

**1. Title 18. BUILDING AND CONSTRUCTION**

**Chapters:**

**18.01. Adopted Codes.**

**18.02. Flood Damage Prevention.**

**18.03. Open Pit Extraction of Earth Products.**

**18.04. Encroachment Permits.**

**18.05. Grading.**

**18.06. Storm Water Regulations.**

## **Chapter 18.01. Adopted Codes.**

### **Sections:**

#### **18.01.01. Building Codes.**

#### **18.01.02. Fire Codes.**

#### **18.01.01. Building Codes.**

1. The City of Saratoga Springs does hereby adopt as its Building Codes:
  - a. The 2018 edition of the International Building Code, including Appendix J, issued by the International Code Council;
  - b. The 2015 edition of the International Residential Code, issued by the International Code Council;
  - c. Appendix Q of the 2018 edition of the International Residential Code, issued by the International Code Council;
  - d. The 2018 edition of the International Plumbing Code, issued by the International Code Council;
  - e. The 2018 edition of the International Mechanical Code, issued by the International Code Council;
  - f. The 2018 edition of the International Fuel Gas Code, issued by the International Code Council;
  - g. The 2017 edition of the National Electrical Code, issued by the National Fire Protection Association;
  - h. The residential provisions of the 2015 edition of the International Energy Conservation Code, issued by the International Code Council;
  - i. The commercial provisions of the 2018 edition of the International Energy Conservation Code, issued by the International Code Council;
  - j. The 2018 edition of the International Existing Building Code, issued by the International Code Council;
  - k. subject to Utah Code Section 15A-2-104(2), the HUD Code;
  - l. subject to Subsection 15-2-104(1), Appendix E of the 2015 edition of the International Residential Code, issued by the International Code Council; and
  - m. subject to Utah Code Section 15A-2-104(1), the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued by the National Fire Protection Association; and
  - n. The 2006 edition of the Utah Wildland-Urban Interface Code, issued by the International Code Council, with the alternatives or amendments approved by the Utah Division of Forestry, as a construction code.
  
2. **Building Permit Fees.** The City of Saratoga Springs hereby adopts as its building permit fees, those fees as allowed by the appropriate appendix to the International Building Code.

(Ord. 19-20; Ord. 13-13; Ord. 13-12; Ord. 11-9; Ord. 10-7, Ord. 07-2)

#### **18.01.02. Fire Codes Adopted.**

The City of Saratoga Springs hereby adopts the International Fire Code, 2018 Edition, including appendices B, C, D, E, F, G, H, I, and J.

1. The City of Saratoga Springs does hereby adopt as its Fire Code:
  - a. the 2018 edition of the International Fire Code, with amendments;
  - b. the 2016 edition of the National Fire Alarm and Signaling Code, with amendments;
  - c. the 2016 edition of the National Fire Protection Association Code for Installation of Sprinkler Systems;
  
2. The following codes are incorporated by reference into the City's Fire Code:
  - a. the Utah State Fire Code;
  - b. International Fire Code, 2018 edition, excluding appendices, as issued by the International Code Council, Inc. except as amended by Part 2, Statewide Amendments and Additions to International Fire Code Incorporated as Part of State Fire Code;
  - c. the 2017 edition of the National Fire Protection Association Code for NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, except as amended by Part 3; and
  - d. the 2012 edition of the National Fire Protection Association Code for NFPA 1403, Standard on Live Fire Training Evolutions, except as amended by Part 3.

(Ord. 19-20; Ord. 16-13; Ord. 13-12; Ord. 11-18, Ord. 11-9; Ord. 10-7, Ord. 07-2)

## **Chapter 18.02. Flood Damage Prevention.**

### **Sections:**

**18.02.01. Statutory Authorization.**

**18.02.02. Findings of Fact.**

**18.02.03. Statement of Purpose.**

**18.02.04. Methods of Reducing Flood Losses.**

**18.02.05. Definitions.**

**18.02.06. General Provisions.**

**18.02.07. Warning and Disclaimer of Liability.**

**18.02.08. Administration.**

**18.02.09. Provisions for Flood Hazard Reduction.**

### **18.02.01. Statutory Authorization.**

The City of Saratoga Springs, Utah (“City”) has the statutory authority pursuant to Utah Code § 10-3-701 to adopt regulations that promote the public health, safety, and general welfare of its residents. This Chapter is adopted pursuant to such statutory authority.

(Ord. 20-23)

### **18.02.02. Findings.**

1. The flood hazard areas of the City are subject to periodic inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare.
1. These flood losses are created by obstructions in floodplains that cause an increase in flood heights and velocities. In addition, flood losses are created by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed, or otherwise protected from flood damage.

(Ord. 20-23; Ord. 11-9; Ord. 99-0427-1)

### **18.02.03. Statement of Purpose.**

It is the purpose of this Chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed to:

1. protect human life and health;
2. minimize expenditure of public money for costly flood-control projects;

3. minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. minimize prolonged business interruptions;
5. minimize damage to public facilities and utilities such as water and sewer mains, electric and telephone lines, and streets and bridges that are located in floodplains;
6. help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize blight to future flood-prone areas; Ensure that potential buyers are notified that property is in a flood area.

(Ord. 20-23; Ord. 11-9; Ord. 99-0427-1)

#### **18.02.04. Methods of Reducing Flood Losses.**

In order to accomplish its purposes, this Chapter uses the following methods:

1. restrict or prohibit uses that are dangerous to health, safety, or property in times of flood; or cause excessive increases in flood heights or velocities;
2. require that uses vulnerable to floods, including facilities that serve such uses, be protected at the time of initial construction against flood damage;
3. regulate the alteration of features such as natural flood plains, stream channels, and natural protective barriers that are involved in the accommodation of flood waters;
4. regulate filling, grading, dredging, and other development that might increase flood damage;
5. prevent or regulate the construction of features that will unnaturally divert flood waters or that may increase flood hazards to other lands.

(Ord. 20-23; Ord. 11-9; Ord. 99-0427-1)

#### **18.02.05. Definitions.**

For the purposes of interpreting this Title, the Rules of Construction in City Code Chapter 1.02 shall apply. Where a use may be interpreted to fall under more than one definition, the more restrictive definition shall apply.

As used in this Chapter:

1. **“Alluvial Fan Flooding”** means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by: high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

2. **“Apex”** means a point on an alluvial fan or similar landform below for which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.
3. **“Area of Shallow Flooding”** means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow, among other attributes.
4. **“Area Of Special Flood Hazard”** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE, or V.
5. **“Base Flood”** means the flood having a one percent chance of being equaled or exceeded in any given year.
6. **“Base Flood Elevation (BFE)”** is the water surface elevation (mean sea level) of the base flood event at pertinent points in the floodplains of coastal and riverine areas. It is also the elevation shown on the FIRM and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1-percent chance of equaling or exceeding that level in any given year.
7. **“Basement”** means any area of the building having its floor sub-grade (below ground level) on all sides.
8. **“Critical Feature”** means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.
9. **“Development”** means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.
10. **“Elevated Building”** means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.  
In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e) of the National Flood Insurance Program regulations.
11. **“Existing Construction”** means structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

12. **“Existing Manufactured Home Park Or Subdivision”** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the City.
13. **“Expansion To An Existing Manufactured Home Park Or Subdivision”** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
14. **“Flood Or Flooding”** means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. overflow of inland or tidal waters.
  - b. unusual and rapid accumulation or runoff of surface waters from any source.
15. **“Flood Insurance Rate Map (Firm)”** means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
16. **“Flood Insurance Study”** is the official report provided by FEMA. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.
17. **“Floodplain Or Flood-Prone Area”** means any land area susceptible to being inundated by water from any source (see definition of flooding).
18. **“Floodplain Management”** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.
19. **“Floodplain Management Regulations”** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such State or City regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
20. **“Flood Plain Development Permit”** means a permit that is issued under the authority of the City Engineer to regulate land development activities in the Flood Plain as part of the City’s participation in FEMA’s National Flood Insurance Program.
21. **“Flood Protection System”** means those physical structural works for which funds have been authorized, appropriated, and expended and that have been constructed specifically to modify flooding in order to reduce the extent of an area of special flood hazard and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees, and dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
22. **“Flood Proofing”** means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and/or sanitary facilities, and structures and their contents.
23. **“Floodway (Regulatory Floodway)”** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

24. **“Functionally Dependent Use”** means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes uses as docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
25. **“Highest Adjacent Grade”** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
26. **“Historic Structure”** means any structure that is:
  - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c. Individually-listed on a State inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
  - d. Individually-listed on a local inventory, or historic places in communities with historic preservation programs that have been certified either:
    - i. by an approved State program, as determined by the Secretary of the Interior; or
    - ii. directly by the Secretary of the Interior in states without approved programs.
27. **“Levee”** means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.
28. **“Levee System”** means a flood protection system consisting of levee(s) and associated structures, such as closure and drainage devices, that are constructed and operated in accordance with sound engineering practices.
29. **“Lowest Floor”** means the lowest floor of the lowest enclosed area (including basement).  
An unfinished or flood-resistant enclosure, usable solely for parking or vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program Regulations.
30. **“Manufactured Home”** means a structure transportable in one or more sections that is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
31. **“Manufactured Home Park Or Subdivision”** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
32. **“Mean Sea Level”** means, for purposes of this Chapter, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
33. **“New Construction”** means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is

later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

34. **“New Manufactured Home Park Or Subdivision”** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed is completed on or after the effective date of floodplain management regulations adopted by a community.
35. **“Recreational Vehicle”** means a vehicle which is:
  - a. built on a single chassis;
  - b. 400 square feet or less when measured at the largest horizontal projections;
  - c. designed to be self-propelled or permanently towable by a light duty truck; and
  - d. designed primarily as temporary living quarters or recreational, camping, travel, or seasonal use, but not designed for use as a permanent dwelling.
36. **“Start of Construction”** [for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)], includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
37. **“Structure”** means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
38. **“Substantial Damage”** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
39. **“Substantial Improvement”** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:
  - a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary conditions; or
  - b. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

40. **“Variance”** is a grant of relief to a person from the requirement of this Chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Chapter. (For full requirements and the standards for a variance see 44 CFR § 60.6).
41. **“Violation”** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.
42. **“Water Surface Elevation”** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Ord. 20-23; Ord. 11-9; Ord. 99-0427-1)

#### **18.02.06. General Provisions.**

1. **Lands to Which this Chapter Applies.** This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Saratoga Springs.
2. **Basis for Establishing the Areas of Special Flood Hazard.** The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Utah County, Utah and Incorporated Areas", dated June 19, 2020, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this Chapter. The Flood Insurance Study and FIRM are on file at the City Offices, 1307 N. Commerce Drive, Suite 200, Saratoga Springs, UT 84045.
3. **Floodplain Development Permit.** A Floodplain Development Permit shall be required to ensure conformance with the provisions of this Chapter.
4. **Compliance.** No structure or land shall hereafter be located or altered without full compliance with the terms of this Chapter and other applicable regulations.
5. **Abrogation and Greater Restrictions.** This Chapter is not intended to repeal, abrogate, or impair any existing easement, covenant, or deed restriction. However, where this Chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, the more restrictive provision shall prevail.
6. **Interpretation.** In addition to the Rules of Construction in Title 1, the interpretation and application of all provisions in this Chapter shall be:
  - a. considered as minimum requirements;
  - b. liberally construed in favor of the City; and
  - c. deemed neither to limit nor repeal any other powers granted under State or federal statutes.

(Ord. 20-23; Ord. 11-9; Ord. 99-0427-1)

**18.02.07. Warning and Disclaimer of Liability.**

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

(Ord. 20-23; Ord. 11-9; Ord. 99-0427-1)

**18.02.08. Administration.**

1. **Designation of the Floodplain Administrator.** The City Engineer is hereby appointed the Floodplain Administrator to administer and implement the provisions of this Chapter and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.
2. **Duties and Responsibilities of the Floodplain Administrator.** Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
  - a. Maintain and hold open for public inspection all records pertaining to the provisions of this Chapter.
  - b. Review permit applications to determine whether proposed building sites, including the placement of manufactured homes, will be reasonably safe from flooding.
  - c. Review, approve, or deny all applications for development permits required by adoption of this Chapter.
  - d. Review permits for proposed development to ensure that all necessary permits have been obtained from those federal, state, or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
  - e. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
  - f. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Division of Emergency Management, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
  - g. Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
  - h. When base flood elevation data has not been provided in accordance with 18.02.06.2, the Floodplain Administrator shall obtain, review, and reasonably

utilize any base flood elevation data and floodway data available from a federal, state, or other source in order to administer the provisions of 18.02.09.

- i. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
  - j. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).
3. **Floodplain Development Permit Procedures.** A Floodplain Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 18.02.06. Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevations of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
- a. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially-improved structures.
  - b. Elevation in relation to mean sea level to which non-residential structures shall be flood-proofed;
  - c. A certificate from a Utah-licensed professional engineer that the non-residential flood-proofed structure shall meet the flood-proofing criteria of 18.02.09.2.b;
  - d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of the proposed development;
  - e. Maintain a record of all such information in accordance with 18.02.08.2.a.

Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this Chapter and the following relevant factors:

- f. The danger to life and property due to flooding or erosion damage;
- g. The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner;
- h. The danger that materials may be swept onto other lands to the injury of others;
- i. The compatibility of the proposed use with existing and anticipated development;
- j. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- k. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets, bridges and public utilities and facilities such as storm drain, sewer, gas, electrical, and water systems;

- l. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
  - m. The necessity to the facility of a waterfront location, where applicable;
  - n. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
  - o. The relationship of the proposed use to the comprehensive plan for that area.
- 4. Variance Procedures.**
- a. Prerequisites for granting variances. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. Variances shall only be issued upon:
    - i. showing a good and sufficient cause;
    - ii. a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
    - iii. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - b. The Hearing Examiner shall hear and render judgement on requests for variances from the requirements of this Chapter.
  - c. The Hearing Examiner shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Chapter.
  - d. Any person or persons aggrieved by the decision of the Hearing Examiner may appeal such decision in the Fourth Judicial District Court of Utah County, as provided by Utah Code.
  - e. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
  - f. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Chapter.
  - g. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in 18.02.08.3.f-o have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
  - h. Upon consideration of the factors noted above and the intent of this Chapter, the Hearing Examiner may attach such conditions to the granting of variances as he/she deems necessary to further the Purpose of this Chapter.
  - i. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
  - j. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

- k. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
  - i. the criteria outlined in this Section are met, and
  - ii. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- l. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Ord. 20-23; Ord. 11-9; Ord. 99-0427-1)

### **18.02.09. Provisions for Flood Hazard Reduction**

1. **General Standards.** In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:
  - a. All new construction or substantial improvements shall be designed (or modified) and adequately-anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
  - c. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
  - d. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
  - f. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
  - g. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
  
2. **Specific Standards.** In all areas of special flood hazard where base flood elevation data has been provided, as set forth in Section 18.02.06.2, “Basis for Establishing the Areas of Special Flood Hazard,” or Section 18.02.08.2.h, “Use of Other Base Flood Data,” the following provisions are required:
  - a. **Residential Construction.** New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A Utah-licensed professional land surveyor

shall submit a certification to the Floodplain Administrator that this requirement is satisfied.

- b. **Non-Residential Construction.** New construction and substantial improvements of any commercial, industrial or other non-residential structure, shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A Utah-licensed professional engineer or Utah-licensed architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood-proofed shall be maintained by the Floodplain Administrator.
- c. **Enclosures.** New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a Utah-licensed professional engineer or Utah-licensed architect or meet, or exceed the following minimum criteria:
  - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - ii. The bottom of all openings shall be no higher than one foot above grade.
  - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- d. **Manufactured Homes.**
  - i. Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
  - ii. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites:
    - (1) outside of a manufactured home park or subdivision,
    - (2) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a

- flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement,
      - (3) in an expansion to an existing manufactured home park or subdivision, or
      - (4) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
    - iii. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph 2.d.ii of this section be elevated so that either:
      - (1) the lowest floor of the manufactured home is at or above the base flood elevation, or
      - (2) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - e. **Recreational Vehicles.** Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:
    - i. be on the site for fewer than 180 consecutive days,
    - ii. be fully-licensed and ready for highway use, or
    - iii. meet the permit requirements of 18.02.08.3, and the elevation and anchoring requirements for "manufactured homes" in paragraph d of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

### 3. Standards for Subdivision Proposals.

- a. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with 18.02.02.02-04 of this Chapter.
- b. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet requirements of 18.02.08.3 and 18.02.09 of this Chapter.
- c. Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions, that is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to 18.02.06.2 or 18.02.08.2.h of this Chapter.
- d. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

- e. All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
4. **Standards for Areas of Shallow Flooding (AO/AH Zones).** Located within the areas of Special Flood Hazard established in 18.02.06.2, are areas designated as shallow flooding. These areas have Special Flood Hazards associated with base flood depths of 1 to 3 feet where a clearly-defined channel does not exist and where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:
- a. Require within Zone AO that all new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
  - b. Require within Zone AO that all new construction and substantial improvements of **non-residential** structures:
    - i. have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;
    - ii. together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
  - c. A Utah-licensed professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as-listed in 18.02.08.3.
  - d. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.
5. **Floodways.** Floodways, located within areas of Special Flood Hazard established in 18.02.06.2, are areas designated as floodways. Because the floodway is an extremely hazardous area, due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:
- a. Encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
  - b. If the requirements of 5a above are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 18.02.09.
  - c. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood

elevations, provided that the community **first** applies for a conditional FIRM and floodway revision through FEMA.

(Ord. 20-23; Ord. 11-9; Ord. 99-0427-1)

## **Chapter 18.03. Open Pit Extraction of Earth Products.**

### **18.03.01. Intent.**

### **18.03.02. Scope.**

### **18.03.03. Conditions.**

### **18.03.04. Bond.**

### **18.03.05. Permits.**

### **18.03.06. Violations–Penalties**

#### **18.03.01. Intent.**

The intent and purpose of this Chapter is to provide for the extraction of earth products using surface mining methods for stockpiling minerals, and for the placement of overburden and leftover earth materials in mining waste dumps while protecting the environment and the rights of neighboring property owners, and to reduce road and other public facilities from exposure to unusual wear or damage.

(Ord. 12-9)

#### **18.03.02. Scope.**

The provisions of this Section shall apply to all sites where sand, gravel, clay, topsoil, rocks, or minerals will be extracted earth products or stockpiled, and to sites where overburden and leftover earth materials are placed in mining waste dumps.

(Ord. 12-9)

#### **18.03.03. Conditions.**

1. The City shall issue an operating permit for an open pit, a stockpile, or a waste dump only when all of the following are met:
  - a. the site lies in a zone where such use is a permitted use or where it may be approved as a conditional use;
  - b. the applicant has presented an accurate site plan that show topography, utilities, and roads and structures on the site at both the pre-permit stage and after completing the excavation and reclamation pit; and
  - c. there shall be no limit as to the area or portion of a lot that may be disturbed and involved in the extraction process as long as the entire disturbed area has been included in the reclamation bond required in this Section.
  
2. The standards for reclamation of the site shall be as follows:
  - a. The side walls of a pit or mound shall be smoothed and evenly contoured, and the floor of a pit or top of a mound shall be flattened and leveled.
  - b. Mounds of fill shall not remain after reclamation of an extraction operation, even if utility poles must be relocated at the operator's expense.
  - c. No depression which lacks a surface outlet or pond or intermittent lake on the floor of the pit shall exist on the reclaimed site.

- d. No slope shall be steeper than the critical angle of repose for the material, typically thirty-three degrees for gravel deposits.
- e. All areas shall be covered with a one-inch or thicker layer of topsoil and reseeded with a hardy plant material having a sufficient concentration to screen at least twenty-five percent of the exposed surface from view. An exception to this requirement is made for desert areas which lack natural soil or vegetation, which instead shall be resorted to a surface that corresponds with the native conditions rather than adding soil or reseeded.
- f. When the pit (or mound) and reclamation bond area propose to cover less than the entire area of the lot, the operator shall place clearly identifiable survey markers on the outer boundaries of the bonded area and shall maintain such until the bond is released by the City. An annual on-site investigation and report will be conducted by the designated enforcement officer to determine whether the terms of the grading plan, reclamation plan, and bond agreement are being met. Pursuant to that investigation, the bond may be increased or decreased.
- g. Surface mining shall proceed in an orderly manner from the outer boundaries and lower sloped of the property inward and upward so the property can be reclaimed in older areas of the pit while new areas are being opened up.
- h. Dust generated in the extraction and processing of the earth products shall be kept under control by the operator and contained on-site which may require paving main roads into the pit, wetting extraction areas and loaded trucks, placing berm or landscape screening for protection from the prevailing winds, and other suitable measures. Such procedures must also comply with the standards of state and federal law administered under the Utah State Division of Air Quality.
- i. All cuts and fills shall be set back from the property boundary or boundary of the approved extraction site a distance of seventy-five feet. The applicant shall present an off-site plan of any local public streets which loaded trucks will use in gaining access to state highways and arterial streets. The pit operator shall be liable for any severe damage his operation causes to such local roads.
- j. The pit and/or extraction operation shall not constitute a nuisance according to the nuisance ordinances adopted by the City, however, the following shall apply:
  - i. The pit and/or extraction operation shall not create any noise which may be heard off-site between the hours of 10 p.m. through 7 a.m., and;
  - ii. The pit and/or extraction operation shall not create any vibration which may be felt off-site between the hours of 10 p.m. through 7 a.m.

(Ord. 12-9)

**18.03.04. Bond.**

The following bond requirements are established for open pit extraction of earth products:

- 1. An acceptable bond in the amount set by the City, shall be posted by the applicant to guarantee compliance with the provisions of this Chapter and the nuisance provisions set forth herein. A violation of either provision shall be sufficient grounds for forfeiture of the bond to the City.

2. The City will, at the request of the appropriate City official charged with enforcing the provisions of this Chapter, reevaluate the amount of the bond based upon current costs of reclamation and the amount of reclamation and excavation that has occurred during the prior year. The bond amount may be increased if the City determines that an increase is warranted. If the City determines it is necessary, the amount of the bond may be reevaluated more frequently than once per year.
3. Any bond shall be accompanied by an agreement between the City and the applicant (plus the property owner if the latter is not also the applicant) wherein the City agrees to return the bond at the completion of the work if the standards of this Chapter have been met, and the applicant and property owner agree that the bond shall be forfeited in the event of noncompliance and to permit the City or its contractor to enter upon the land to close operations and reclaim the excavated or filled areas. Any ambiguity or deficiency in the working of the bond agreement shall be interpreted to include the terms of this Section.
4. It shall be a violation to not complete the reclamation within one year of ceasing operations and grounds for forfeiting the bond. The “trigger” for such forfeiture shall be any two-year period of time in which no material is extracted or any one-year period when the operator does not possess a current business license or valid zoning compliance permit.
5. Notwithstanding the forfeiture of the bond, the applicant shall retain individual responsibility to fully comply with this Chapter, the terms of the permits issued thereunder, and the balance of any expense not covered by the bond to reclaim the property. However, this Chapter shall not impose an affirmative duty upon the City to expend time or resources to reclaim the subject property beyond that which can be accomplished with the forfeited bonds.

(Ord. 12-9)

**18.03.05. Permits.**

In addition to the business license and building or grading permits required by City ordinances, any open pit operation shall be required to have a current zoning compliance permit. No zoning compliance permit for an open pit operation shall be valid after December 31<sup>st</sup> of each calendar year, but the permit shall be automatically renewed if the pit is found to be in compliance with standards of this Chapter. The City shall determine whether such compliance exists. In addition, compliance shall be required of all open pit operations with all provisions of federal and state mining, safety, and health requirements as well as the state and federal air quality requirements administered by the Utah State Division of Air Quality.

(Ord. 12-9)

**18.03.06. Violations-Penalties.**

Any person or entity who violates any of the provisions of this Chapter or who fails to comply therewith, or who violates or fails to comply with any order or directive made thereunder, shall

be guilty of a class B misdemeanor for each and every violation and noncompliance. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue. All such persons or entities shall be required to correct or remedy such violations or defects within a reasonable time, and when not otherwise specified, each consecutive ten-day period that prohibited conditions are maintained shall constitute a separate offense.

## Chapter 18.04. Encroachment Permits.

- 18.04.01. Definitions.
- 18.04.02. Permit Required.
- 18.04.03. Permit Application Requirements.
- 18.04.04. Emergency Work.
- 18.04.05. Permit Fees.
- 18.04.06. Permit–Contents, Duration and Extensions.
- 18.04.07. Permit–No Transfer or Assignment.
- 18.04.08. Compliance with Specifications, Standards, Traffic Control Regulations.
- 18.04.09. Other Highway Permits.
- 18.04.10. Impact of Encroachment on Existing Improvements.
- 18.04.11. Restoration of Public Property.
- 18.04.12. Insurance Requirements.
- 18.04.13. Bond–When Required, Conditions, Warranty.
- 18.04.14. Hold Harmless Agreement; Limitations on City Liability.
- 18.04.15. Work without Permit–Penalty.
- 18.04.16. Failure to Comply; Default in Performance.
- 18.04.17. Failure to Conform to Design Standards–Penalty.
- 18.04.18. Appeal of Suspension, Revocation, Stop Order.
- 18.04.19. Tampering with Traffic Barricades.
- 18.04.20. Violation–Penalty.

### 18.04.01. Definitions.

1. “**Applicant**” means any person who makes application for a permit.
2. “**Business**” means any place in the City in which there is conducted or carried on principally or exclusively any pursuit or occupation for the purpose of gaining a livelihood.
3. “**City**” means the City of Saratoga Springs, a municipal corporation of the State of Utah.
4. “**Emergency**” means any unforeseen circumstances or occurrence, the existence of which constitutes a clear and immediate danger to persons or property, or which causes interruption of utility service.
5. “**Engineering Regulations, Specifications, and Design Standards**” means the latest version of the Engineering Regulations or Technical Standard Specifications adopted by the City.
6. “**Failure**” means a work site restoration which fails to meet City Engineering Regulations, or which results in a deteriorated or substandard condition within the duration of the warranty period. Failure may be settlement of surfaces, deterioration of materials, or other surface irregularities. Measurement of failure shall be further defined in Engineering Regulations or Technical Standard Specifications.

7. **“Infrastructure Provider”** means a person providing to another, for the purpose of providing utility services to customers, all or part of the necessary system which uses the public right-of-way.
8. **“Manual on Uniform Traffic Control Devices”** means the manual on traffic control devices for streets and highways as published by the U.S. Department of Transportation and/or the Federal Highway Administration.
9. **“Operator”** means any person who provides service over a system and directly or through one or more affiliates owns a controlling interest in such system, or who otherwise controls or is responsible for the operation of such a system.
10. **“Permittee”** means and includes any natural person, partnership, firm, association, provider, corporation, company, organization, or entity of any kind.
11. **“Pipe Driveway”** means a driveway approach which uses a pipe or other means to bridge the gutter.
12. **“Property Owner”** means a person or persons who have legal title to property and/or an equitable interest in the property, or the ranking official or agent of a company having legal title to property and/or equitable interest in the property.
13. **“Provider”** means an operator, infrastructure provider, reseller, system lessee, or public utility company.
14. **“Public Utility Company”** means any company subject to the jurisdiction of the Utah State Public Service Commission, or any mutual corporation providing gas, electricity, water, telephone, or other utility product or services for use by the general public.
15. **“Public Way”** means and includes all public rights-of-way and easements, public footpaths, walkways and sidewalks, public streets, public roads, public highways, public alleys, and public drainage ways. It does not, however, include utility easements not within the City’s public ways.
16. **“Public Works Director”** means the person who is appointed by the City Manager, with the advice and consent of the City Council, to serve as the Public Works Director for the City of Saratoga Springs, Utah.
17. **“Private Drain Line”** means a pipe installed solely for the transmission of water collected or generated on private property such as drainage, spring, or storm water into the public drainage system.
18. **“Reseller”** refers to any person that provides service over a system for which a separate charge is made, where that person does not own or lease the underlying system used for the transmission and does not install any system in the rights-of-way.
19. **“Resident”** means the person or persons currently making their home at a particular dwelling.

20. **“Storm Drain”** means a dedicated pipe, conduit, water way, or ditch installed in a right-of-way or easement for the transmission of storm and drainage water. This term does not include private drain lines.
21. **“System”** means all conduits, manholes, poles, antennas, transceivers, amplifiers and all electronic devices, equipment, wire, and appurtenances owned, leased, or used by a provider located in the construction, ownership, operation, use, or maintenance of a telecommunications or utility system.
22. **“System Lessee”** refers to any person that leases a system or specific portion of a system to provide services.
23. **“Work Site Restoration”** means the restoring of the original ground or paved hard surface is to comply with engineering regulations, and includes but is not limited to repair, cleanup, backfilling, compaction, stabilization, paving, and other work necessary to place the site in acceptable condition following the conclusion of the work or expiration or revocation of the permit.

(Ord. 19-25; Ord. 12-9)

#### **18.04.02. Permit Required.**

Any person desiring to perform work of any kind in a public way within the City shall make application for permit. The decision by the City to issue a permit shall include, among other factors determined by the City, the following:

1. the capacity of the public way to accommodate the facilities or structures proposed to be installed in the public way;
2. the capacity for the public way to accommodate multiple wires in addition to cables, conduits, pipes, or other facilities or structures of other users of the public way such as electrical power, telephone, gas, sewer, and water;
3. the damage or disruption, if any, of public or private facilities, improvements, or landscaping previously existing in the public way; and
4. the public interest in minimizing the cost and disruption of construction from numerous excavations of the public way.

(Ord. 12-9)

#### **18.04.03. Permit Application Requirements.**

1. Application for a permit shall be filed with the City on a form or forms to be furnished by the City. Property owners or tenants for whom work is being done shall be responsible for obtaining the permits provided; however, a contractor may obtain the permit in the contractor’s name.

2. No person shall be eligible to apply for or receive permits to do work within the City's public ways save and except the following:
  - a. contractors licensed by the State of Utah as general contractors;
  - b. providers;
  - c. property owners installing, replacing, or maintaining less than 500 square feet or 100 linear feet of sidewalk, curb and gutter, driveway approach, or other work approved by the Public Works Director upon a portion of the public way adjacent to their residence; and
  - d. persons offering a service which requires occupation of the public way, such as scaffolding or staging, staging of a crane, installation or maintenance of electric signs, glass, awnings, and painting or cleaning of buildings or sign boards or other structures.
3. The Public Works Director may deny the issuance of permits to contractors, utility companies, or other permit applicants who have shown by past performance that in the opinion of the Public Works Director they will not consistently conform to the engineering regulations, technical specifications, design standards, or other requirements of this Chapter.
4. When necessary, in the judgment of the Public Works Director, to fully determine the relationship of the work proposed to existing or proposed facilities within the public ways, or to determine whether the work proposed complies with the engineering regulations, construction specifications, or design standards, the Public Works Director may require the filing of engineering plans, specifications, and sketches showing the proposed work in sufficient detail to permit determination of such relationship or compliance, or both, and the application shall be deemed suspended until such plans and sketches are filed and approved.
5. It shall be unlawful for any person to commence work upon any public way until the Public Works Director has approved the application and until a permit has been issued for such work, except as specifically approved to the contrary in this Chapter.
6. The denial of an application by the Public Works Director may be appealed by the applicant to the City Council by filing a written notice of appeal within ten days of the action by the Public Works Director. The City Council shall hear such appeal if a written request is timely filed as soon as practicable, and render its decision within two weeks following the hearing of the appeal.
7. In approving or disapproving work within the public way or in reviewing plans, sketches, or specifications for such work, the Public Works Director shall act in such manner as to preserve and protect the public way and the use thereof but shall have no authority to govern the actions or inactions of permittees, applicants, or other persons which have no relationship to the use, preservation, or protection of the public way.
8. A permit is not required under this Section for hand-digging excavations for installation or repair of sprinkler systems and landscaping within non-paved areas of the public way. However, conformance to all other City specifications is required.

(Ord. 19-25; Ord. 12-9)

**18.04.04. Emergency Work.**

1. Any person maintaining pipes, lines, or facilities in the public way may proceed with work upon existing facilities without a permit when emergency circumstances demand the work to be done immediately; provided a permit could not reasonably and practicably have been obtained beforehand.
2. In the event that emergency work is commenced on or within any of the City's public ways during regular business hours, the Public Works Director shall be notified within one-half hour from the time the work commences. The person commencing and conducting such work shall take all necessary safety precautions for the protection of the public and the direction and control of traffic and shall ensure that work is accomplished according to the City engineering regulations, the Manual on Uniform Traffic Control Devices, and other applicable laws, regulations, or generally recognized practices in the industry.
3. Any person commencing emergency work in the public way other than during business hours without a permit shall immediately thereafter apply for a permit or give notice during the first hour of the first regular business day on which City offices are open for business after such work is commenced. A permit for such emergency may be issued which shall be retroactive to the date when the work began.

(Ord. 19-25; Ord. 12-9)

**18.04.05. Permit Fees.**

1. The City shall charge and the permittee shall pay upon issuance of the permit, fees for costs associated with the work performed under the permit as outlined in the Consolidated Fee Schedule. Such costs could include costs for reviewing the project and issuing the permit, inspecting the project, deterioration of the public way or diminution of the useful life of the public way, and other costs to the City associated with the work to be done under the permit.
2. The Public Works Director may waive the permit fees or penalties or portions thereof provided for in this Chapter when he determines that such permit fee or penalty pertains to an encroachment on the public way involving a beautification project which furthers specific goals and objectives set forth in the City's strategic plan, master plans, or other official documents.

(Ord. 19-25; Ord. 12-9)

**18.04.06. Permit Contents, Duration and Extensions.**

1. Each permit application shall state the starting date and estimated completion date. Work shall be completed within five days from the starting date or as determined by the Public Works Director. Such determination shall be based upon factors reasonably related to the

work to be performed under the permit. Such factors may include, in addition to other factors related to the work to be performed, the following:

- a. the scope of the work to be performed under the permit;
  - b. maintaining the safe and effective flow of pedestrian and vehicular traffic on the public way affected by the work;
  - c. protecting the existing improvements to the public way impacted by the work;
  - d. the season of the year during which the work is to be performed as well as the current weather and its impact on public safety and the use of the public way by the public, and;
  - e. use of the public way for extraordinary events anticipated by the City.
2. The Public Works Director shall be notified by the permittee of commencement of the work within twenty-four hours prior to commencing the work. The permit shall be valid for the time period specified in the permit.
  3. If the work is not completed during such period, prior to the expiration of the permit, the permittee may apply to the City for an additional permit or an extension, which may be granted upon a showing of good cause.
  4. The length of the extension requested by the Permittee shall be subject to approval by the Public Works Director.

(Ord. 19-25; Ord. 12-9)

**18.04.07. Permit: No Transfer or Assignment.**

Permits shall not be transferable or assignable and work shall not be performed under a permit in any place other than that specified in the permit. Nothing stated herein shall prevent a permittee from subcontracting the work to be performed under a permit; however, the holder of the permit shall be and remain responsible for the performance of the work under the permit and for all bonding, insurance, and other requirements of this Chapter.

(Ord. 12-9)

**18.04.08. Compliance with Specifications, Standards, Traffic-Control Regulations; Site Permittee Identification.**

1. The work performed in the public way shall conform to the engineering and technical standards adopted by the City.
2. All excavations shall be conducted in a manner resulting in the minimum amount of interference or interruption of street or pedestrian traffic. Adequate and sufficient barricades or other structures will be available and used where necessary to prevent accidents.

(Ord. 12-9)

**18.04.09. Other Highway Permits.**

Holders of permits for work on highways owned or under the jurisdiction of other government entities, but located within the City limits, shall not be required to obtain permits from the City unless the work extends beyond the back side of the curb.

(Ord. 12-9)

**18.04.10. Impact of Encroachment on Existing Improvements.**

1. If any sidewalk or curb ramp is blocked by encroachment work, a temporary sidewalk or curb ramp shall be constructed or provided. The temporary improvement shall be safe for travel and convenient for users and consistent with City standards.
2. Where encroachments are made in paved areas, the surface shall be replaced with a temporary gravel surface until such time as the permanent repairs are completed.

(Ord. 19-25; Ord. 12-9)

**18.04.11. Restoration of Public Property.**

1. The permittee shall, at its own expense, restore the surface of any public way to its original condition and replace any removed or damaged pavement with the same type and depth of pavement as that which is adjoining, including the gravel base material. All restoration shall conform to the City’s engineering standards and Technical Specifications and shall be accomplished within the time limits set forth in the permit, unless additional time is granted in writing by the Public Works Director.
2. It its option and upon the City’s agreement, the permittee doing the actual encroachment work may request that the City restore the surface to its original condition. The fee for such resurfacing shall be determined by the Public Works Director in accordance with its reasonable costs for such work and shall be charged to the person, firm, or corporation making the encroachment. Payment for said work shall be received by the City prior to the release of the bond.

(Ord. 19-25; Ord. 12-9)

**18.04.12. Insurance Requirements.**

1. Before a permit is issued, the applicant shall furnish to the City evidence that the applicant has a comprehensive general liability and property damage policy that includes contractual liability coverage endorsed with the following limits and provisions or with such alternative limits and provisions as may be approved by the City:
  - a. A minimum of \$1,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage and not less than \$1,000,000 in the aggregate. The City Attorney may increase or decrease minimum insurance limits, depending on the potential liability of any project.
  - b. All policies shall include the City, its employees, officers, officials, agents, volunteers and assigns as insureds.

- c. Underwriters shall have no right of recovery or subrogation against the City, it being the intent of the parties that the insurance policy so affected shall protect both parties and be the primary coverage for any and all losses covered by the described insurance.
  - d. Each policy shall be endorsed to indemnify, save harmless, and defend the City, its officers, and employees against any claim or loss, damage, or expense sustained on account of damages to persons or property occurring by reason of permit work done by the permittee or the permittee's subcontractor, whether or not the work has been completed and whether or not the right-of-way has been opened to public travel.
2. Insurance is to be placed with insurers with an AM Best rating of no less than an A carrier, with a rating of A7" or higher.
  3. The permittee shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
  4. A permittee may be relieved of the obligation of submitting certificates of insurance under the following circumstances:
    - a. If such company shall submit satisfactory evidence in advance that:
      - i. it is insured in the amounts set forth in this Chapter or has complied with State requirements to become self-insured (Public utilities may submit annually, evidence of insurance coverage in lieu of individual submissions for each permit); and
      - ii. said coverage provides to the City the same scope of coverage that would otherwise be provided by a separate policy as required by this Chapter; or
    - b. The work to be performed under the permit issued to the applicant is to be performed by the City, in which case the insurance requirement or other risk-transfer issues shall be negotiated between the applicant and the City by separate agreement.

(Ord. 12-9)

**18.04.13. Bond-When Required, Conditions, Warranty.**

1. Except as noted in this Chapter, each applicant, before being issued a permit, shall provide the City with an acceptable bond in an amount determined by the Public Works Director and the bond provisions set forth in the City's Development Code to guarantee faithful performance of the work authorized by a permit granted pursuant to this Chapter. The amount of bond may be increased or decreased at the discretion of the Public Works Director whenever it appears that the amount and cost of the work to be performed may vary from the amount of bond otherwise required under this Chapter. The form of the bond and the entity issuing the bond shall be subject to the approval of the City Attorney.
2. Public utilities franchised by the City shall not be required to file a bond if such requirement is expressly waived in the franchise documents.

(Ord. 19-25; Ord. 12-9)

**18.04.14. Hold Harmless Agreement; Limitations on City Liability.**

The permittee agrees to hold the City, its officers, employees, and agents harmless from any and all costs, damages, and liabilities which may accrue or be claimed to accrue by reason of any work performed under the permit. The issuance and acceptance of any permit under this Chapter shall constitute such an agreement by the permittee to this Section.

(Ord. 19-25; Ord. 12-9)

**18.04.15. Work without Permit Penalty.**

1. A stop order may be issued by the Public Works Director directed to any person or persons doing or causing any work to be done in the public way without a permit. The abutting property owner shall be responsible for causing work to be done.
2. Any person found to be doing work in the public way without having obtained a permit as provided in this Chapter, shall be required to pay a permit fee equal to two times the normal permit fee. For replacement work, where a fee is not normally charged, the normal permit fee for new construction shall apply.

(Ord. 19-25; Ord. 12-9)

**18.04.16. Failure to Comply; Default in Performance.**

1. Any permit may be revoked or suspended and a stop order issued by the Public Works Director after notice to the permittee for any of the following reasons:
  - a. violation of any condition of the permit, the bond or of any provision of this Chapter;
  - b. violation of any provision of any other ordinance of the City or law relating to the work;  
or
  - c. existence of any condition or the doing of any act which constitutes, may constitute, or causes a condition endangering life or property.
2. Whenever the Public Works Director finds that a default has occurred in the performance of any term or condition of the permit, written notice may be given to the principal and to the surety on the bond, if there is a surety bond. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the Public Works Director to be necessary for completing the work. At the City's discretion, the City may complete the required work and commence action against the contractor and the bonding company to recover the costs expended to complete the work.

(Ord. 19-25; Ord. 12-9)

**18.04.17. Failure to Conform to Design Standards—Penalty.**

For failing to conform to the City's technical and design standards, the Public Works Director may:

1. suspend or revoke the permit;
2. issue a stop order;
3. order removal and replacement of faulty work;
4. require an extended warranty period; or
5. negotiate a cash settlement to be applied toward future maintenance costs.

(Ord. 19-25; Ord. 12-9)

**18.04.18. Appeal of Suspension, Revocation, Stop Order.**

Any suspension, revocation, or stop order by the Public Works Director may be appealed by the permittee by filing a written notice of appeal to the City Council within ten days of the action by the Public Works Director. The City Council shall hear such appeal, if a written request is timely filed, as soon as practicable and render its decision within a reasonable time following the notice of appeal.

(Ord. 19-25; Ord. 12-9)

**18.04.19. Tampering with Traffic Barricades.**

It shall be unlawful for any person to maliciously or wantonly, or without authorization and legal cause, do the following:

1. extinguish, remove, or diminish any light illuminating barricade or excavation; or
2. tear down, remove, or in any manner alter any rail, fence, or barricade protecting any excavation or other construction site.

(Ord. 12-9)

**18.04.20. Violation; Penalty.**

Unless otherwise specified in this Chapter, a violation of any provision of this Chapter, or failure to comply with an order of suspension, revocation, or stop order, shall be a class B misdemeanor. Each day the violation exists shall be a separate offense. No criminal conviction shall excuse the person from otherwise complying with the provisions of this Chapter.

(Ord. 12-9)

## **Chapter 18.05. Grading.**

### **Sections:**

**[18.05.01. Purpose.](#)**

**[18.05.02. Scope.](#)**

**[18.05.03. Definitions.](#)**

**[18.05.04. Grading Permit Required.](#)**

**[18.05.05. Grading Permit Requirements in General.](#)**

**[18.05.06. Specific Engineered Grading Requirements.](#)**

**[18.05.07. Grading Permit and Inspection Fees.](#)**

**[18.05.08. Bonds.](#)**

**[18.05.09. Hazards.](#)**

**[18.05.10. Cuts.](#)**

**[18.05.11. Fills.](#)**

**[18.05.12. Setbacks.](#)**

**[18.05.13. Grading Inspection.](#)**

**[18.05.14. Completion of Work.](#)**

### **18.05.01. Purpose.**

The purpose of this Chapter is to safeguard life, limb, property, and the public welfare by regulating grading on property within the City of Saratoga Springs.

(Ord. 14-14)

### **18.05.02. Scope.**

This Chapter establishes rules and regulations to regulate grading, excavation, and earthwork construction including fills and embankment, establishes the administrative procedure for issuance of permits, and provides for approval of plans and inspection of grading construction.

(Ord. 14-14)

### **18.05.03. Definitions.**

As used in this Chapter:

1. **“Cut”** means the removal of soil, rock, or earth material from an area of land.
2. **“Cut slope”** means an artificial incline or decline created by a cut.
3. **“Fill”** means a deposit of soil, rock, or earth material placed onto an area of land by artificial means such as the placement of soil for an embankment or fill slope.
4. **“Fill slope”** means an artificial incline or decline created by a fill.
5. **“Grade”** means the ground surface contour.
6. **“Grading”** means excavation, filling, in-place ground modification, removal of roots or

stumps, ground disturbance, stockpiling of earth materials, establishment of a grade following demolition of a structure, or any combination of the foregoing.

7. **“Slope”** means an inclined ground surface.

(Ord. 14-14)

#### **18.05.04. Grading Permit Required.**

1. Except as specified in subsection 2. no person shall perform any grading without first having obtained a grading permit from the City Engineer.
2. A grading permit is not required for the following:
  - a. An excavation authorized by a valid building permit below finished grade for basements and footings of a building, retaining walls, or other structures. This shall not exempt any fill made with the material from such excavation or exempt any excavation remaining after the completion of such structure.
  - b. Approved and permitted cemetery graves.
  - c. Approved and permitted refuse disposal sites controlled by other regulations.
  - d. Exploratory excavations under the direction of a soils engineer or engineering geologist where no more than 500 square feet of land surface is disturbed or where bore holes are 12” in diameter or less.
  - e. An excavation and/or fill that is no more than two feet in depth and covers an area less than 1000 sq. ft.
  - f. Work covered by a City approved encroachment/excavation permit
3. Exemption from the permit requirements of this Chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of any other laws or ordinances.

(Ord. 14-14)

#### **18.05.05. Grading Permit Requirements in General.**

1. **Permit Required.** Except as exempted in this Section 18.05.05, no person shall perform any grading without first obtaining a grading permit from the City. A separate permit shall be obtained for each site and may cover both cuts and fills.
2. **Grading Designation.** Grading equal to or greater than 1,000 cubic yards shall be performed in accordance with an approved grading plan prepared by a licensed civil engineer and shall be designated as “engineered grading.” Grading involving less than 1,000 cubic yards shall be designated “regular grading,” unless the permittee chooses to have the grading performed as engineered grading or the City Engineer determines that special conditions or unusual hazards exist, in which case grading shall conform to the requirements for engineered grading.
3. **Regular Grading Requirements.** Regular grading shall be required to comply with all

sections of this Chapter except for Section 18.05.06. In the event of a conflict, the more restrictive provision shall apply.

4. Engineered Grading Requirements. Engineered grading shall be required to comply with all sections of this Chapter including the specific requirements in Section 18.05.06. In the event of a conflict, the more restrictive provisions shall apply.
5. Issuance. The provisions of this Chapter are applicable to grading permits. The City Engineer may require that grading operations and project designs be modified if delays occur that create issues, such as weather-generated problems, not considered at the time the permit was issued. The City Engineer may require professional inspection and testing by a soils engineer. When the City Engineer has evidence that geologic factors may be involved, the grading will be required to conform to engineered grading.

(Ord. 14-14)

#### **18.05.06. Specific Engineered Grading Requirements.**

Engineered grading shall comply with all sections of this Chapter including the specific requirements in this Section. In the event of a conflict, the more restrictive provision shall apply. The following specific requirements shall apply to engineered grading:

1. Application for a permit shall be accompanied by two sets of construction drawings (a 24" x 36" size set and an 11" x 17" set) and details, an erosion control plan, permanent stabilization plans for all disturbed areas, and supporting data consisting at a minimum of a soils engineering report and drainage report. If requested by the City, additional supporting data may also be required including a Geology Report, Liquefaction Study and re-vegetation plan.
  - a. Soils Engineering Report. The soils engineering report shall include: (a) data regarding the nature, distribution, and strength of existing soils; (b) conclusions and recommendations for grading procedures and design criteria for all proposed cuts and fills; and (c) opinion on adequacy for the intended use of sites to be developed by the proposed grading as affected by soils engineering factors including the stability of slopes.
  - b. Drainage Report. The drainage report shall include: (a) data regarding the intensity, duration, and frequency of historic rainfall; (b) analysis of pre and post project drainage conditions; and (c) conclusions and recommendations on how site can accommodate and mitigate peak storm drain flows during and after construction without harmful impacts to the site or downstream properties.
  - c. Geology Report (if requested by the City). The geology report shall include at a minimum:
    - i. An adequate description of the geology of the site;
    - ii. Conclusions and recommendations regarding the effect of geologic conditions on the proposed development; and
    - iii. Opinion on the adequacy for the intended use of sites to be developed by the proposed grading, as affected by geologic factors.
  - d. Liquefaction Study (if requested by the City). The City Engineer may require a geotechnical investigation and report in accordance with this Chapter. The report shall address the potential of liquefaction when, during the course of an investigation,

- all of the following conditions are discovered:
  - i. Shallow ground water, fifty feet or less;
  - ii. Unconsolidated sandy alluvium; and
  - iii. Seismic Zones 3 and 4.
- e. Re-vegetation Plan (if requested by the City). The City may require complete landscaping and irrigation plans prepared by a qualified professional to ensure adequate re-vegetation and stabilization of all disturbed areas.
- 2. Specifications, if requested by the City, shall contain information covering construction and material requirements.
- 3. Plans shall be drawn to scale upon substantial paper and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this Chapter and all relevant laws, ordinances, rules, and regulations.
- 4. The first sheet of each set of plans shall give the location of the work, the name and address of the owner, and the person by whom they were prepared.
- 5. The plans shall include the following information:
  - i. general vicinity of the proposed site;
  - ii. property limits;
  - iii. accurate contours of existing ground;
  - iv. details of terrain and area drainage;
  - v. limiting dimensions, elevations, or finish contours to be achieved by the grading, and proposed drainage channels and related construction;
  - vi. detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams, and other protective devices to be constructed with, or as a part of, the proposed work, together with a map showing the drainage area and the estimated runoff of the area served by any drains;
  - vii. location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on adjacent land that are within fifteen feet of the property or that may be affected by the proposed grading operations;
  - viii. specific recommendations contained in the soils engineering report that are applicable to grading shall be included in the plans by reference; and

(Ord. 14-14)

**18.05.07. Grading Permit and Inspection Fees.**

1. General. Fees shall be assessed in accordance with the Consolidated Fee Schedule adopted by the City.
2. Plan Review Fees. When a plan or other data are required to be submitted, a plan review fee shall be paid at the time of submitting plans and specifications for review. The plan review fee shall be as set forth in the Consolidated Fee Schedule adopted by the City. Separate plan review fees may apply to retaining walls or major drainage structures as required elsewhere in this Code. For excavation and fill on the same site, the fee may be based on the volume of excavation or fill.
3. Inspection Fees. A fee for each grading permit shall be paid to the City of Saratoga Springs as

set forth in the Consolidated Fee Schedule adopted by the City. Separate permits and fees may apply to retaining walls or major drainage structures as required elsewhere in this Code.

(Ord. 14-14)

#### **18.05.08. Bonds.**

The City Engineer may require bonds in such form and amounts as may be deemed necessary to ensure that the work will be completed in accordance with the approved plans and/or specifications and/or will be corrected to eliminate hazardous conditions. Cash, escrow, or letter of credit bonds are acceptable.

(Ord. 14-14)

#### **18.05.09. Hazards.**

Whenever the City Engineer determines that any existing excavation, embankment, or fill on private property has become a hazard to life and limb, endangers property, or adversely affects the safety, use, or stability of public property or drainage channel, the owner of the property upon which the excavation or fill is located, or other person or agent in control of said property, upon receipt of notice in writing from the City Engineer, shall within the period specified in the notice repair or eliminate such excavation, embankment, or fill to eliminate the hazard and to be in conformance with the requirements of this Chapter.

(Ord. 14-14)

#### **18.05.10. Cuts.**

1. General. Unless otherwise recommended in the approved soils engineering report or approved engineering geology report and approved in writing by the City, cuts shall conform to the provisions of this Chapter and the most recent City Engineering Technical Specifications and Drawings.
2. Slope. The slope of cut surfaces shall be no steeper than is safe for the intended use and shall be no steeper than one unit vertical in four units horizontal, unless the permittee furnishes a soils engineering or an engineering geology report, or both, stating that the site has been investigated and giving an opinion that a cut at a steeper slope will be stable and not create a hazard to public or private property. Said report must be by a reputable engineer or engineering geologist and be acceptable by the City Engineer.

(Ord. 14-14)

#### **18.05.11. Fills.**

1. General. Unless otherwise recommended in the approved soils engineering report and approved by the City, fills shall conform to the provisions of this Chapter and the most recent version of the Engineering Standard Technical Specifications and Drawings.

2. Slope. The slope of cut surfaces shall be no steeper than is safe for the intended use and shall be no steeper than one unit vertical in four units horizontal, unless the permittee furnishes a soils engineering or an engineering geology report, or both, stating that the site has been investigated and giving an opinion that a cut at a steeper slope will be stable 9 and not create a hazard to public or private property. Said report must be by a reputable and certified engineer or engineering geologist and be acceptable to the City Engineer.

(Ord. 14-14)

#### **18.05.12. Setbacks.**

1. General. Cut and fill slopes shall be set back from site boundaries in accordance with this Chapter. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary. Setback dimensions shall be as required by the City.
2. Top of Cut Slope. The top of cut slope shall not be made nearer to a site boundary line than one-fifth of the vertical height of cut with a minimum of five feet. The setback may need to be increased for any required interceptor drains, utilities, or utility easements.
3. Toe of Fill Slope. The toe of fill slope shall not be made nearer to the site boundary line than one-half the height of the slope with a minimum of five feet. Where a fill slope is to be located near the site boundary and the adjacent offsite property is developed, special precautions shall be incorporated in the work as the City Engineer deems necessary to protect the adjoining property from damage as a result of such grading. These precautions may include but are not limited to:
  - a. Additional setbacks.
  - b. Provision for retaining or slough walls.
  - c. Mechanical or chemical treatment of the fill slope surface to minimize erosion.
  - d. Provisions for the control of surface waters.
4. Modification of Slope Location. The City Engineer may approve alternate setbacks. The City Engineer may require an investigation and recommendation by a qualified engineer or engineering geologist to demonstrate that the intent of this Section has been satisfied.

(Ord. 14-14)

#### **18.05.13. Grading Inspection.**

1. General. Grading operations for which a permit is required shall be subject to inspection by the City. The City Engineer may require that Professional inspection of grading operations is provided by a civil engineer, soils engineer, and/or engineering geologist.
2. Civil Engineer. The civil engineer shall provide professional inspection within such engineer's area of technical specialty, which shall consist of observation and review as to the establishment of line, grade, and surface drainage of the development area. If revised plans are required during the course of the work they shall be prepared by the civil engineer.

3. Soils Engineer. The soils engineer shall provide professional inspection within such engineer's area of technical specialty, which shall include observation during grading and testing for required compaction. The soils engineer shall provide sufficient observation during the preparation of the natural ground and placement and compaction of the fill to verify that such work is being performed in accordance with the conditions of the approved plan and the appropriate requirements of this Chapter. Revised 10 recommendations relating to conditions differing from the approved soils engineering and engineering geology reports shall be submitted to the permittee, the City Engineer, and the civil engineer. Materials testing shall be provided as recommended by the Soils Engineer and as directed by the City Engineer.
4. Engineering Geologist. The engineering geologist shall provide professional inspection within such engineer's area of technical specialty, which shall include professional inspection of the bedrock excavation to determine if conditions encountered are in conformance with the approved report.  
Revised recommendations relating to conditions differing from the approved engineering geology report shall be submitted to the soils engineer.
5. Permittee. The permittee shall be responsible for the work to be performed in accordance with the approved plans and specifications and in conformance with the provisions of this Code.
  - a. The permittee shall engage consultants, if required, to provide professional inspections on a timely basis.
  - b. The permittee shall act as a coordinator between the consultants, the contractor, and the City Engineer.
  - c. In the event of changed conditions, the permittee shall be responsible for informing the City Engineer of such change and shall provide revised plans for approval.
  - d. The permittee shall engage and pay for all materials testing.
6. City Engineer. The City Engineer may inspect the project at the various stages of work requiring approval to determine that adequate control is being exercised by the professional consultants and that the requirements of this Chapter are being complied with.
7. Notification of Noncompliance. If, in the course of fulfilling their respective duties under this Chapter, the civil engineer, the soils engineer, or the engineering geologist finds that the work is not being done in conformance with this Chapter or the approved grading plans, the discrepancies shall be reported immediately in writing to the permittee and to the City Engineer. If the permittee is not responsive to notification and does not bring work into compliance, the permit may be revoked and bond called.
8. Transfer of Responsibility. If the civil engineer, the soils engineer, or the engineering geologist of record is changed during grading, the work shall be stopped until the replacement has agreed in writing to accept their responsibility within the area of technical competence for approval upon completion of the work. It shall be the duty of the permittee to notify the City Engineer in writing of such change prior to the recommencement of such grading. The City Engineer must approve of the replacement before work can continue.

(Ord. 14-14)

#### **18.05.14. Completion of Work.**

1. Final Reports. Upon completion of the grading work and at the final completion of all stabilization per the City Standard Technical Specifications and Drawings, the following reports and drawings and supplements thereto are required for engineered grading or when professional inspection is performed for regular grading, as applicable:
  - a. An as-built grading plan prepared by the civil engineer retained to provide such services in accordance with this Chapter showing original ground surface elevations, as-graded ground surface elevations, lot drainage patterns, and the locations and elevations of surface drainage facilities and of the outlets of subsurface drains. As-constructed locations, elevations, and details of subsurface drains shall be shown as reported by the soils engineer. Civil engineers shall state that to the best of their knowledge the work within their area of responsibility was done in accordance with the final approved grading plan.
  - b. A report prepared by the soils engineer retained to provide such services in accordance with this Chapter, including locations and elevations of field density tests, summaries of field and laboratory tests, other substantiating data, and comments on any changes made during grading and their effect on the recommendations made in the approved soils engineering investigation report. Soils engineers shall submit a statement that, to the best of their knowledge, the work within their area of responsibilities is in accordance with the approved soils engineering report and applicable provisions of this Chapter.
  - c. A report prepared by the engineering geologist retained to provide such services in accordance with this Chapter, including a final description of the geology of the site, any new information disclosed during the grading, and the effect of the grading on recommendations incorporated in the approved grading plan. Engineering geologists shall submit a statement that, to the best of their knowledge, the work within their area of responsibility is in accordance with the approved engineering geologist report and applicable provisions of this Chapter.
  - d. The grading contractor shall submit in a form prescribed by the City Engineer a statement of conformance to said as-built plan and the specifications.
2. Notification of Completion. The permittee shall notify the City Engineer when the grading operation is ready for final inspection. Final approval shall not be given until:
  - (a) all work has been completed, including installation of all drainage facilities and their protective devices;
  - (b) all erosion-control measures have been completed in accordance with the final approved plans; and
  - (c) all required reports have been submitted.

(Ord. 14-14)

## Chapter 18.06. Storm Water Regulations.

### Sections:

[18.06.01. Definitions.](#)

[18.06.02. General Provisions.](#)

[18.06.03. Storm Water Permits.](#)

[18.06.04. Stormwater System Design and Management Standards.](#)

[18.06.05. Post Construction.](#)

[18.06.06. Waivers.](#)

[18.06.07. Existing Locations and Developments.](#)

[18.06.08. Illicit Discharges.](#)

[18.06.09. Inspections.](#)

[18.06.10. Enforcement.](#)

[18.06.11. Penalties.](#)

### 18.06.01. Definitions.

For the purpose of this Chapter, the following definitions shall apply. The rules of statutory construction in § 1.02.11 shall apply.

1. **“As built plans”** or **“Record drawings”** or **“Just as-built”** means a set of drawings submitted by a contractor or engineer upon completion of a project or a particular job. This set of drawings reflects all specification and work drawing changes made during the construction process, and show the exact dimensions, geometry, and location of all elements of the work completed under the contract.
2. **“Best management practices”** or **“BMPs”** are physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, have been approved by the City, and have been incorporated by reference into this ordinance as if fully set out herein.
3. **“Channel”** means a natural or artificial watercourse that conducts flowing water continuously or periodically.
4. **“City”** means the City of Saratoga Springs, its employees and assignees.
5. **“Community Water”** means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City.
6. **“Contaminant”** means any physical, chemical, biological, foreign, or radiological substance or matter in water.
7. **“Design storm event”** means a storm event of a given frequency interval and duration.

8. **“Detention Basin”** means a temporary storage facility for excess storm runoff designed in accordance with the Engineering Standards and containing at a minimum an inlet and outlet and designed for the purpose of (1) attenuating and detaining excess storm runoff, and (2) regulating the flow of such excess storm runoff so as to reduce stormwater-related damage downstream, and (3) enhancing the water quality of such excess storm runoff by providing filtration, sedimentation, and oil-removing apparatus.
9. **“Discharge”** means any solid or liquid matter that is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means into the municipal separate storm sewer system. This includes all entries of matter that are direct or indirect.
10. **“Engineering Standards”** means the latest adopted version of the Standard Technical Specifications and Drawings manual.
11. **“Erosion”** means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.
12. **“Erosion and sediment control plan”** means a plan that is designed to minimize erosion and sediment runoff at a site during construction activities.
13. **“Hot spot”** means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.
14. **“Illicit connections”** means any of the following:
  - a. Any drain or conveyance whether on the surface or subsurface, which allows contaminated or illicit discharge to enter the storm drain system.
  - b. Any drain or conveyance connected to or discharging into the storm drain system which has not been approved in writing by the City.
15. **“Illicit discharge”** means any discharge to the municipal separate storm sewer system (MS4) that is not composed entirely of storm water or that is being discharged without a City-approved treatment methodology.
16. **“Irrigation Ditches”** means ditches used by irrigation shareowners having a right of water passageway by right-of-way, easement, or prescription. Irrigation ditches can also include those facilities which function as a combined storm water and irrigation conveyance intended at times as a storm water routing and disposal system.
17. **“Land-disturbing activity”** means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) or the existing soil topography. Land-disturbing activities may include development, re-development, demolition, construction, reconstruction, clearing, grading, filling, excavation, grubbing, and paving.
18. **“Maintenance”** means any activity that is necessary to keep a stormwater facility in good working order so as to function as designed including but not limited to complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the

facility to its original operational design parameters and the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

19. **“Maintenance Agreement”** means a Long-Term Storm Water Management Agreement “LTSWMA” document recorded in the land records that acts as a property deed restriction and provides for long-term maintenance of stormwater management practices.
20. **“Municipal separate storm sewer/stormwater system”** or **“MS4”** means the conveyances owned or operated by the City of Saratoga Springs for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.
21. **“National Pollutant Discharge Elimination System Permit”** or **“NPDES permit”** means a permit issued pursuant to 33 U.S.C. §1342.
22. **“Notice of Violation”** or **“(N.O.V.)”** occurs whenever the City finds that a person is in non-compliance with this ordinance; the City will order compliance by written notice of violation to the responsible person. Requirements in this Notice are at the discretion of the Engineer, and may include monitoring, payment to cover costs relating to the non-compliance, and the implementation of BMP.
23. **“Off-site facility”** means a structural BMP located outside the subject property boundary described in the permit application for land development activity which is intended to form an integral part of the storm drain system for a given parcel.
24. **“On-site facility”** means a structural BMP located within the subject property boundary described in the permit application for land development activity.
25. **“On-site storm water management facility”** means any feature or facility located within the subject property boundary that collects, conveys, discharges, cleans, detains, retains, and/or infiltrates storm water prior to its discharge into either the MS4, community water, or infiltration into the ground.
26. **“Peak flow”** means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
27. **“Runoff”** means the portion of the precipitation on a drainage area that is discharged from the area. This can include water produced by storms, surface drainage, snow and ice melt, and other water handled by the storm sewer drainage system.
28. **“Saratoga Springs City Storm Water Management Program”** means those certain manuals, ordinances, practices, and policies set in place by the City of Saratoga Springs to regulate, permit, manage, and otherwise oversee the discharge of storm water within the corporate boundaries and influence area of the City. This includes both those manuals and practices which are in place at the time of the passage of this ordinance and those which will yet be put in place or adopted in this or future actions.

29. **“Sediment”** means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.
30. **“Sedimentation”** means the process of depositing sediment in any stormwater.
31. **“Soils Report”** means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.
32. **“Stabilization”** means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
33. **“Storm Water Design Standards and Regulations”** means the current City of Saratoga Springs storm water standards and regulations as adopted by the City.
34. **“Storm Water General Permit for Construction Activities”** means a permit required by the Utah Department of Environmental Quality, Division of Water Quality.
35. **“Storm Water Master Plan”** means the current City of Saratoga Springs Storm Water Master Plan, Capital Facilities Plan, and Impact Fee Facilities Plan as adopted by the City.
36. **“Storm Water Permit”** means the City Storm Water Permit as adopted by the City.
37. **“Stormwater”** means discharges, precipitation, rain, hail, stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration, and drainage.
38. **“Stormwater Management”** means all programs designed to maintain quality and quantity of stormwater runoff to pre-development levels.
39. **“Stormwater Management Facilities System”** means the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.
40. **“Stormwater Management Plan”** means a long term storm water management plan that evaluates the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the measures and BMP's proposed for managing storm water, discharges, contaminants, and sediment generated at the project site.
41. **“Stormwater Pollution Prevention Plan”** or **“SWPPP”** means Storm Water Pollution Prevention Plan. This is the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts, and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels during and after construction.

42. “**Stormwater runoff**” means flow on the surface of the ground, resulting from precipitation.
43. “**Structural BMPs**” means devices that are constructed to provide control of stormwater runoff.
44. “**Surface water**” includes all waters upon the surface of the earth, whether bounded naturally or artificially. This includes rivers, creeks, streams, canals, lakes, ponds, wetlands, reservoirs, and other water courses.
45. “**SWMP**” is an acronym for Storm Water Management Program. A Technical Report including a copy of the Land Disturbance Permit, Notice of Intent (NOI) (if applicable), Storm Water Pollution Prevention Plan (for during construction and post construction), storm water pollution prevention BMPs, spill prevention and countermeasure information, inspection records, and signed and dated Certification Statement from the Site Operator and the responsible person preparing the report.
46. “**SWPPP Manager**” means the individual who will be the contractor’s and owner’s representative in the field who supervises the implementation of the SWPPP and compliance with the Storm Water Permit.
47. “**Watercourse**” means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water and may include lakes, rivers, creeks, streams, canals, ponds, and wetlands.
48. “**Watershed**” means all the land area that contributes runoff to a particular point along a waterway.
49. “**UPDES**” is an acronym for the Utah Pollution Discharge Elimination System.

(Ord. 20-14, Ord. 15-1)

#### **18.06.02. General Provisions.**

1. **Purpose.** It is the purpose of this chapter to:
  - a. Protect, maintain, and enhance the environment of the City of Saratoga Springs (“the City”).
  - b. Establish responsibilities for controlling and managing storm water runoff.
  - c. Protect the public health, safety, and general welfare of the citizens of the City by controlling discharges of pollutants to the City’s stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, creeks, streams, canals, ponds, wetlands, and groundwater of the city.
  - d. Enable the City to comply with state and federal laws and regulations.
  - e. Allow the City to exercise the powers granted by the Utah Code and Constitution to:

- i. Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the City, whether or not owned and operated by the City;
  - ii. Adopt any rules and regulations deemed necessary to accomplish the purposes of this Chapter, including the adoption of a system of fees for services and permits;
  - iii. Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;
  - iv. Review and approve plans, plats, and permits for stormwater management in proposed developments;
  - v. Issue permits for stormwater discharges, or for the construction of, alteration of, extension of, encroachment on, or repair of stormwater facilities;
  - vi. Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
  - vii. Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
  - viii. Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.
2. The City Engineer shall administer the provisions of this Chapter. Nothing in this Chapter shall relieve any person from responsibility for damage to other persons or property or impose upon the City and its officers, agents or employees any liability for damage to other persons or property.

(Ord. 15-1)

**18.06.03. Storm Water Permits.**

1. When required:
  - a. Every person will be required to obtain a Storm Water Permit from the City in the following cases:
    - i. Land disturbing activity that disturbs one or more acres of land;
    - ii. Land disturbing activity of less than one acre of land if such activity is part of a larger common plan of development that affects one or more acres of land;
    - iii. Land disturbing activity of less than one acre of land if the City Engineer determines such activity poses a unique threat to water or public health or safety;
    - iv. The creation and use of borrow pits or those excavation sites used to generate fill or decorative material for an off-site location;
    - v. Development of a single family home;
    - vi. Modifications of sensitive areas or areas designated as sensitive lands;
    - vii. Processing of earthen materials such as top soil and gravel screening;
    - viii. Construction of parking lots;

- ix. Creation of an impervious area 0.1 acres/4,356 square feet or greater constructed with compacted gravel, asphalt, concrete, or equivalent;
- x. Creation or alteration of storm drains works or systems;
- xi. Excavation or disturbance of more than 1,000 cubic yards of material in any nonagricultural earth moving activity; and
- xii. Any other condition that poses a unique threat to water or public health or safety and meeting the purposes in Section 18.06.01 or the intent of the regulations in this Chapter.

**2. Exemptions.**

- a. The following activities are exempt from the permit requirement;
  - i. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources including activities required to promote public safety, repairs to water lines and/or other city infrastructure repairs.
  - ii. Existing nursery and agricultural operations conducted as a predominant land use.
  - iii. Any agricultural activity that is consistent with an approved farm conservation plan or a management plan prepared or approved by the appropriate federal, state, or city agency.
  - iv. Additions or modifications to existing single family structures.
  - v. Landscape modifications resulting in disturbances below the limits identified in Title 19.
  - vi. Excavation activities necessary for public infrastructure approved through the city approval process.

**3. Building permit.** No building permit shall be issued until the applicant has obtained a Storm Water Permit where the same is required by this ordinance.

**4. Application for a Storm Water Permit.**

- a. Each application shall include the following:
  - i. Name of applicant;
  - ii. Address of applicant;
  - iii. Name, address, and phone number of the owner of the property of record in the office of the county assessor;
  - iv. Address and legal description of subject property including the tax identification number and parcel number;
  - v. Name, address, and telephone number of the contractor and any subcontractor who will perform the land disturbing activity and who shall implement the erosion and sediment control plan;
  - vi. Designation of a SWPPP manager who will be the contractor's and owner's representative in the field who supervises the implementation of the SWPPP and compliance with the Storm Water Permit; and
  - vii. A statement indicating the nature, extent, and purpose of the land disturbing activity, including:
    - 1. the size of the area for which the permit shall be applicable,
    - 2. a schedule for the starting and completion dates of the land disturbing activity, and
    - 3. other pertinent information.

- b. The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property and submit such permits with the application for a Storm Water Permit. However, the inclusion of those permits in the application shall not foreclose the City Engineer from imposing additional development requirements and conditions consistent with this ordinance on the development of property covered by those permits. Failure of the applicant to obtain the necessary permits may be the basis for denial of issuance of a Storm Water Permit.
- c. Each application shall be accompanied by:
  - i. A SWPPP meeting the requirements of Stormwater General Permit for Construction Activities Permit No. UTRC00000. A model has been prepared for use by those preparing a SWPPP. A SWPPP must use this model template to ensure that a plan has been prepared in compliance with the State permit.
    - 1. The SWPPP template and the template guidelines can be found at the following link: <http://www.waterquality.utah.gov>
  - ii. A Notice Of Intent (NOI) from the State of Utah, Department of Environmental Quality, Division of Water Quality (“DWQ”), for Storm Water Discharges Associated with Construction Activity Under the UPDES General Permit No. UTRC00000. An NOI can be submitted on-line at the web site for the Utah DWQ storm water data base. The NOI must be signed by the owner and contractor.
    - 1. This template can be found at the following link:  
<http://www.waterquality.utah.gov>
  - iii. A Storm Water Management Plan meeting the Requirements of Section 18.06.04(6).
  - iv. A Sediment and Erosion Control Plan meeting the Requirements of Section 18.06.04(7).
  - v. An engineer's estimate for performance guarantee purposes inclusive of all costs associated with plan implementation, management, site stabilization, and clean up.
  - vi. Payment for the Storm Water Permit and other applicable fees and bonds as found in the City's Consolidated Fee Schedule.

**5. Review and approval of application.**

- a. The City Engineer will review each application for a Storm Water Permit to determine its conformance with the provisions of this Chapter. Within 15 days after receiving an application, the City Engineer shall provide one of the following responses in writing:
  - i. Approval of the permit application;
  - ii. Approval of the permit application, subject to conditions as may be necessary to substantially meet the objectives and requirements of this Chapter; or
  - iii. Denial of the permit application, including the reason for the denial.
- b. If the City Engineer has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the City Engineer. However, the applicant may be allowed to proceed with his land

disturbing activity so long as it conforms to conditions established by the City Engineer.

- c. No construction may begin until the Storm Water Permit has been approved and all outstanding fees paid in full.

**6. Permit duration.**

- a. Every Storm Water Permit shall expire and become null and void if :
  - i. Substantial work authorized by such permit has not commenced within 180 calendar days of issuance, is not complete within 18 months from the date of the commencement of construction, or work is suspended or abandoned for a period of 180 days or longer;
  - ii. The applicant is not authorized to discharge storm water under the UPDES program; or
  - iii. It is determined that the applicant is not an authorized representative of the owner and/or contractor.
- b. The Storm Water Permit shall remain in effect until all of the following items have been completed:
  - i. Submission of as built plans;
  - ii. Written certification by a registered professional engineer licensed to practice in the State of Utah that the structural BMP's have been installed in accordance with the approved plan and other applicable provisions of this ordinance;
  - iii. Submission of a signed Notice of Termination of the UPDES Permit;
  - iv. Installation and acceptance by City of all permanent or long term BMP's;
  - v. Completion of final inspection punch list items; and
  - vi. Removal of all temporary control measures.

**7. Notice of construction.**

- a. The applicant must notify the Public Works Department within ten working days in advance of the commencement of construction with a land disturbance permit.

**8. Requirements during construction.**

- a. **Noticing.**
  - i. The applicant must install and maintain a notice board at a publicly accessible location near the active part of the project. The notice board must be protected from the weather, and located where the City Inspector can read it easily without obstructing construction activities. The notice board shall include, at a minimum, the following information:
    - 1. Project name;
    - 2. Copy of any NOIs in effect;
    - 3. Name and phone number of the SWPPP Manager;
    - 4. SWPPP plan and report;
    - 5. Saratoga Springs Storm Water Permit.
- b. **SWPPP Manager.** The SWPPP Manager shall:
  - i. Implement and maintain the SWPPP, Storm Water Management Plan, and Sediment and Erosion control plan;

- ii. Ensure that subcontractors and utility companies understand and comply with the SWPPP, Storm Water Management Plan, and Sediment and Erosion Control Plan, and avoid disturbing installed BMP's;
- iii. Update the SWPPP and maintain the official updated SWPPP at the construction site; and
  - iv. Shall take immediate suitable action to preclude erosion and pollution if storm water discharges threaten water quality.

**c. Inspections.**

- i. Regular inspections of the stormwater management system construction shall be conducted by the party responsible for the work and reviewed by the City Inspector.
- ii. The property owner shall allow access to the City Engineer or a representative to inspect storm water control measures that discharge to the MS4. The inspection shall review the control measures in place, the maintenance plan, and the need for additional measures to completely address the erosion and sediment control for the project.
- iii. All inspections shall be documented and written reports prepared that contain the following information:
  - 1. The date and location of the inspection;
  - 2. Whether construction is in compliance with the approved stormwater management plan;
  - 3. Variations from the approved construction specifications;
  - 4. Any violations that exist.

**d. BMPs Maintenance.**

- i. BMP's that have been damaged or undercut shall be repaired or replaced.
- ii. If maintenance or modifications to existing BMP's are necessary following a storm or inspection, complete required maintenance or modifications as soon as possible and before the next storm event whenever practicable.
  - 1. Applicant shall maintain BMP's so they properly perform their function.
  - 2. Applicant shall also remove accumulated sediment and debris before the BMP loses fifty percent (50%) of its storage capacity.
  - 3. Additionally, the applicant must clean the silt fence before it loses thirty percent (30%) of its storage capacity.
  - 4. Applicant shall maintain temporary and permanent erosion and sediment control measures in effective operating condition and coordinate BMPs with subcontractors and utility companies doing Work in the Project area.

**9. Performance bonds.**

**a. The City Engineer shall:**

- i. Require the submittal of a performance security or performance guarantee bond prior to issuance of a permit in order to ensure that the SWPPP are implemented by the permit holder as required by the approved stormwater pollution prevention plan.
  - 1. The amount of the performance security or performance bond shall be the total estimated construction cost of the structural

BMPs approved under the permit plus any reasonably foreseeable additional related costs.

2. The performance security shall contain forfeiture provisions for failure to complete work specified in the SWPPP.
  3. The applicant shall provide an itemized engineer's construction cost estimate complete with unit prices which shall be subject to acceptance, amendment, or rejection by the City Engineer.
  4. Alternatively, the City Engineer shall have the right to calculate the cost of construction estimates and revise the opinion of probable cost accordingly.
- b. The performance security or performance guarantee bond shall be released in full only upon submission of:
- i. as built plans;
  - ii. a written certification by a registered professional engineer licensed to practice in the State of Utah that all BMPs have been followed in accordance with the approved plan and other applicable provisions of this ordinance;
  - iii. a signed Notice of Termination of the Construction General Permit;
  - iv. completion of final inspection punch list items; and
  - v. removal of all temporary control measures.
- c. The City Engineer or a representative will make a final inspection of the structural BMPs to ensure that they are in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security or performance guarantee bond based on the completion of various development stages can be made at the discretion of the City Engineer or representative.

(Ord. 20-14, Ord. 15-1)

#### **18.06.04. Stormwater System Design and Management Standards.**

##### **1. Irrigation ditches.**

- a. Property owners are responsible for the protection of irrigation canals per the relevant sections of this ordinance.
- b. Discharges into private canals require written approval from the ditch owners. The design shall comply with the terms of approvals and the City's Storm Water Design Standards and Regulations.
- c. Piping of irrigation ditches and modification to diversion structures require documented approval from canal owners or representative. Design and coordination requirements shall comply with the City's Storm Water Design Standards and Regulations.

##### **2. Drainage channels, waterways, and sensitive areas.**

- a. Property owners shall not alter or restrict natural channels and waterways without proper Federal, State and City permits.
- b. Modifications of sensitive areas are subject to and governed by the Land Development Code (Title 19). These actions will require a Storm Water Permit and approval from all other governing agencies.

- c. Property owners proposing to redirect runoff, surface, and/or pipe flow to properties or facilities outside Saratoga Springs boundaries must provide written approval from the state, county or municipality, or their agents.
- d. Property owners are responsible for the protection of natural and artificial channels located within their property per the relevant sections of this ordinance.
- e. Discharges or modifications to the channels require written approval from the canal owners and applicable governing agencies.

**3. Stormwater design and BMP manuals.**

- a. **Adoption.** The City adopts as its stormwater design and BMP manuals the following publications, which are incorporated by reference in this ordinance as is fully set out herein:
  - i. The City of Saratoga Springs Standard Technical Specifications and Drawings.
  - ii. The City of Saratoga Springs Storm Water Master Plan.
  - iii. The City of Saratoga Springs Storm Water Capital Facilities Plan.
  - iv. The City of Saratoga Springs Storm Drainage Systems Design and Management Manual.
  - v. Guidance Document for Stormwater Management (Salt Lake County Public Works Department).
    - 1. The document can be found at the following link:  
<http://slco.org/pweng/stormwater/html/guide.html>.
  - vi. Other guidance documents required by or included in the Saratoga Springs Storm Water Management Program.
- b. These manuals include a list of acceptable BMPs and include specific design performance criteria and operation and maintenance requirements for each stormwater practice. The manuals may be updated and expanded from time to time, at the discretion of the City Council, upon the recommendation of the City Engineer, based on improvements in engineering, science, monitory and local maintenance experience.

**4. General performance criteria for stormwater management.** Unless granted a waiver or an exemption from the City Engineer, the following post construction performance criteria shall be addressed for stormwater management at all sites:

- a. A Utah registered professional engineer must design the storm drain systems (Public and Private) within City boundaries and directly supervise all discharges into a City storm drain system. The design shall carry the seal of the supervising professional engineer.
- b. All site designs shall control the peak flow rates of stormwater discharge associated with design storms specified in this ordinance or in the BMP manual and reduce the generation of post construction stormwater runoff to pre-construction levels or 100-yr historical flow rates. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.
- c. To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the BMP manual.

- d. Stormwater discharges to critical areas with sensitive resources (e.g., cold water fisheries, swimming beaches, recharge areas, water supply reservoirs, etc.) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.
- e. Stormwater discharges from “hot spots” may require the application of specific structural BMPs and pollution prevention practices.
- f. Prior to or during the site design process, applicants for Storm Water Permits shall consult with the City Engineer to determine if they are subject to additional stormwater design requirements.
- g. Calculations for determining allowable peak flows and runoff volumes as found in the BMP manual shall be used for sizing all stormwater facilities.

**5. Minimum control requirements.**

- a. Storm water discharge during all construction activities shall comply with the terms of the Storm Water Permit, Saratoga Springs Standard Technical Specifications and Drawings, or requirements set forth by the most recent edition of the International Building Code, and the State of Utah UPDES requirements.
- b. Stormwater designs, installations, operations, and maintenance shall meet the multi-stage storm frequency storage and runoff volume requirements as identified in the BMP manual, along with the operation, installation, and maintenance standards in the BMP manual unless the City Engineer has granted the applicant a full or partial waiver for a particular BMP pursuant to section 6 of this ordinance.
- c. Runoff rates from one lot/parcel to another may not exceed pre-existing conditions and may not increase in such a manner that may unreasonably or unnecessarily cause more harm or damage than formerly existed in the predevelopment condition.
- d. If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City Engineer may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.
- e. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day by machine, broom, or shovel to the satisfaction of the City Engineer or representative. Failure to remove the sediment, soil, or debris shall be deemed a violation of this ordinance.

**6. Stormwater Management Plan requirements.** Property owners are responsible to manage or ensure management of storm water runoff and sediment, whether in conduit systems or on the surface, that traverse through or originate on their property. This responsibility may extend to the defining of agreements, easements, and other appropriate measures to address storm water management. In order to manage storm water, the property owner must develop a stormwater management plan and implement the plan. The stormwater management plan shall include sufficient information to allow the City Engineer to evaluate: the environmental and historical characteristics of the project site; the potential impacts of all proposed development of the site, both present and future, on the water resources; and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal the stormwater management plan shall include the following:

- a. **Site Description.** Brief description of the subject property and a description and map of its on-site storm water management facilities.

- b. **Topographic Base Map.** A 1" = 500' topographic base map of the site that extends a minimum of 1000 feet beyond the limits of the proposed development and indicates:
  - i. Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, and wetlands. It must also include the type, size, elevation, etc., of the nearest upstream and downstream drainage structures, slopes, and drainage arrows;
  - ii. Current land use including all existing structures, locations of utilities, and locations of roads, and easements;
  - iii. All other existing significant natural and artificial features.
  - iv. When deemed necessary by the City Engineer, the Topographic Base Map and Survey shall conform to the minimum levels established by the American Land and Title Association (ALTA Survey).
- c. Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, drainage patterns, locations of utilities, roads and easements, and the limits of clearing and grading.
- d. Proposed structural BMPs.
- e. A written description of the site plan and justification of proposed changes. Natural conditions may also be required.
- f. **Calculations.** Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storm events specified in the BMP manual. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this ordinance and the guidelines of the BMP manual. Such calculations shall include:
  - i. A description of the design storm event frequency, duration, and intensity where applicable;
  - ii. Time of concentration;
  - iii. Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
  - iv. Peak runoff rates and total runoff volumes for each watershed area;
  - v. Infiltration rates, where applicable, verified by percolation test or by geological test;
  - vi. Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
  - vii. Flow velocities;
  - viii. Data on the increase in rate and volume of runoff for the design storm events referenced in the BMP manual; and
  - ix. Documentation of sources for all computation methods and field test results.
- g. **Soils Information.** If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure. In all cases where subsurface infiltration is a component of the storm water management plan a site specific percolation test shall be submitted based upon field observations and testing at the location of the infiltration facility.

- h. **Maintenance, and Repair Plan:** The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment, skills, and training necessary for such maintenance. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. A permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the facility.
  - i. **Landscaping Plan.** The applicant must present a detailed plan for management of vegetation at the site after construction is finished. This will include who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved (If required by the BMP). Where it is required by the BMP, this plan must be prepared by a registered landscape architect licensed in the State of Utah.
7. **Sediment and Erosion Control Plan requirements.** The applicant must prepare a sediment and erosion control plan for all construction activities that accurately illustrates the measures that are to be taken to control storm water pollution problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. This plan shall be signed and sealed by a registered professional engineer licensed in the state of Utah. The plan shall also conform to the requirements found in the BMP manual, and shall include, at a minimum, the following:
- a. A topographic map with contour intervals of two (2) feet or less showing present conditions and proposed contours resulting from land disturbing activity.
  - b. All existing drainage ways, including intermittent and wet-weather. This must also include any designated floodways or flood plains.
  - c. Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed, and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.
  - d. Approximate limits of proposed clearing, grading, and filling.
  - e. Approximate flows of existing storm water leaving any portion of the site.
  - f. A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.
  - g. Location, size, and layout of proposed stormwater and sedimentation control improvements.
  - h. Proposed drainage network.
  - i. Proposed sizing for storm sewer piping, dewatering facilities, or other waterways.
  - j. Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must

address the adequacy of outfalls from the development. This includes: when water is concentrated, what is the capacity of waterways, if any, accepting storm water offsite; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring and/or sedimentation of waterways and drainage areas off-site, etc.

- k. The projected sequence of work represented by the grading, drainage, and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention facilities or any other structural BMPs.
  - l. Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used. Stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.
  - m. Specific details for the construction of rock pads, wash down pads, and settling basins for controlling erosion; road access points; and eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the City Engineer.
  - n. Proposed structures. Location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site.
  - o. A description of on-site measures to be taken to recharge surface water into the ground water system through infiltration.
  - p. Future phasing plans and impervious areas if applicable.
8. **Maintenance Easements.** The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the current property owner and all subsequent owners of the property and must be properly recorded in the Office of the Utah County Recorder.
9. **Maintenance Agreement.** The owner of property to be served by an on-site stormwater management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners. The maintenance agreement shall:
- a. Assign responsibility for the maintenance and repair of the stormwater facility to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.
  - b. Provide for annual inspection by the property owner or qualified designee for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this ordinance. This inspection shall be conducted by a qualified person as defined by the Utah Division of Water Quality, and such qualified person will submit a sealed report of the inspection to the City Engineer or representative.
  - c. It shall grant permission to the City to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.
  - d. Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter, and other debris; the cutting of grass; grass cuttings and vegetation removal; and the replacement of landscape vegetation. This applies

to all detention and retention basins, as well as inlets and drainage pipes and any other stormwater facilities as required by the property owner by the City. It shall also provide that the property owner shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the BMP manual.

- e. Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City Engineer.
  - f. Provide that if the property is not maintained or repaired within the prescribed schedule, the Public Works Department shall perform the maintenance and repair at the property owner's expense. The maintenance agreement shall also provide that the Public Works Department's cost of performing the maintenance shall be a lien against the property.
10. **Dedication.** The municipality shall have the discretion to accept the dedication of any existing or future stormwater management facility, provided such facility meets the requirements of this ordinance, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any stormwater facility accepted by the municipality must also meet the municipality's construction standards and any other standards and specifications that apply to the particular stormwater facility in question.

(Ord. 20-14, Ord. 15-1)

#### **18.06.05. Post Construction.**

- 1. **As-built plans.** All applicants are required to submit as built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Utah. A final inspection by the City Inspector is required before any performance security or performance bond will be released. The City Inspector shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance guarantee bond on the completion of various stages of development. Certificates of occupancy ("occupation permits") shall not be granted until corrections to all BMP's have been made and accepted by the City Inspector.
- 2. **Landscaping and stabilization requirements.** Any area of land from which the natural vegetative cover has been either partially or wholly cleared shall be revegetated according to a schedule approved by the City Engineer. The following criteria shall apply to revegetation efforts:
  - a. Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over seventy (70%) of the seeded area.
    - i. Any area of revegetation must exhibit a minimum of seventy percent (70%) density of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy percent (70%) density for one (1) year is achieved.

- b. Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
  - c. In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.
3. **Inspection of stormwater management facilities.** Periodic inspections of facilities shall be performed by the property owner or qualified designee for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this ordinance. This inspection shall be conducted by a qualified person as defined by the Utah Division of Water Quality, and such qualified person will submit a sealed report of the inspection to the Public Works Department.
  4. **Records of installation and maintenance activities.** Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least 5 years. These records shall be made available to the City Engineer during inspection of the facility and at other reasonable times upon request.
  5. **Failure to meet or maintain design or maintenance standards.** If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this ordinance, the Public Works Department, after reasonable notice to the responsible party, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the Public Works Department shall notify in writing the responsible party for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have 15 days to effect maintenance and repair of the facility in an approved manner.
    - a. In the event that corrective action is not undertaken within that time, the Public Works Department may take necessary corrective action. The cost of any action under this section shall be charged to the responsible party.

(Ord. 20-14, Ord. 15-1)

**18.06.06. Waivers.**

1. **General.** Every applicant shall provide for post construction stormwater management as required by this ordinance, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the City Engineer for review, processing, and approval or forwarding to City Council where deemed appropriate by City Engineer

2. **Conditions for waiver.** The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:
  - a. It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.
  - b. Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the City Engineer.
  - c. Provisions are made to manage stormwater by an off-site facility. The off-site facility must be in place and designed to provide the level of stormwater control that is equal to or greater than that which would be afforded by on-site practices. Further, the facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility.
  
3. **Downstream damage prohibited.** In order to receive a waiver, the applicant must demonstrate to the satisfaction of the City Engineer that the waiver will not lead to any of the following conditions downstream:
  - a. Deterioration of existing culverts, bridges, dams, and other structures;
  - b. Degradation of biological functions or habitat;
  - c. Accelerated stream bank or streambed erosion or siltation;
  - d. Increased threat of flood damage to public health, life or property.
  
4. **Storm Water Permit not to be issued where waiver requested.** No Storm Water Permit shall be issued where a waiver has been requested until the waiver is granted. If no waiver is granted, the application for a Storm Water Permit must be resubmitted.

(Ord. 15-1)

#### **18.06.07. Existing Locations and Developments.**

1. **Requirements for all existing locations and developments.** The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:
  - a. Denuded areas must be vegetated or covered under the standards and guidelines specified in the BMP manual and on a schedule acceptable to the City Engineer.
  - b. Cut and Fill slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.
  - c. Drainage ways shall be properly covered in vegetation or secured with rip-rap, channel lining, etc., to prevent erosion.
  - d. Trash, junk, rubbish, etc. shall be cleared from drainage ways.
  - e. Stormwater runoff shall be controlled to the extent reasonable to prevent pollution of local waters.
  
2. **Requirements for existing problem locations.** The Public Works Department shall notify the owners of existing locations and developments of the specific drainage, erosion, or sediment problem affecting such locations and developments, and the specific actions required to correct those problems. The notice may be in writing and will also specify a reasonable time for compliance. If not already existing, corrective actions may include a

requirement to prepare and implement a LTSWMP and LTSWMA per the provisions of this chapter.

3. **Inspection of existing facilities.** The Public Works Department may, to the extent authorized by state and federal law, establish inspection programs to verify that all stormwater management facilities, including those built before as well as after the adoption of this ordinance, are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the municipality's NPDES/UPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws.
  - a. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.
  
4. **Business License.** Upon application for a business license, and upon annual business license renewal, the owners of property served by an on-site Storm Water Management Facility shall ensure the property is covered by a Long Term Storm Water Management Plan and a Long Term Storm Water Management Agreement compliant with the Provisions of this chapter. Upon annual business license renewal the on-site Storm Water Management Facility shall be inspected by a registered storm water inspector in the State of Utah for compliance with the LTSWP and LTSWMA who will submit a sealed report of the inspection to the City Public Works Department.
  - a. A property owner may elect to have the City's Public Works Department perform the annual inspection. Each application for an inspection shall be accompanied by payment of the inspection and other storm water management fees, as adopted by resolution and found in the City Fee Schedule.
  - b. Any maintenance needs identified in the inspection report must be addressed in a timely manner, on a schedule to be determined by the Public Works Department. If the property is not maintained or repaired within the prescribed schedule, the Public Works Department shall perform the maintenance and repair at its expense, and bill the same to the property owner. If not paid within 30 days, the cost of performing the maintenance may be filed as a lien against the property.

(Ord. 20-14, Ord. 15-1)

#### **18.06.08. Illicit Discharges.**

1. **Scope.** This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system.
  
2. **Prohibition of illicit discharges.** No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of

stormwater. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

- a. Uncontaminated discharges from the following sources:
  - i. Water line flushing or other potable water sources;
  - ii. Landscape irrigation or lawn watering with potable water or pressurized irrigation;
  - iii. Diverted stream flows;
  - iv. Rising ground water;
  - v. Groundwater infiltration to storm drains;
  - vi. Uncontaminated pumped groundwater;
  - vii. Discharges from potable water sources;
  - viii. Foundation or footing drains;
  - ix. Crawl space pumps;
  - x. Lawn watering runoff;
  - xi. Individual residential car washing;
  - xii. Air conditioning condensation;
  - xiii. Irrigation water;
  - xiv. Springs;
  - xv. Natural riparian habitat or wet-land flows;
  - xvi. Swimming pools (if dechlorinated to less than one PPM chlorine);
  - xvii. Water reservoir discharges (if dechlorinated to less than one PPM chlorine);
  - xviii. Residual street wash water;
  - xix. Firefighting activities; and
  - xx. Any other uncontaminated water source.
- b. Discharges specified in writing by the City Engineer as being necessary to protect public health and safety.
- c. Dye testing is an allowable discharge if the City Engineer has so specified in writing.
- d. The prohibition shall not apply to any non-storm water discharge permitted under an UPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the State of Utah Division of Water Quality, 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 storm drain system.

**3. Prohibition of illicit connections.**

- a. The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.
- b. 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.

**4. Reduction of stormwater pollutants by the use of best management practices.** Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMP's necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the

discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section.

5. **Notification of spills.** Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.
  - a. **Hazardous Materials.** In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services.
  - b. **Non-hazardous Materials.** In the event of a release of non-hazardous materials, the person shall notify the Public Works Department in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Public Works Department within three (3) business days of the telephone notice.
  - c. **Written Records of Illicit Discharges.** If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least 5 years.

(Ord. 20-14, Ord. 15-1)

#### **18.06.09. Inspection.**

1. **Purpose.** To be in accordance with the General Permit for Discharges for Small Municipal Separate Storm Sewer Systems (MS4), Permit No. UTR090000, the City will conduct inspections to monitor all storm water controls and BMPs as well as all discharges to the City's Storm Sewer System and to natural water bodies including lakes, rivers, stream and canals.
2. **Scope.** Inspections relating to the MS4 Permit include but are not limited to illicit discharges, construction activities and post construction operation and maintenance of stormwater controls, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs either publicly or privately owned.
3. **Access.**
  - a. **Visual Inspections.** Visual inspections of discharges to natural water bodies, spills, stormwater related controls on private property within the City limits of Saratoga Springs are permitted by the Public Works Department at any time.
  - b. **Other Inspections.** When a visual inspection is not adequate to determine the extent of discharges to natural water bodies, spills, or determine the status of stormwater related controls on private property, the City will give 24 hours' notice of the inspection to take place and the extent of the inspection. Equipment and

manpower necessary to perform the inspection will be allowed to access and work as necessary to determine the state of the situation.

- c. **Emergency Inspections.** During times of emergency including discharges to natural water bodies, spills or potential damage to life or property, the City may access the location of concern as necessary and with the equipment required to determine the status of the situation. Reasonable attempts to contact the property owner prior to the inspection will be made prior to accessing private property.
4. **Follow-up Inspections.** During initial or routine inspections if problems are identified which require corrective actions then a follow-up inspection will be scheduled.

(Ord. 20-14, Ord. 15-1)

#### **18.06.10. Enforcement.**

1. **Enforcement authority.** The City Engineer or his representatives shall have the authority to issue notices of violation, stop work orders, and citations, and to impose the civil penalties provided in this section.
  - a. With the issuance of a Storm water permit, the City shall be permitted to enter and inspect, including testing and investigation, facilities subject to this ordinance at all reasonable times and as often as necessary to determine compliance. Failure to comply with the terms of this ordinance may result in punitive actions by the City, by the Utah County Health Department, or by other means identified in permits or terms set forth in development applications.
2. **Violation Procedure.**
  - a. **Written Notice.** Whenever the City finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the City may serve upon such person written notice of the violation. Within ten (10) days of this notice, the permittee or other person in violation will submit to the City Engineer an explanation of the violation and a plan for the satisfactory correction and prevention of such violations. This plan will include specific actions that will be taken in order to come into compliance with this ordinance. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.
  - b. **Consent Orders.** The City Engineer is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within the time period specified by the order. Consent orders shall have the same force and effect as the compliance orders issued pursuant to §18.06.10(2)(d).
  - c. **Show Cause Hearing.** The City Engineer may order any person who violates this ordinance or permit or order issued hereunder, to show cause for why a proposed enforcement action should not be taken. Notice shall be served on the violator specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall

be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

- d. **Compliance Order.** When the City Engineer finds that any person has violated or continues to violate this ordinance or a permit or order issued thereunder, the City Engineer may issue a compliance order to the violator. This order will direct that, following a specific time period, adequate structures, or devices be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.
  - i. **Cease and Desist Orders.** When the City Engineer finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the City Engineer may issue an order to cease and desist all such violations and direct those persons in noncompliance to:
    1. Comply forthwith; or
    2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.
3. **Conflicting standards.** Whenever there is a conflict between any standard contained in this ordinance and in the BMP manual adopted by the municipality under this ordinance, the strictest standard shall prevail.
4. **Violations.** Any person who shall commit any act declared unlawful under this ordinance, who violates any provision of this ordinance, who violates the provisions of any permit issued pursuant to this ordinance, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City SD Representative, shall be guilty of a Class C Misdemeanor.

(Ord. 15-1)

#### **18.06.11. Penalties.**

1. Any person found violating the provisions of this ordinance may be assessed a fine of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation. The City may also issue a criminal citation pursuant to Utah law or City ordinances.
2. **Measuring Civil Penalties.** In assessing a civil penalty, the City Engineer may consider:
  - a. The harm done to the public health or the environment;
  - b. Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
  - c. The economic benefit gained by the violator;
  - d. The amount of effort put forth by the violator to remedy this violation;
  - e. Any unusual or extraordinary enforcement costs incurred by the municipality;
  - f. The amount of penalty established by ordinance or resolution for specific categories of violations; and

- g. Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
- 3. **Recovery of Damages and Costs.** In addition to the civil penalty in subsection (2) above, the municipality may recover:
  - a. all damages proximately caused by the violator to the municipality, including any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation; and
  - b. the costs of the municipality's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this ordinance.
- 4. **Other remedies.** The municipality may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions. In addition to the penalties established in this ordinance, the City may refuse to renew business licenses or other permits while such a violation continues.
- 5. **Remedies cumulative.** The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

(Ord. 15-1)