



## **Memorandum**

**To: The Planning Commission**  
**From: Niall Connolly**  
**Date: March 27, 2026**  
**Re: Stormwater Pollution Prevention**

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### **Introduction**

At the March 18th meeting, the Planning Commission discussed a proposal to introduce a new permit that would be required for certain construction projects. The permit would address stormwater runoff and pollution prevention during the construction phase. Overall, the Commission considered that this would be beneficial and decided to continue the discussion.

### **Minimum Threshold**

It will be important to identify the project threshold for these permits - i.e. what sort of projects will need these permits? The Commission was anxious to avoid a situation where minor projects would be burdened with needing to apply for a permit. At the same time, it would be important to capture projects which are potentially polluting.

#### Option 1:

Use the same threshold as the State Stormwater Permit, which is soil disturbance on projects of 1 acre or greater, or that are part of a “common plan of development”.

**Pros:** Consistency with the State could avoid confusion, as it is an already established threshold. Developers already have to comply with this, so it would just be the same submission that they would need to provide for the Town.

**Cons:** Soil disturbance on parcels greater than 1 acre does not take into account the actual size of the excavation. So small projects on big parcels would be required to have permits, while big projects on small parcels would not. Using “common plan of development” areas as a threshold excludes much of the Town.

#### Option 2:

Use an existing definition from the Code. Chapter 10-13E (Erosion Hazard Zone) includes a definition of “land disturbance”. In that instance, “land disturbance” within an erosion hazard zone requires an erosion hazard permit. Potentially, activities which fall within the definition of “land disturbance” could be required to apply for a stormwater permit. Staff suggest that “minor land disturbance”, as defined below, be exempt from the requirement for a stormwater permit.

*Land disturbance: Includes but is not limited to:*

- A. *Construction of buildings or other structures.*
- B. *Construction of erosion protection improvements.*
- C. *Construction of new subdivisions, utilities (other than utility service to a single residence), roadways or bridges.*
- D. *Mining or dredging operations.*
- E. *Removal of riparian zone native vegetation.*
- F. *Earthwork such as filling, grading, excavation or contouring land.*
- G. *Any other activity similar to those listed above which has the potential to impact the natural function of the river.*

*Notwithstanding, the following activities are not a "land disturbance" for purposes of this chapter:*

- A. *Preparing a small garden; or*
- B. *Constructing or installing a storage shed of 150 square feet or less.*

*Minor land disturbance: Any activity that is defined as "land disturbance" and also meets all of the following criteria:*

- A. *No riparian zone native vegetation is removed as part of the land disturbance;*
- B. *There is no building or structure proposed as part of the land disturbance;*
- C. *The total land disturbance area measures less than 2,000 square feet;*
- D. *The land disturbance is not part of an erosion protection improvement; and*
- E. *The Director of Community Development has determined the land disturbance has minimal potential to increase erosion hazard risk on the same or adjacent properties.*

**Pros:** Using existing definitions helps create consistency within the Code, and can make applying the Code simpler. If there are multiple, differing definitions of land disturbance in various chapters, it increases the risk that they will be misapplied. This definition (if minor land disturbance is excluded) generally covers the types of developments that potentially cause polluting runoff during construction.

**Cons:** The references to erosion in the definition have the potential to cause confusion. The definition could also potentially be too broad, as it covers "construction of structures" and "grading" without a size limit. It could end up being overly onerous and unnecessary.

### Option 3:

Use an edited version of the definition of "land disturbance" to fit our requirements. Some potential verbiage is suggested below:

*Stormwater Management Permits are Required for the following activities:*

- A. *Construction of buildings or other structures that are larger than 500 square feet in area.*

- B. Construction of new subdivisions, utilities (other than utility service to a single residence), roadways or bridges.*
- C. Mining activities*
- D. Any earthwork such as filling, grading, excavation or contouring land that would require a grading permit, as per section 10-15B of this Title.*

*Notwithstanding, the following activities do not require a stormwater management permit:*

- A. Preparing a small garden;*

For information, 10-15B-2 of the Code states the requirements for grading permits:

*A grading permit is required for any grading in the Town, with the exception of the following:*

- A. Grading for agricultural practices on land with less than ten percent gradient.*
- B. Grading which totals less than 500 square feet of surface disturbance or 30 cubic yards of excavation, whichever is more restrictive.*
- C. Grading for the purposes of geotechnical testing which totals less than 1,000 square feet and does not encroach on 30 percent slopes.*
- D. Routine clearing of vegetation debris or other improvements in natural drainages that do not alter the course, capacity, slope, base materials or dimensions of the drainage.*

**Pros:** Is a tailored approach, so allows us to target the process to the projects which have the potential for impacts.

**Cons:** Introduces a new definition into the Code.

#### Option 4:

Not create a new permit, but instead work on ordinance language that would strengthen the Town's enforcement powers on development sites which are polluting, tracking mud on the street etc. The Code already includes some language on this, but it can be ambiguous when it comes to enforcement. Proactively share Best Management Practices with applicants for their information, and impress upon them the Town's expectations.

**Pros:** Avoids the administrative burden and costs of a new permit process. Could achieve the same end goals in ensuring construction sites are not causing pollution. Allows targeted action on polluting sites, while allowing conscientious contractors to proceed without an additional regulatory process.

**Cons:** Is potentially a more reactive approach.

**Best Management Practices**

Staff recommends that whatever option is chosen, applicants be free to select the best management practices (BMP) that are most appropriate for their development. The State Department of Environmental Quality website has a menu of good practice measures.

**<https://deq.utah.gov/sbeap/best-management-practices-for-construction-sites>**

Applicants could select measures that best apply to their situation.

**Commission Action**

The Planning Commission should consider the above four options, and determine whether any of them should be pursued in more detail. The Commission may also consider other options.

Note: The appendix includes additional information and responses to questions which were raised in the last meeting.

## Appendix

## Information in Regards to Planning Commission Questions

### ➤ **Examples from other Communities**

#### **Dallas Borough, Pennsylvania**

Level 1: Proposed impervious area is less than 1,000 sq. ft. and total earth disturbance is less than 5,000 sq. ft.

Stormwater Management Controls: Ensure that adverse downstream impacts do not occur due to redirecting stormwater flows towards nearby structures.

Submission: Submit the Stormwater Management Permit Application and Project Sketch; the easiest mechanism is to include the application with Building Permits. Review: Reviewing the application will not likely require a qualified professional.

Level 2: Proposed impervious area is between 1,000 sq. ft. and 5,000 sq. ft. or total earth disturbance is between 5,000 sq. ft. and 10,000 sq. ft.

Stormwater Management Controls: Utilize Disconnected Impervious Area (DIA) for stormwater controls as outlined in Ordinance Appendix C.I; if DIA cannot be achieved, utilize stormwater management controls for small projects as outlined in Ordinance Appendix E.

Submission: Submit the Stormwater Management Permit Application and computations for DIA; the worksheet in this Ordinance Appendix C.I may be used and submitted as is, or may be modified as the Borough sees fit. If DIA cannot be achieved, submit computations for Stormwater Management for Small Projects; the worksheet in this Ordinance Appendix E may be used and submitted as is, or may be modified as the Borough sees fit; the easiest mechanism is to include the application with Building Permits.

Review: Reviewing the application and computations may require a qualified professional if the person responsible for issuing Building Permits is not comfortable with performing the review.

Level 3: Proposed impervious area is between 5,000 sq. ft. and 10,000 sq. ft. or total earth disturbance is between 10,000 sq. ft. and 20,000 sq. ft.

Stormwater Management Controls: Capture and permanently remove the first 2 inches of runoff over all proposed impervious areas; infiltrate at least the first 0.5 inches.

Submission: Submit the Stormwater Management Permit Application and computations for permanently removing the first 2 inches of runoff over all proposed impervious areas; the worksheet in this Ordinance Appendix D may be used and submitted as is, or may be modified as the Borough sees fit.

Exclude ag and gardening (Tom K). Should just be on building permits for homes or commercial.

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### **Orem Utah**

#### 2.2 STORM WATER POLLUTION PREVENTION PLAN

For all projects that involve a land disturbance of more than 500 square feet or are part of a common plan of development which is larger than 500 square feet, a Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the City Development Services Department, unless this requirement is waived by the City Engineer or designee. For development impacting less than an acre, a land disturbance permit will be required. Additionally, a Utah Pollutant Discharge Elimination System (UPDES) General Construction Permit shall be obtained by the land owner or developer for all projects as required by The Utah Division of Water Quality (<https://secure.utah.gov/stormwater/faq.html#faq04>). See the City's Storm Water Management Plan for approved construction Best Management Practices (BMPs) and additional information regarding the SWPPP. These BMPs shall be implemented during the construction period in order to minimize the discharge of pollutants and help protect the water quality of downstream sources.

### **Ogden Utah**

An Ogden City SWPP Permit is required when:

- Construction activity will disturb land greater than or equal to 5,000 square feet, or
- Construction activity will disturb land within 300 feet of a watercourse, or
- Anytime a Utah Pollutant Discharge Elimination System (UPDES) Permit is required (see below).

Ogden City SWPP Permit Fees:

Medium Projects (Between 5,000 square feet and 1 acre in disturbance)

\$50 Permit Fee + \$50 monthly Inspection Fee

Example: a 12-month permit would cost \$650

➤ **Definitions of Common Plans of Development and Agriculture**

**Utah UPDES-**

**General Permit**

This permit covers all types of construction disturbances of an acre or more. This permit also covers non-residential disturbances less than an acre that are part of a common plan of development.

**Common Plan Permit**

This permit covers disturbances of an acre or less on a single residential lot that were subdivided for separate sale after Oct. 1992.

**Agriculture**

**Utah Code- *Effective 10/14/2025***

**4-1-109. General definitions.**

As used in this title:

- (1) "Agricultural product" or "product of agriculture" means any product that is derived from agriculture, including any product derived from aquaculture as defined in Section [4-37-103](#).
- (2) "Agriculture" means the science and art of the production of plants and animals useful to man, including the preparation of plants and animals for human use and disposal by marketing or otherwise.
- (3) "Commissioner" means the commissioner of agriculture and food.
- (4) "Department" means the Department of Agriculture and Food created in Chapter 2, Administration.
- (5) "Dietary supplement" means the same as that term is defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.
- (6) "DOD civilian" means the same as that term is defined in Section [53H-11-202](#).
- (7) "Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated elk as defined in Section [4-39-102](#), or any other domestic animal or domestic furbearer raised or kept for profit.
- (8) "Local food" means an agricultural product or livestock that is:
  - (a) produced, processed, and distributed for sale or consumption within the state; and
  - (b) sold to an end consumer within the state.
- (9) "Organization" means a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

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(10) "Person" means a natural person or individual, corporation, organization, or other legal entity.

### **Utah State University- Agricultural Stormwater Exemption**

The Agricultural Stormwater Exemption provides protection against discharge if manure or effluent (manure water) is applied to crop fields or pastures and rain and snow runoff from the fields/pasture flows into a water of the State.

Large size CAFOs are required to have a Nutrient Management Plan (NMP) to qualify for the Agricultural Stormwater Exemption. The nutrient management planning must follow essential NMP requirements in the federal rule.

Permitted CAFOs with a NMP qualify for the Agricultural Stormwater Exemption through the permit required NMP. Small and Medium AFOs automatically qualify for the Agricultural Stormwater Exemption and do not require a NMP for coverage.

### ➤ **Information on how polluting construction runoff can be**

#### **EPA.gov- Importance of Controlling Construction Stormwater Discharges**

When it rains, stormwater washes over the loose soil on a construction site, along with various materials and products stored outside. As stormwater flows over the site, it can pick up pollutants like sediment, debris, and chemicals from that loose soil and transport them to nearby storm sewer systems or directly into rivers, lakes, or coastal waters. EPA works with construction site operators to make sure they have the proper stormwater controls in place so that construction can proceed in a way that protects your community's clean water and the surrounding environment.

Pollutants commonly associated with construction sites:

- Sediment
- Solid and sanitary wastes
- Phosphorus
- Nitrogen
- Pesticides
- Oil and grease
- Concrete truck washout
- Construction chemicals
- Construction debris

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Sediment runoff rates from construction sites are typically 10 to 20 times greater than those from

agricultural lands, and 1,000 to 2,000 times greater than those of forest lands. During a short period of time, construction activity can contribute more sediment to streams than can be deposited over several decades, causing physical and biological harm to our Nation's waters.

### ➤ **Common Planned Developments in Springdale**

Any undeveloped lots in Moenave Subdivision, Redhawk Dr, Quail Ridge, Claret Cup, Canyon Springs, North Fork, Kinesava Subdivision, Stone Mountain, Oberhansley, Canyon View/Watchman, Canyon Point, and Anasazi.

See EPA.gov- Importance of Controlling Construction Stormwater Discharges, EPA.gov- Activities Requiring Coverage Under the 2017 EPA CGP comments

### ➤ **Is the length of time dirt will be exposed a factor?**

Exposed time is not a factor.

EPA.gov- Activities Requiring Coverage Under the 2017 EPA CGP

What types of construction activities must obtain NPDES permit coverage for their stormwater discharges?

Any "construction activity" that will disturb, or that is part of a common plan of development or sale that will disturb, one or more acres of land and discharges stormwater to waters of the U.S. must obtain NPDES permit coverage. Note that there are situations in which construction activities can be waived or excused from the requirement to obtain NPDES permit coverage (see related Q&A below). "Construction activities," as defined in Appendix A of the 2017 EPA CGP, includes earth-disturbing activities, such as the clearing, grading, and excavation of land, and other construction-related activities (e.g., stockpiling of fill materials; placement of raw materials at the site) that could lead to the generation of pollutants. Also authorized under the CGP are discharges of stormwater from "construction support activities," which include construction-related activities that specifically support the construction activity and involve earth disturbance or pollutant-generating activities of their own (e.g., activities associated with

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concrete or asphalt batch plants, equipment staging yards, materials storage areas, excavated material disposal areas, borrow areas).

The definition for “construction activity” does not refer to activities such as interior remodeling, completion of interiors of structures, etc. "Construction activity" also does not include routine earth disturbing activities that are part of the normal day-to-day operation of a completed facility (e.g., daily cover for landfills, maintenance of gravel roads or parking areas, landscape maintenance) nor activities under a state or federal reclamation program to return an abandoned facility property to an agricultural or open land use (as opposed to demolition of something in order to build something new).

### ➤ **Is the amount of concrete used a factor?**

It is only a factor if the area determined for concrete reaches the towns designated threshold of land disturbance. Example, if you are pouring a 6,000 sq. ft. concrete pad on an existing dirt lot, that project triggers a permit because you are disturbing the earth to prep the pad and changing how water flows off the land.

### ➤ **Guidance for trash receptacles.**

#### **State requirement through UPDES- Waste Management**

- Choose smaller, covered containers and more frequent collection.
- Do not allow waste to accumulate on-site.
- Separate recyclable materials from waste and keep covered.
- Conduct visual inspections of dumpsters and recycling bins, removing contaminants, and keeping containers covered.
- Stockpile processed materials on-site separately. Place, grade, and shape stockpiles to drain surface water. Cover to prevent windblown dust

### ➤ **Should we differentiate between whether it is a contractor or a home owner?**

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Best Management Practices should be used and referenced. The state has an approved list of BMPs because one size does not fit all. When an application is submitted staff can determine if appropriate BMPs are used.

### **California Green Building Code 2022**

Newly constructed projects and additions which disturb less than one acre of land and are not part of a larger common plan of development or sale shall prevent the pollution of stormwater runoff from the construction activities through one or more of the following measures:

#### 5.106.1.1 Local Ordinance

Comply with a lawfully enacted stormwater management and/or erosion control ordinance.

#### 5.106.1.2 Best Management Practices (BMP's)

Prevent the loss of soil through wind or water erosion by implementing an effective combination of erosion and sediment control and good housekeeping BMP's.

Soil loss BMP's that should be considered for implementation as appropriate for each project include, but are not limited to, the following:

- Scheduling construction activity during dry weather, when possible.

- Preservation of natural features, vegetation, soil, and buffers around surface waters.

- Drainage swales or lined ditches to control stormwater flow.

- Mulching or hydroseeding to stabilize disturbed soils.

- Erosion control to protect slopes.

- Protection of storm drain inlets (gravel bags or catch basin inserts).

- Perimeter sediment control (perimeter silt fence, fiber rolls).

- Sediment trap or sediment basin to retain sediment on site.

- Stabilized construction exits.

- Wind erosion control.

- Other soil loss BMP's acceptable to the enforcing agency.

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Good housekeeping BMPs to manage construction equipment, materials, non-stormwater discharges, and wastes that should be considered for implementation as appropriate for each project include, but are not limited to, the following:

Dewatering activities.

Material handling and waste management.

Building materials stockpile management.

Management of washout areas (concrete, paints, stucco, etc.).

Control of vehicle/equipment fueling to contractor's staging area.

Vehicle and equipment cleaning performed off site.

Spill prevention and control.

Other housekeeping BMP's acceptable to the enforcing agency.