2 through 8 of the TESC Manual provides a header (appearing at the top right side of the page) identifying the Permit Step currently being addressed. An overview page at the beginning of each section summarizes the TESC Permit Steps covered in the section and relates each subsection to one of the TESC Permit steps.

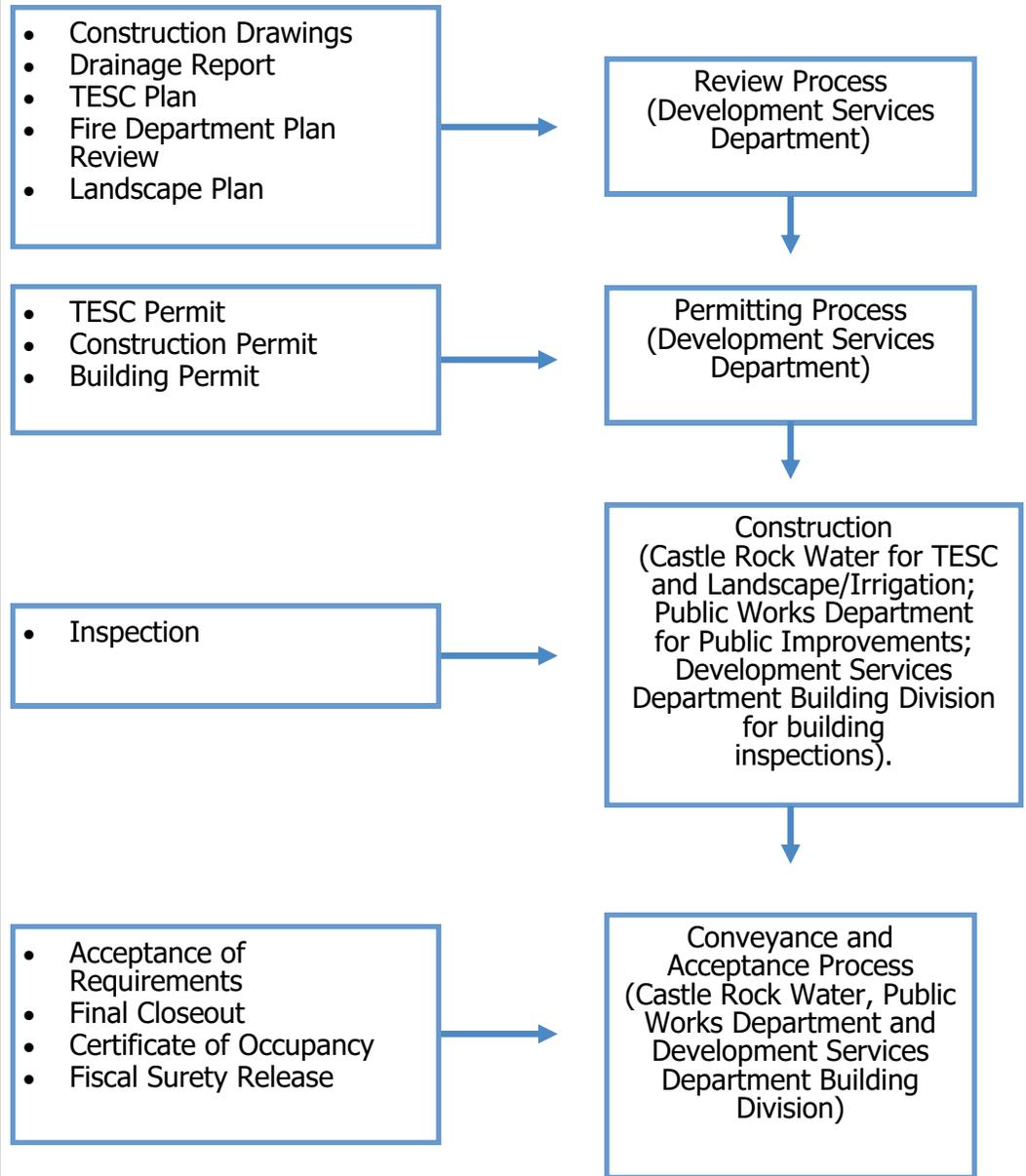
The Nine Steps involved in the Low Impact TESC Permit are outlined in Section 7. The Six Steps involved in the Vertical Residential TESC Permit are outlined in Section 8.

Although the TESC Permit Process is organized into the distinct steps shown in the flowcharts, the process as a whole is intended to be dynamic, responding to individual site conditions to provide effective erosion and sediment control during construction.

Information The TESC Permit process is a dynamic, not static process. The Permittee(s) are responsible to adapt the original TESC Plan so as to effectively reduce erosion and sediment and comply with any modifications to the TESC Plan required by the Town of Castle Rock.

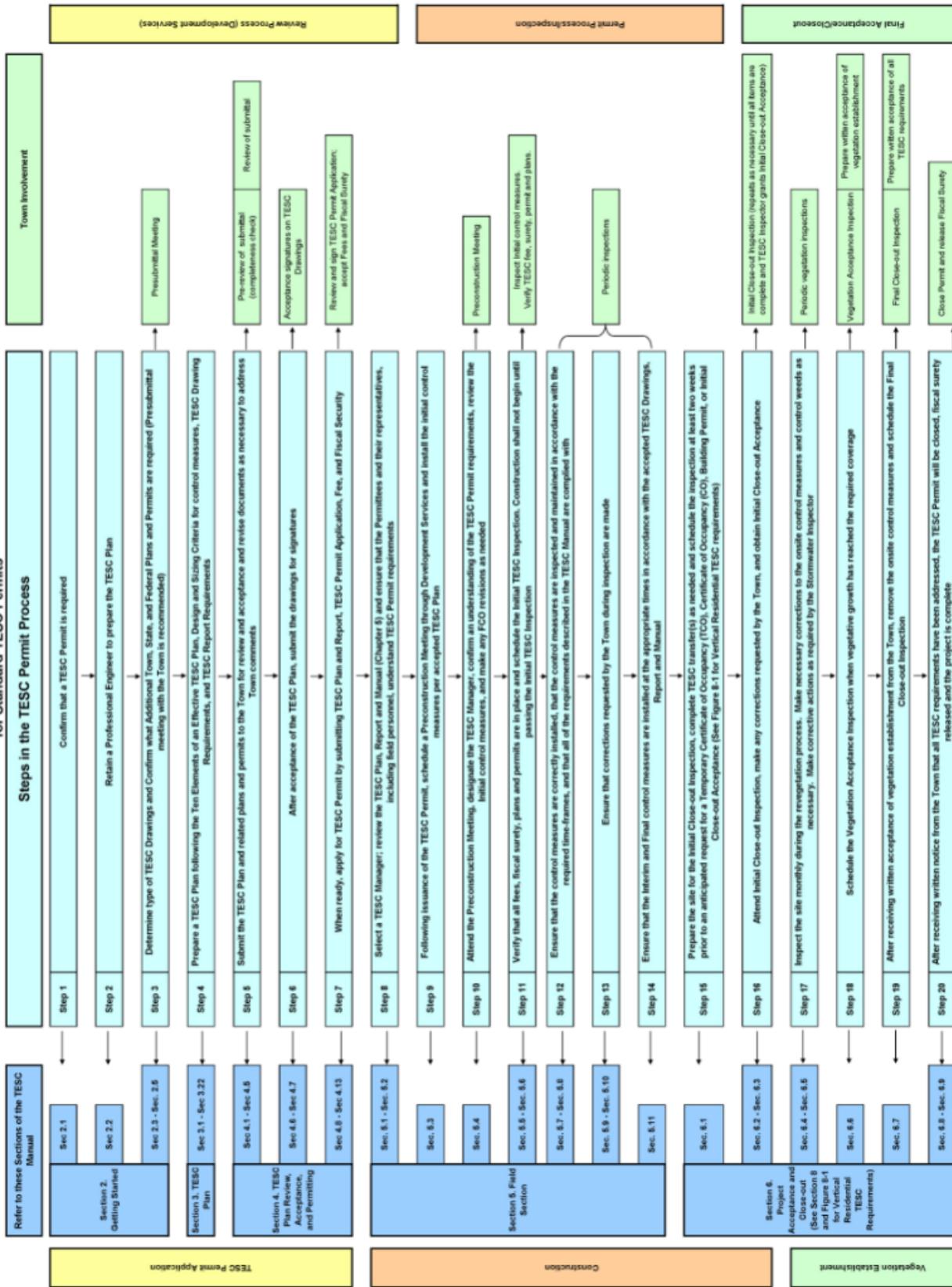
Stages of Development Process

**Town of Castle Rock
Stages of Development Process
Figure 1.1**



Section 1. Introduction

Figure 1.2
Town of Castle Rock TESC Permit Process
for Standard TESC Permits



Section 1. Introduction

Authorization of the TESC Manual

1.8

The *TESC Manual* is authorized by the Town of Castle Rock Town Council through Ordinance #2019-013 adopting the Town of Castle Rock Temporary Erosion and Sediment Control (TESC) Manual as a primary code.

1.8.1 Jurisdiction. The TESC Permit Program shall apply to all land within the limits of the Town of Castle Rock.

1.8.2 Amendments and Revisions. These policies and criteria may be amended and revised as new technology is developed and experience is gained. The Town Council, following the recommendations of the Director of Castle Rock Water, may consider such amendments and revisions. Minor revisions that do not affect policy may be made without the action of the Town Council.

1.8.3 Enforcement Responsibility. The Town Council, acting through Development Services, Castle Rock Water and the Public Works Department, shall enforce the provisions of the *TESC Manual*.

1.8.4 Review and Acceptance. The Development Services Department will manage the review of all TESC Plan submittals for general compliance with these criteria contained herein. An acceptance by the Town does not relieve the Permittee(s) or Design Engineer from responsibility of ensuring that calculations, plans, specifications, construction and record drawings are in compliance with the criteria contained herein. Additionally, acceptance by the Town of Castle Rock does not alleviate the Permittee(s) or Design Engineer from complying with all other applicable Federal, State, or Local laws and regulations.

1.8.5 Interpretation. In the interpretation and application of the provisions of this *TESC Manual*, the following shall govern: These provisions shall be regarded as the minimum requirements for the protection of the public health, safety, comfort, convenience, prosperity, and welfare of the residents of the Town. The *TESC Manual* shall therefore, be regarded as remedial and shall be liberally construed to further its underlying purposes.

Whenever a provision in these criteria and any other provision of the Town of Castle Rock Municipal Code or any provision in any law, ordinance, resolution, rule or regulation of any kind, contain any restrictions covering any of the same subject matter, **whichever are more restrictive or impose higher standards shall**



The TESC Permit Program is designed to fulfill a legislative mandate and significantly reduce construction pollution.

Section 1. Introduction

Authorization of the TESC Manual, continued

govern. In the event that there is a discrepancy in the interpretation of the *TESC Manual*, the Director of Castle Rock Water shall have the final determination of the intent of the *TESC Manual*. Should a person disagree with a final determination by the Director, a written appeal may be submitted to the Town. If the Castle Rock Water Commission denies the appeal, the applicant can appeal to Town Council for a final ruling.

The TESC Manual shall be considered minimum requirements and the Town of Castle Rock reserves the right to apply more stringent criteria. Additionally, the Town reserves the right to change, modify, or alter these requirements at any time.

The *TESC Manual* shall not abrogate or annul any permits or accepted drainage reports and construction plans issued before the effective date of the *TESC Manual*, or any easement or covenant.

1.8.6 Relationship to Other Standards. The requirements of these regulations are minimum requirements. They do not replace, repeal, abrogate, supersede or affect any other more stringent requirements, rules, regulations, covenants, standards or restrictions. If special districts impose more stringent criteria, differences are not considered conflicts. When differences arise, the more stringent requirements shall apply. If the Federal or State government imposes stricter criteria, standards or requirements, these shall be incorporated into the Town's requirements after due process and public hearing(s) needed to modify Town regulations, standards, and ordinances.

Approvals and permits granted under these regulations are not waivers of the requirements of any other laws nor do they indicate compliance with any other laws. Compliance is still required with all applicable federal, state and local laws and regulations.

1.8.7 Town of Castle Rock not Responsible. Nothing contained in these regulations is intended to be nor shall be construed to create or form the basis for any liability on the part of the Town, its officers, employees or agents for any injury or damage resulting from the failure of responsible parties to comply with the provisions of these regulations, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of these regulations, or by reason of any action or inaction on the part of the Town related in any manner to the enforcement of these regulations by its officers, employees or agents. The Director of Castle Rock Water, Chief Building Official, Stormwater Inspector or any employee charged with the enforcement of these regulations, acting in good faith and without malice on behalf of the Town, shall not be personally liable for any damage that may accrue to persons or property as a result of any action required by the Town, or by reason of any act or omission in the discharge of these duties.