

**ORDINANCE 15-1 (1-20-15)**

**AN ORDINANCE OF THE CITY OF SARATOGA SPRINGS, UTAH  
CREATING A NEW CHAPTER OF THE SARATOGA SPRINGS CITY  
CODE REGULATING STORM WATER DRAINAGE AND DISCHARGE  
AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, Utah Code Annotated § 10-8-84 authorizes the City to pass ordinances providing for the public safety, health, morals, welfare, peace and good order, comfort, and convenience of the City and its residents; and

**WHEREAS**, Utah Code Annotated § 19-5-107 prohibits the discharge of pollutants into the waters of the State of Utah; and

**WHEREAS**, the City operates a Municipal Separate Storm Sewer System ("MS4") which carries storm water from roadways and from public and private properties into the waters of the State of Utah; and

**WHEREAS**, the National Pollution Discharge Elimination System (NPDES) permit and the Utah Pollution Discharge Elimination System (UPDES) permit, and applicable regulations, require the City of Saratoga Springs to manage discharges from its MS4; and

**WHEREAS**, the City has determined that the public interest, convenience, health, welfare, and safety requires that all storm water discharges generated from individual construction, commercial, industrial, and public use developments and subdivisions be confined and disposed of in a flood control storm drain system; and

**WHEREAS**, the City has determined that each area which is proposed to be subdivided, developed, or built upon does in fact generate additional runoff water that needs to be disposed of in a safe manner, avoiding damage and hazards to the inhabitants of the City of Saratoga Springs; and

**WHEREAS**, the welfare of the City will be promoted by regulating storm water discharges and drainages as well as non-storm water discharges;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Saratoga Springs, Utah as follows:

**SECTION I – ENACTMENT**

Chapter 18.06 of the City Code, attached as Exhibit A hereto and incorporated herein by this reference, is hereby adopted.

**SECTION II – AMENDMENT OF CONFLICTING ORDINANCES**

If any ordinances, resolutions, or policies of the City of Saratoga Springs heretofore adopted are inconsistent herewith they are hereby amended to comply with the provisions hereof. If they cannot be amended to comply with the provisions hereof, they are hereby repealed.

**SECTION III – EFFECTIVE DATE**

This ordinance shall take effect upon passage by a majority vote of the City Council and following publication as required by the Utah Code.

**SECTION IV – SEVERABILITY**

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

**SECTION V – PUBLIC NOTICE**

The Saratoga Springs Recorder is hereby ordered, in accordance with the requirements of Utah Code §§ 10-3-710—711, to do as follows:

- a. deposit a copy of this ordinance in the office of the City Recorder; and
- b. publish notice as follows:
  - i. publish a short summary of this ordinance for at least one publication in a newspaper of general circulation in the City; or
  - ii. post a complete copy of this ordinance in three public places within the City.

**ADOPTED AND PASSED** by the City Council of the City of Saratoga Springs, Utah, this 20 day of January, 2015.

Signed: [Signature]  
Jim Miller, Mayor

Attest: [Signature]  
Lori Yates, City Recorder

1/20/15  
Date

Shellie Baertsch	<u>✓</u>
Rebecca Call	<u>X</u>
Michael McOmber	<u>X</u>
Stephen Willden	<u>X</u>
Bud Poduska	<u>X</u>



# Exhibit A

## 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. “Contaminant” means any physical, chemical, biological, foreign, or radiological substance or matter in water.
6. “Design storm event” means a storm event of a given frequency interval and duration.

7. “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.
8. “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.
9. “Erosion and sediment control plan” means a plan that is designed to minimize erosion and sediment runoff at a site during construction activities.
10. “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.
11. “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.
12. “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.
13. “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.
14. “Storm Water Permit” means the City Storm Water Permit as adopted by the City.
15. “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.
16. “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.
17. “Maintenance agreement” means a document recorded in the land records that acts as a property deed restriction and provides for long-term maintenance of stormwater management practices.

18. “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.
19. “National Pollutant Discharge Elimination System Permit” or “NPDES permit” means a permit issued pursuant to 33 U.S.C. §1342.
20. “Notice of Violation” or “(N.O.V.)” occurs whenever the City Engineer finds that a person is in non-compliance with this ordinance; the City Engineer 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.
21. “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.
22. “On-site facility” means a structural BMP located within the subject property boundary described in the permit application for land development activity.
23. “Peak flow” means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
24. “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.
25. “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.
26. “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.
27. “Sedimentation” means the process of depositing sediment in any stormwater.
28. “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.

29. “**Stabilization**” means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
30. “**Stormwater**” means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration, and drainage.
31. “**Storm Water Design Standards and Regulations**” means the current City of Saratoga Springs storm water standards and regulations as adopted by the City.
32. “**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.
33. “**Stormwater management**” means all programs designed to maintain quality and quantity of stormwater runoff to pre-development levels.
34. “**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.
35. “**Storm Water General Permit for Construction Activities**” means a permit required by the Utah Department of Environmental Quality, Division of Water Quality.
36. “**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.
37. “**Stormwater runoff**” means flow on the surface of the ground, resulting from precipitation.
38. “**Structural BMPs**” means devices that are constructed to provide control of stormwater runoff.
39. “**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.
40. “**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.

41. “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.
42. “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.
43. “Watershed” means all the land area that contributes runoff to a particular point along a waterway.
44. “UPDES” is an acronym for the Utah Pollution Discharge Elimination System.

#### **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.

### **18.06.03. Storm Water Permits.**

1. When required:
  - a. Every person will be required to obtain a Storm Water Permit from the City Engineer 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. **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.
3. **Exemptions.** The following activities are exempt from the permit requirement:
  - a. Any emergency activity of a municipal, state, or federal agency that is immediately necessary for the protection of life, property, or natural resources.
  - b. Existing nursery and agricultural operations conducted as a permitted main or accessory use so long as compliant with city, state, and federal law.

- c. Any agricultural activity that is consistent with an approved farm conservation plan or a management plan prepared or approved by the appropriate City, federal, or state Agency.
- d. Additions or modifications to existing single-family structures.

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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/UPDES/docs/2012/04Apr/Const\\_SW\\_swppp\\_template.doc](http://www.waterquality.utah.gov/UPDES/docs/2012/04Apr/Const_SW_swppp_template.doc)
  - 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/UPDES/stormwatercon.htm>.

- 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.

#### **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:



- 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. **Project Description.** Brief description of the intended project and proposed land-disturbing activity including number of units, structures to be constructed, and the required infrastructure.
- 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; and
    - 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. **Work Sequence.** 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. This also includes the construction of any sediment basins or retention facilities or any other structural BMP's.

- i. **Installation, Maintenance, and Repair Plan:** The design and planning of all stormwater management facilities shall include detailed installation, 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.
  - j. **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 City Engineer shall perform the maintenance and repair at the property owner's expense. The maintenance agreement shall also provide that the City Engineer'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.

#### **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. When applicable, 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 City Engineer or representative.
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 City Engineer, 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 City Engineer 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 City Engineer may take necessary corrective action. The cost of any action by the City Engineer under this section shall be charged to the responsible party.

#### **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.

#### **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 City Engineer 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.
3. **Inspection of existing facilities.** The City Engineer 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. Upon application for a business license, the City Engineer shall inspect proposed occupation site for compliance with provisions of this ordinance. The City Engineer may also conduct a review or inspection of storm water compliance upon annual business license renewal application

#### **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 City Engineer 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 City Engineer 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.

#### **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 City Engineer 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.

#### **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.

#### **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.