



Washington City Council  
Workshop Meeting Agenda  
August 13, 2025

**PUBLIC NOTICE** is hereby given that the Washington City Council will hold a Public Electronic Workshop Meeting on **Wednesday, August 13, 2025 at 4:00 P.M.** hosted at Washington City Hall located at 111 North 100 East, Washington, Utah. The meeting will be broadcast via Youtube Live linked online at <https://washingtoncity.org/meetings>

1. Approval of the Agenda
2. Southern Utah Water Update
3. Stormwater Management
4. Adjournment

POSTED on this 7th day of August 2025  
Tara Pentz, City Recorder

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*In accordance with the Americans with Disabilities Act, Washington City will make reasonable accommodations to participate in the meeting. Requests for assistance can be made by calling the City Recorder at 656-6308 at least 24 hours in advance of the meeting to be held.*

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**WASHINGTON CITY  
CITY COUNCIL MEETING  
STAFF REVIEW**

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**HEARING DATE:** August 13, 2025

**ACTION REQUESTED:** Adoption of an amended ordinance for the Stormwater Program

**APPLICANT:** Public Works

**REVIEWED BY:** John Hehnke; New Development Manager

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### **Background**

During the State of Utah's audit of our stormwater program, a review was completed of the various ordinances passed by Washington City for our stormwater program. As part of the State's findings, it was determined that our ordinances were deficient.

The major deficiency noted is that the various ordinances were not in effect as they were not included as part of the codified ordinances. The various ordinances had been passed by the city council but never made a part of the codified ordinances of Washington City.

The previous ordinances were:

2009-15 An Ordinance Establishing Methods for controlling Introduction of Pollutants into the City Storm Sewer System to Comply with Federal Requirements

2012-07: An Ordinance to Establish Requirements for the Maintenance of Storm Water Facilities to Comply with Federal Requirements

2020-16: An Ordinance Amending the Washington City Code by Replacing Chapter 7 (Postconstruction Stormwater Management) of Title 8 (Building Codes and Construction Regulations) in order to comply with current Federal and State Requirements.

2022-36: An Ordinance Amending and Adopting the Washington City Grading, Erosion, and Sediment Control (GESC) Manual

In order to address the audit deficiency, staff has created the following single ordinance to incorporate all of the stormwater requirements into an amended section within the codified ordinances under Title 8 (Building Codes and Construction Regulations) Chapter 7. This ordinance reflects the combination of the above ordinances as well as revisions to update language to meet current permit requirements and state statutes.

This amended ordinance is one of our August submissions required to comply with the audit findings and bring our stormwater program into compliance.

## **SECTION 8-7-1: GENERAL PROVISIONS**

A. Purpose: It is the purpose of this chapter to:

1. Protect, maintain, and enhance the environment of Washington City.
2. Establish responsibilities for controlling and managing stormwater runoff.
3. Protect the public health, safety and the general welfare of the city and its inhabitants by controlling discharges of pollutants to the city's stormwater facilities and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, but not limited to, lakes, rivers, streams, ponds, wetlands, and groundwater of the city.
4. Enable the city to comply with the most current National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR section 122.26 for stormwater discharges and the state of Utah, Department of Environmental Quality, Utah Pollution Discharge Elimination System (UPDES) stormwater general permits which include: general stormwater permit for construction activity connected with single-lot housing projects; general permit for stormwater discharges from construction activities; and general permit for discharges from small municipal separate storm sewer systems (MS4s).
5. Allow the city to exercise the powers granted by Utah code, which provides that, among other powers municipalities have with respect to stormwater facilities, the power by ordinance or resolution to:
  - a. Exercise general regulation over the planning, location, construction, operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;
  - b. 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;
  - c. Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;
  - d. Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;
  - e. Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;
  - f. Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
  - g. Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated;
  - h. Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private; and
  - i. Establish a viable and fair method of financing the construction, operation and maintenance of the stormwater facilities.

B. Administering Entity: Washington City shall administer the provisions of this chapter. Nothing in this chapter shall relieve any person from responsibility for damage to other persons or property, nor impose upon Washington City, its officers, agents or employees, any liability for damage to other persons or property.

## **SECTION 8-7-2: DEFINITIONS**

For the purpose of this chapter, the definitions in section 8-6-2 shall apply in this chapter as well as the following definitions:

**BEST MANAGEMENT PRACTICES (BMPs):** Physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by

Washington City and that have been incorporated by reference into this chapter as if fully set out therein. For purposes of this title, the relevant BMPs are more particularly defined in the Washington City stormwater management program and city of Washington "Standard Specifications For Design And Construction."

**CHANNEL:** A natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

**WASHINGTON CITY:** Washington City or authorized designee.

**CITY STORM WATER FACILITIES:** Storm systems that receive runoff from public rights-of-way, natural waterways, and drainage systems identified in a city easement.

**COMMON PLAN OF DEVELOPMENT OR SALE:** a plan to subdivide a parcel of land into separate parts for separate sale. This can be for residential, commercial, or industrial development. The plan originates as a single parcel that is separated into parts. This usually goes through an approval process by a local governmental unit, but in some cases, it may not require that process. The original plan is considered the "common plan of development or sale" whether phased or completed in steps.

**CONTAMINANT:** Any unnatural, physical, chemical, biological, or radiological substance or matter in water.

**DISCHARGE:** Dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate stormwater facilities.

**EASEMENT:** An acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

**EROSION:** 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 (human cause).

**EROSION AND SEDIMENT CONTROL PLAN:** A written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

**GRADING PERMIT:** A permit issued by Washington City to allow grading of a property.

**ILLICIT CONNECTION:** Illegal or unauthorized connections to the municipal separate storm sewer system whether or not such connections result in discharges into that system.

**ILLICIT DISCHARGE:** Any discharge to a municipal separate storm sewer that is not composed entirely of stormwater except discharges pursuant to a UPDES Permit (other than the UPDES Permit for discharges from the municipal separate storm sewer) to waters of the state.

**IMMEDIATELY:** Requires owner/operator to, on the same day a condition requiring corrective action is found (or as soon afterward as possible considering normal work schedule and task size), take all reasonable steps to minimize or prevent the discharge of pollutants until a permanent solution is installed and made operational.

**LAND DISTURBING/GRADING ACTIVITY:** Any activity on property that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing/grading activities include, but are not limited to, development, redevelopment, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

**LONG-TERM STORM WATER MANAGEMENT PLAN:** A site-specific written document that identifies potential sources of stormwater pollution. It describes stormwater control measures and best management practices (BMPs) that will be used to reduce or eliminate pollutants in stormwater discharges into the city's MS4. It contains the procedures the owner will implement to comply with the terms and conditions of the stormwater maintenance agreement. The long-term stormwater management plan is required as a condition of the development plan approval and is required as part of the city's small MS4 UPDES general permit from the state of Utah.

**MAINTENANCE:** Any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4):** A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) pursuant to paragraphs R317-8-1.6(4), (8), & (15), or designated under UAC R317-8-11.3(6)(a) and UAC R317-8-11.3(6)(b):

- that is owned or operated by a state, city, town, county, district, association, or other public body (created by or pursuant to State Law) having jurisdiction over disposal of wastes, stormwater, or other wastes, including special districts under State Law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management/agency under section 208 of the CWA that discharges to waters of the state;
- that is designed or used for collecting or conveying stormwater;
- which is not a combined sewer; and
- which is not part of a Publicly Owned Treatment Works (POTW) as defined in 40 CFR 122.2.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT OR NPDES PERMIT:** The provisions of the Federal Clean Water Act for the control of stormwater discharges, also a permit issued pursuant to 33 USC section 1342.

**NOTICE OF INTENT (NOI):** Whenever a contractor disturbs one (1) acre or more of property, or less than one (1) acre if part of a common plan of development, an NOI through the state of Utah must be filed. This is a binding contract between the state of Utah and the contractor stating that the contractor will address stormwater and drainage issues on site and downstream throughout the duration of the project until the NOT is filed.

**NOTICE OF TERMINATION (NOT):** Whenever a contractor completes a project on one (1) acre or more of property, or less than one (1) acre if part of a common plan of development, it is the contractor's responsibility to maintain the stormwater and drainage controls until such time as the NOT is filed and accepted by the state of Utah and city of Washington.

**NOTICE OF VIOLATION (NOV):** Whenever Washington City finds that a person is in noncompliance with this chapter, Washington City may order compliance by written notice of violation to the responsible person. Requirements in this notice are at the discretion of Washington City, and may include monitoring, payment to cover costs relating to the noncompliance, and the implementation of best management practices.

**PERSON:** Any and all persons including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.

**PROPERTY OWNER:** Landowner of property within the boundary of Washington City.

**REDEVELOPMENT:** The replacement or improvement of impervious surfaces on a developed site.

**SEDIMENT:** 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.

**SEDIMENTATION:** Soil particles suspended in stormwater that can settle in streambeds and disrupt the natural flow of the stream.

**STABILIZATION:** Providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

**STORM WATER FACILITIES:** The drainage structures, conduits, ditches, storm sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

**STORM WATER MAINTENANCE AGREEMENT:** A document recorded in the Washington County recorder's office that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices and will reference a long-term stormwater management plan. The stormwater maintenance agreement is required as a condition of the development plan approval and is required as part of the city's small MS4 UPDES general permit from the state of Utah.

**STORM WATER MANAGEMENT:** The programs to manage quality and quantity of stormwater runoff.

**STORM WATER MANAGEMENT PROGRAM (SWMP):** Washington City stormwater master program as adopted by the city.

**STORM WATER POLLUTION PREVENTION PLAN (SWPPP):** a site-specific, written document that, among other things: (1) identifies potential sources of storm water pollution at the construction site; (2) describes storm water control measures to reduce or eliminate pollutants in storm water discharges from the construction site; and (3) identifies procedures the operator will implement to comply with the terms and conditions of this Permit.

**STORM WATER RUNOFF:** stormwater runoff from precipitation, snowmelt, and surface runoff and drainage.

**STRUCTURAL BMPs:** Devices that are constructed or installed to provide control of stormwater runoff.

**SURFACE WATER:** Includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes and reservoirs.

**UPDES:** Utah Pollution Discharge Elimination System.

**WATERCOURSE:** A permanent or intermittent stream or other body of water, either natural or manmade, which gathers or carries surface water.

**WATERS OF THE STATE:** Means all streams, lakes, ponds, marshes, water-courses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private which are contained within, flow through, or border upon this state or any portion thereof, except bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, or a public health hazard, or a menace to fish and wildlife which shall not be considered to be "waters of the state" under this definition ("UAC" R317-1-1).

### **SECTION 8-7-3: GRADING PERMITS**

Engineers, Contractors, etc. shall follow all requirements of the most recently approved and adopted Washington City Grading, Erosion, and Sediment Control (GESC) Manual.

## **SECTION 8-7-4: STORMWATER POLLUTION PREVENTION PLAN (SWPPP) AND NOTICE OF INTENT (NOI)**

Contractors, applicants, etc. shall adhere to the requirements for construction site stormwater as laid out in state law *19-5-108.3 Construction site stormwater runoff control*.

All persons grading or disturbing one (1) acre or more, or less than an acre if part of a common plan of development, shall obtain a notice of intent (NOI) through the state of Utah. This form requires that a stormwater pollution prevention plan (SWPPP) is submitted for review and approval from Washington City. The NOI and SWPPP shall be signed by both the owner and the operator.

The SWPPP must be developed and be consistent with the most current UPDES stormwater general permit for construction activities.

## **SECTION 8-7-5: STORMWATER FACILITIES DESIGN AND MANAGEMENT STANDARDS**

Engineers, architects, contractors, etc. shall follow all requirements of the most recently approved and adopted Washington City Construction Design Standards and Details and the Washington City Grading, Erosion, and Sediment Control (GESC) Manual.

## **SECTION 8-7-6: POST-CONSTRUCTION**

### **A. Applicability**

1. In General. This Ordinance shall apply to any application for a building permit, subdivision approval, site plan approval or other zoning, planning or land use approval that is filed on or after the date of adoption for any *New Development* or *Redevelopment* within the *Municipality* that *Discharges Stormwater* to the *Municipality's MS4* and to associated *Stormwater Management Facilities*.
2. Exception. This Ordinance does not apply to *New Development* or *Redevelopment* on a lot, tract or parcel where that lot, tract or parcel is part of a subdivision that is approved under this Ordinance; said lot, tract or parcel shall not require separate review under this Ordinance, but shall comply with the *Post-Construction Stormwater Management Plan* requirements for that approved subdivision.

### **B. Post-Construction Stormwater Management Plan Approval**

1. General Requirement. Except as provided in Section 5.B. above, no *Applicant* for a building permit, subdivision approval, site plan approval or other land use approval for *New Development* or *Redevelopment* to which this Ordinance is applicable shall receive such permit or approval for that *New Development* or *Redevelopment* unless the *Municipal Permitting Authority* for that *New Development* or *Redevelopment* also determines that the *Applicant's Post-Construction Stormwater Management Plan* for that *New Development* or *Redevelopment* meets the requirements of this Ordinance and the Maintenance Agreement has been recorded in the office of the Washington County Recorder.

### **C. Standards**

1. Stormwater Management Plan Required. The *Applicant* shall make adequate provision for the management of the quantity and quality of all *stormwater* generated by the *New Development* or *Redevelopment* through a *Post-Construction Stormwater Management Plan*. This *Post-Construction Stormwater Management Plan* shall be designed by a Professional Engineer to meet the standards contained in the Grading Manual and must

include evaluation of *Low Impact Development* as well as fully comply with all practices described in the Storm Water General Permit.

2. Stormwater Maintenance Agreement Required. Where the *Applicant* proposes to retain ownership of the *Stormwater Management Facilities* shown in its *Post-Construction Stormwater Management Plan*, the *Applicant* shall submit to the *Municipality* documentation, approved as to legal sufficiency by the *Municipality*'s attorney that the *Applicant*, its successors, heirs and assigns shall have the legal obligation and the resources available to operate, repair, maintain and replace the *stormwater management facilities*. Applications for *New Development* or *Redevelopment* requiring *Stormwater Management Facilities* shall enter into a Maintenance Agreement with the *Municipality*.
3. Location of Facilities. The *Applicant* may meet the quantity and quality standards above either on-site or off-site, but where off-site facilities are used, the *Applicant* must submit to the *Municipality* documentation, approved as to legal sufficiency by the *Municipality*'s attorney, that the *Applicant* has a sufficient property interest in the property where the off-site facilities are located -- by easement, covenant or other appropriate legal instrument -- to ensure that the facilities will be able to provide post-construction *stormwater management* for the *New Development* or *Redevelopment* and that the property will not be altered in a way that interferes with the off-site facilities.
4. Easements and Dedications. Whenever elements of the *Stormwater Management Facilities* are not within the right-of-way of a public street and the facilities will not be offered to the *Municipality* for acceptance as public facilities, the *Municipal Permitting Authority* may require that perpetual easements conforming substantially with the lines of existing natural drainage, and in a form acceptable to the *Municipality*'s attorney, shall be provided to the *Municipality* allowing access for maintenance, repair, replacement and improvement of the *Stormwater Management Facilities*. When an offer of dedication is required by the *Municipal Permitting Authority*, the *Applicant* shall be responsible for the maintenance of these *Stormwater Management Facilities* under this Ordinance until such time (if ever) as they are accepted by the *Municipality*.
5. Standards to Minimize Impacts on Water Quality: New development and redevelopment projects must have requirements or standards to ensure that any stormwater controls or management practices will prevent or minimize impacts to water quality.
6. Standards to Minimize Development In Susceptible Areas: New development and redevelopment projects include nonstructural BMPs such as requirements and standards to minimize development in areas susceptible to erosion and sediment loss; to minimize the disturbance of native soils and vegetation; to preserve areas in the municipality that provide important water quality benefits; to implement measures for flood control; and to protect the integrity of natural resources and sensitive areas.
7. Projects Greater than or Equal to One (1) Acre: Newly developed and redeveloped projects that disturb greater than or equal to one (1) acre, including projects less than one (1) acre that are of a larger common plan of development or sale, are required to submit a low impact development (LID) approach to be evaluated by Washington City. An LID approach promotes the implementation of BMPs that allow stormwater to infiltrate, evapotranspire or harvest and use stormwater on site to reduce runoff from the site and protect water quality. Guidance for implementing LID can be found in state of Utah DWQ's LID controls which are appropriate for use in the state of Utah and can be found in "A Guide to Low Impact Development within Utah" (the Guide), available on DWQ's website or "Green Infrastructure and Low Impact Development Application Guidance for Washington County, Utah," available from Washington City.

8. Specific Criteria: Newly developed and redeveloped projects must meet specific criteria which require that best management practices (BMPs) are designed to manage rainfall on site, and prevent the off-site discharge of the precipitation from all rainfall events less than or equal to the eightieth (80th) percentile rainfall event or a predevelopment hydrologic condition, whichever is less. This objective must be accomplished by the use of practices that are designed, constructed, and maintained to infiltrate, evapotranspire and/or harvest and reuse rainwater, and must be incorporated into the permittee's development plans and long-term stormwater management plan which includes the LID approach. If meeting the eightieth (80th) percentile standard is infeasible an alternative design approach may be used; provided, that the permittee documents that infiltration, evapotranspiration, and rainwater harvesting have been used to the maximum extent feasible and that full employment of these controls is infeasible due to constraints. For guidance including alternative design approaches, see "A Guide to Low Impact Development within Utah" published by the DWQ, and "Green Infrastructure and Low Impact Development Application Guidance for Washington County, Utah."
9. Redevelopment: Redevelopment projects that increase impervious surface by greater than 10% must prevent the off-site discharge of the net increase in stormwater volume associated with precipitation from all rainfall events that are less than or equal to the 80th percentile rainfall event.
10. Stabilization Requirements: Any area that has been disturbed by grading activity shall be stabilized according to a schedule provided by the contractor or the owner/operator and approved by Washington City. A plan must be submitted with the final design describing the vegetative or other stabilization and management techniques to be used at a site. This plan will explain not only how the site will be stabilized, but who will be responsible for the maintenance of vegetation or other stabilization at the site, and what practices will be employed to ensure that adequate cover is preserved. A long-term stormwater management plan and a post-construction stormwater agreement are required prior to the issuance of a grading permit.
11. Engineering and Administrative Fees. At the time of application, the *Applicant* shall pay to the *Municipality* a fee as reflected on the Washington City Master Fee Schedule for the review of the proposal unless it is determined by the Public Works Department that a third party review of the proposal is necessary. If it is determined that a third party review is necessary an estimate will be provided to the owner for payment prior to review by a third party.

In addition, any *persons* required to file an annual certification under Section 8-7-5(D) of this Ordinance shall pay, prior to the issuance of any temporary or permanent certificate of compliance for the *New Development* or *Redevelopment*, a fee as reflected on the Washington City Master Fee Schedule for review of the annual certification.

12. Notice of *BMP Discharge* to *Municipality's MS4*. At the time of application, the *Applicant* shall notify the *Municipal Permitting Authority* if its *Post-Construction Stormwater Management Plan* includes any *BMP(s)* that will *discharge* to the *Municipality's MS4* and shall include in this notification a listing of which *BMP(s)* will so *discharge*.
13. As-Built Certification. Prior to the issuance of a Certificate of Compliance for a project requiring a *Post-Construction Stormwater Management Plan* under this ordinance, the *Applicant* shall submit evidence in the form of a letter or plan prepared and stamped by a Professional Engineer who either prepared the *Post-Construction Stormwater Management Plan* and its associated Facilities or supervised the Plan and Facilities construction and implementation. The letter or plan shall certify that the *Stormwater Management Facilities* have been installed in accordance with the approved *Post-Construction Stormwater Management Plan* and that they will function as intended

by said Plan. This certification must specifically include any *LID* measures incorporated into the *Post-Construction Stormwater Management Plan* and the as constructed volume of each toward the 80<sup>th</sup> percentile retention requirement. Any *LID* features to be constructed at a later date (such as facilities on individual building lots) shall be specifically approved by the City Council at the time of preliminary plat. If the *LID* proposal is approved, the requirements of such facility shall record as a deed restriction against the property and have notes placed upon the final plat describing the specific requirements for said features.

14. Conflict with State Laws or Rules. In addition to any other applicable requirements of this Ordinance and the *Municipality's* land use ordinances, any *New Development* or *Redevelopment* which also requires a *stormwater* management permit from the State of Utah Department of Environmental Quality (DEQ) shall comply with the rules adopted by DEQ, as the same may be amended from time to time, and the *Applicant* shall document such compliance to the *Municipal Permitting Authority*. Where the standards or other provisions of such *stormwater* rules conflict with municipal ordinances, the stricter (more protective) standard shall apply.

D. Post-Construction Stormwater Management Plan Compliance

1. General Requirements. Any *Person* owning, operating, leasing or having control over *Stormwater Management Facilities* required by a *Post-Construction Stormwater Management Plan* approved under this Ordinance, and the Facilities are located in the *Municipality* and *Discharge Stormwater* to the *Municipality's* MS4, shall at their own expense demonstrate compliance with that Plan as follows.
  - a. Scope of Inspection. A *Qualified Post-construction Stormwater Inspector* shall, at least annually, inspect the *Stormwater Management Facilities*, including but not limited to any parking areas, catch basins, *LID* features, drainage swales, detention basins and ponds, pipes and related structures, in accordance with all municipal and state inspection requirements, cleaning and maintenance requirements of the approved *Post-Construction Stormwater Management Plan*.
  - b. Deficiencies Identified. If the *Stormwater Management Facilities* require maintenance or repair to function as intended by the approved *Post-Construction Stormwater Management Plan*, that *Person* shall take or cause to be taken corrective action(s) to address the deficiency or deficiencies.
  - c. Submission of Inspection Form. A *Qualified Post-construction Stormwater Inspector* shall, on or before July 1 of each year, provide a completed and signed certification to the Public Works Department in a form identical to that attached as Appendix 1 to this Ordinance, certifying that he/she has inspected the *Stormwater Management Facilities* and that they are adequately maintained and functioning as intended by the approved *Post-Construction Stormwater Management Plan*, or that they require maintenance or repair, describing any required maintenance and any deficiencies found during inspection of the *Stormwater Management Facilities* and, if the *Stormwater Management Facilities* require maintenance or repair of deficiencies in order to function as intended by the approved *Post-Construction Stormwater Management Plan*, the *Person* shall provide a record of the required maintenance or deficiency and corrective action(s) taken.
2. Right of Entry. In order to determine compliance with this Ordinance and with the *Post-Construction Stormwater Management Plan*, the *Enforcement Authority* may enter upon property at reasonable hours with the consent of the owner, occupant or agent to inspect the *Stormwater Management Facilities*.

E. Enforcement

1. Enforcement Authority. The *Municipality* may issue notices of violation, stop work orders, citations, and impose civil penalties. The *Municipality* may complete periodic inspections

to ensure that the *Applicant's* chosen *Post-Construction Stormwater Management Facilities* are performing adequately. If facilities are not performing, the *Municipality* may require changes to be made to the *Post-Construction Stormwater Management Plan*.

2. Notification of Violation (NOV)
  - a. Written Notice. Whenever the *Municipality* finds that the *person* discharging *stormwater* has violated or is violating this Ordinance or a permit or order issued hereunder, the *Municipality* may serve upon such *person* written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the *Municipality*. 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 *Municipality* 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 a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsection 2C and 2D of this section.
  - c. Show Cause Hearing. The *Municipality* may order any *person* who violates this Ordinance or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the *person* specifying the time and place for the meeting, the proposed enforcement action and 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 mail.
  - d. Compliance Order. When the *Municipality* finds that any *person* has violated or continues to violate this Ordinance or a permit or order issued hereunder, they may issue an order to the violator directing 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.
  - e. Cease and Desist Order. When the *Municipality* finds that any *person* has violated or continues to violate this Ordinance or any permit or order issued hereunder, the *Municipality* 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 preventative 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 any other Local, State or Federal requirements, the strictest standard shall prevail.

#### F. Penalties

1. 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 *Municipality*, shall be guilty of a class B misdemeanor. Each day of violation shall constitute a separate violation.

#### G. Recovery of Damages and Costs

1. The municipality may recover:

- a. All damages caused by the violator to the *Municipality*, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with this Ordinance, or any other actual damages caused by the violation.
- b. The costs of the *Municipality* maintenance of *Stormwater Management Facilities* when the user of such facilities fails to maintain them as required by this Ordinance.
  - 1. Other Remedies: The *Municipality* may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
  - 2. 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 or more of the remedies set forth herein has been sought or granted.

#### H. Appeals

- 1. Appeal. Any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this ordinance may appeal said penalty or damage assessment to the administrative code enforcement administrative law judge.
- 2. Appeals to be in Writing. The appeal shall be in writing and filed with the Washington City recorder within fifteen (15) days after the civil penalty or damage assessment is served.
- 3. Upon Receipt of an Approval. The administrative law judge shall hold a hearing upon receipt of an appeal. Notice shall be provided to the appealing party at the address provided by the appealing party at the time of the appeal. The decision of the administrative law judge shall be the final municipal administrative decision.
- 4. Appealing Decisions of the Administrative Law Judge. Any alleged violator may appeal a decision of the administrative law judge pursuant to the applicable appeal provisions of the administrative law judge section of this code.

### **SECTION 8-7-7: ILLICIT DISCHARGES**

#### A. Scope

- 1. This section shall apply to all water generated on developed or undeveloped land entering the city's separate storm sewer system.

#### B. Prohibition of Illicit Discharges:

- 1. 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, uncontaminated discharge to the municipal separate storm sewer system is prohibited except as described as follows:
  - a. Water line flushing or other potable water sources,
  - b. Landscape irrigation or lawn watering,
  - c. Diverted stream flows,
  - d. Rising groundwater,
  - e. Groundwater infiltration to storm drains,
  - f. Uncontaminated pumped groundwater,
  - g. Foundation or footing drains,
  - h. Crawl space pumps,
  - i. Air conditioning condensation,
  - j. Springs,

- k. Natural riparian habitat or wetland flows,
- l. Swimming pools (if dechlorinated – typically less than one (1) ppm chlorine),
- m. Firefighting activities, and
- n. Any other uncontaminated water source.
- o. Discharges specified in writing by Washington City as being necessary to protect public health and safety.
- p. Dye testing is an allowable discharge if Washington City has so specified in writing.
- q. The prohibition shall not apply to any non-stormwater discharge permitted under a 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.

C. Prohibition of Illicit Connections

- 1. The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.
- 2. 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.

D. Reduction Of Storm Water 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, will be required to implement, at the person's expense, the BMPs 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/UPDES 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.

E. WASTE DISPOSAL PROHIBITIONS. No person shall throw, deposit, leave, maintain, keep or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system or water of the U.S., any refuse, rubbish, garbage, litter, or other discarded or abandoned object, articles and accumulations so that same may contribute to pollution. Wastes deposited in streets in proper waste receptacles or for the purposes of citywide cleanup, no less than two days prior to said event, are exempted from this prohibition.

F. Notification Of Spills:

- 1. 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 the city stormwater facilities, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. 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. In the event of a release of nonhazardous materials, the person shall notify Washington City in person or by telephone no later than the next business day.

Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to Washington City within three (3) business days of the telephone notice. 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 three (3) years.

G. Enforcement Authority: Consistent with the most current state of Utah Department of Environmental Quality, UPDES stormwater general permits which include: general stormwater permit for construction activity connected with single lot housing projects; general permit for stormwater discharges from construction activities; general permit for discharges from small municipal separate storm sewer systems (MS4s), and Utah Code Title [19](#), Environmental Quality Code Chapter 5, Water Quality Act, Washington City may detect, investigate, eliminate and enforce against non-stormwater discharges, including illegal dumping, into the MS4. Washington City may apply escalating enforcement procedures as necessary for the severity of violation and the recalcitrance of the violator. Washington City may issue notices of violation, stop work orders, citations, and impose civil penalties. Washington City may also perform necessary maintenance or corrective actions it deems necessary at the expense of the owner/operator.

Non-stormwater discharges to the MS4, including spills, illicit connections, illegal dumping, and sanitary sewer overflows into the storm sewer system, require ceasing the illicit discharge or otherwise eliminating the discharge or removal of such discharges.

The city may complete periodic inspections to ensure that the owner's/operator's chosen BMPs used to address the site's stormwater quality are performing adequately. If BMPs are not performing adequately, the city will have the owner/operator update the erosion and sediment control plan and the stormwater pollution prevention plan. Washington City shall be given access to inspect stormwater BMPs on private properties that discharge to the MS4.

H. Access to Facilities.

1. The Public Works Department shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
2. Facility operators shall allow the Public Works Department ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
3. The Public Works Department shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
4. The Public Works Department has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Public Works Department and shall not be replaced. The costs of clearing such access shall be borne by the operator.
6. Unreasonable delays in allowing the Public Works Department access to a permitted facility is a violation of a stormwater discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
7. If the Public Works Department has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

I. Violations:

1. Written Notice Of Violation: Whenever Washington City finds that any permittee or any other person discharging non-stormwater has violated or is violating this chapter or a permit or order issued hereunder, the city may serve upon such person written notice of the violation. An explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to Washington City. 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.
2. Consent Orders: Washington City 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 a time period also specified by the order. The order may also include an order for civil penalties to be paid for the violations. Consent orders shall have the same force and effect as orders issued pursuant to subsections I3 and I4 of this section.
3. Compliance Order: When the city finds that any person has violated or continues to violate this chapter or a permit or order issued hereunder, he may issue an order to the violator directing 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 civil penalties for the violation(s), the construction of appropriate structures, installation of devices, self-monitoring, and management practices.
4. Cease And Desist Orders: When the city finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the city may issue an order to cease and desist all such violations and direct those persons in noncompliance to:
  - a. Comply forthwith;
  - b. 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; and

- c. Pay any civil penalties assessed for the violation(s).
- 5. Conflicting Standards: Whenever there is a conflict between any standard contained in this chapter and in the Washington City stormwater management program adopted by Washington City, the strictest standard shall prevail.
- 6. Section 8-7-9: Suspension of MS4 access
- 7. Suspension due to Illicit Discharges in Emergency Situations
  - a. The Public Works Department may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.
- 8. Suspension due to the Detection of Illicit Discharge
  - a. Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of Washington City.

J. Penalties:

- 1. Violations: Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action as directed by the Washington City, shall be guilty of a class B misdemeanorEach day of violation shall constitute a separate violation.
- 2. Recovery Of Damages And Costs: The Washington City may recover:
  - a. All damages caused by the violator to the city, which may include any reasonable expenses incurred in investigating violations of and enforcing compliance with this chapter, or any other actual damages caused by the violation.
  - b. The costs of the city's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.
- 3. Civil Penalties: Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action as directed by Washington City shall be guilty of a Civil Infraction as set forth in section 1-4-1(2) of City Code. A violator of this paragraph, for each and every such violation, shall be punished by a fine not less than \$50.00 per day for an individual or \$100.00 per day for a business, corporation, etc.

4. Other Remedies: The city may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
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.

**K. Appeals:**

1. Appeal: Any person aggrieved by the imposition of a civil penalty or order to bring their property into compliance as provided by this chapter may appeal said penalty or order.
2. Appeals To Be In Writing: The appeal shall be in writing and filed with the city recorder within ten (10) business days after the civil penalty or order is served.
3. Upon Receipt Of An Appeal: The administrative law judge shall conduct a review upon receipt of an appeal. Notice shall be provided to the appealing party at the address provided by the appealing party at the time of appeal. The decision of the administrative law judge shall be final.
4. Standard Of Review And Proof: The administrative law judge shall ensure due process is provided. The person appealing bears the burden of proof that the city's decision was in error. The hearing officer shall review the facts "de novo" without deference to the city's determination of the factual matters. The administrative law judge shall determine the correctness of the city's interpretation and application of the plain meaning of the regulations and shall decide whether the preponderance of the evidence shows that the violation(s) exist. Each party may present witnesses and evidence. The hearing shall be informal, and the rules of evidence do not apply.
5. Compliance Required: No provision of this section shall in any way relieve the violator from compliance with the provisions of this chapter and all applicable federal, state and city stormwater regulations.

**SECTION 8-7-11: SEVERABILITY**

If any provision of this Ordinance or application thereof to any person or entity or circumstance is held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses or applications thereof which can be implemented without the invalid provision(s), clause(s) or application(s) hereof.

**SECTION 8-7-12: Effective Date**

This Ordinance shall take effect immediately upon publication or posting in the manner required by law.