

Ordinance No. 21815

ROLL CALL

VOTING	YES	NO
<u>KURT L CHRISTENSEN</u> RANDY A. BRAILSFORD Mayor (votes only in case of tie)		
HOWARD CHUNTZ <u>JANIE CHRISTENSEN</u> City Council member	X	
SETH SORENSEN <u>SOREN CHRISTENSEN</u> City Council member	X	
DELYS SNYDER <u>AARON D. CLOWARD</u> City Council member	X	
STERLING M. REES City Council member	X	
TIM DEDRAW <u>CRAIG B. WARREN</u> City Council member		

I MOVE this ordinance be adopted: Aaron Cloward
 City Council member

I SECOND the foregoing motion: Soren Christensen
 City Council member

SALEM CITY STORM WATER MANAGEMENT
 AND DISCHARGE CONTROL ORDINANCE

WHEREAS, Salem City has ~~recently~~ been designated ~~an in the~~ MS4 category for storm water management; and

WHEREAS, the MS4 category requires significantly different rules and oversight than has been previously provided; and

WHEREAS, the purpose of this ordinance is to become compliant with federal and state requirements concerning the MS4 designation, including the following purposes:

- a. Protect, maintain, and enhance the environment of Salem City.
- b. Establish responsibilities for controlling and managing storm water runoff.
- c. Protect the public health, safety, and the general welfare of the citizens of the City, by controlling discharges of pollutants to the City's storm water system and to maintain and improve the quality of the receiving waters into which the storm water outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the City.
- d. Enable the City to comply with the National Pollution Discharge Elimination System permit (NPDES/UPDES), 40 CFR §122.26, and applicable state and federal laws and regulations.
- e. Allow the City to exercise the powers granted by the Utah Code , which provides that, among other powers municipalities have with respect to storm water facilities, is the power to:
 - i. Exercise general regulation over the planning, location, construction, and operation and maintenance of storm water facilities in the municipality, whether or not owned and operated by the municipality;
 - ii. Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
 - iii. Establish standards to regulate the quantity of storm water discharged and to regulate storm water contaminants as may be necessary to protect water quality;
 - iv. Review and approve plans and plats for storm water management in proposed subdivisions or commercial developments;
 - v. Issue permits for storm water discharges, or for the construction, alteration, extension, or repair of storm water 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 storm water 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 storm water contamination, whether public or private; and

WHEREAS, adoption of an enforcement ordinance is necessary for the City to enforce the provisions of the federal and state mandate without incurring the possibility of incurring large penalties itself;

NOW THEREFORE, be ordained and enacted by the Salem City Council as follows:

I.

Salem City Municipal Code, Title 11, Chapter 8, entitled "Storm Water Enforcement" is hereby created as follows:

**TITLE 11 – PUBLIC UTILITIES AND SERVICES
Chapter 8 – Storm Water Enforcement**

11-8-010. General.

- (1) The City Engineer, or designee, shall administer the provisions of this ordinance.
- (2) Nothing in this ordinance shall relieve any person from responsibility for damage they cause to other persons or property, nor impose upon Salem City, its officers, agents, or employees, any liability for damage to other persons or property.

11-8-020. Definitions.

- (1) For the purpose of this Chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary usage within the storm water industry.
 1. "As Built Plans" means drawings depicting conditions as they were actually constructed.
 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, that have been approved by the City and are hereby incorporated by reference into this ordinance as if fully set out therein. For purposes of this Chapter, the relevant BMP's are more particularly defined in the Salem City Storm Water Management Program.
 3. "BMP Manual" means the most recent documentation adopted by City which accepts specific Best Management Practices for use in City.

4. "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
5. "City" means Salem City.
6. "City Engineer" means the Salem City Engineer or authorized designee.
7. "City Storm Drain Representative" means the authorized storm water representative(s) responsible for inspection, enforcement, and other related matters pertaining to the City's storm drain system. The City Engineer is a City Storm Drain Representative, and may appoint other city employees to also be City Storm Drain Representatives.
8. "City Storm Water System" means the storm system that receives runoff from public rights-of-way, natural waterways, or systems identified in a City easement, including facilities and components owned and/or operated by City.
9. "Community Water" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of Salem City.
10. "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.
11. "Design Storm Event" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a storm water facility.
12. "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak, or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the City Storm Water System.
13. "Easement" means a non-possessory interest acquired by a person, party, firm, corporation, municipality or other legal entity that entitles the holder the right to use of the owner's land in the manner specified in the easement documents.
14. "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.
15. "Erosion and Sediment Control Plan" means 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.
16. "General Construction Storm Water Permit" is a permit required by the Utah Department of Environmental Quality, Division of Water Quality prior to commencing construction of any project within City.
17. "Hotspot" or "Priority "Area" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water.

18. "Illicit connections" means either one of the following:
- i. Any drain or conveyance, whether on the surface or subsurface that allows a contaminated or illicit discharge to enter the storm drain system. Examples include, but are not limited to, any conveyance which allows non-storm water discharge such as sewage, processed wastewater, or wash water to enter the storm drain system, and any connections to the storm drain system from indoor drains or sinks regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or
 - ii. Any drain or conveyance connected to the storm drain system, whether or not such connection results in discharges into that system, which has not been (1) documented in plans, maps, or equivalent records submitted to the City, and (2) approved in writing by the City.
19. "Illicit discharge" means any discharge to the municipal separate storm sewer system (MS4) that is not composed entirely of storm water, storm water that is being discharged without an approved treatment methodology, and not specifically exempted under §11-8-030(4) of this ordinance. Illicit discharges include both direct connections (e.g. wastewater piping either mistakenly or deliberately connected to the storm water system) and indirect connections (e.g., infiltration into the storm water system or spills collected by drain inlets).
20. "Irrigation Ditches" means gravity irrigation ditches used by irrigation company shareholders having a right of water passageway by right-of-way, easement, or ownership. Irrigation ditches also include those facilities that function as a combined storm water and irrigation conveyance intended at times as a water routing and disposal system.
21. "Land Disturbance Permit" means a Salem City Land Disturbance Permit as adopted by the City.
22. "Land Disturbing Activity" means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.
- 22,23. "Long-Term Storm Water Controls" is the storm water system using LID (Low Impact Development) for the 80th percentile storm with traditional or alternative methods of flood control.
- 23,24. "Maintenance" means any activity that is necessary to keep a storm water facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a storm water 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 property site that may directly impair the functions of the storm water facility.

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- 24-25. “Maintenance Agreement” means a document recorded with the Utah County Recorder that acts as a property deed restriction, and which provides for long-term maintenance of storm water management facility or storm water best management practices.
- 25-26. “Municipal Separate Storm Sewer System,” “Municipal Separate Storm Water System,” or “MS4” means the storm water conveyance facilities owned or operated by City for the collection and transportation of storm water, including the streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.
- 26-27. “National Pollutant Discharge Elimination System Permit” or “NPDES permit” means a permit issued by the Utah Division of Environmental Quality pursuant to 33 U.S.C. § 1342.
- 27-28. “Notice of Violation” or “N.O.V.” means whenever the City Storm Drain Representative finds that a person is in non-compliance with this ordinance, he/she will order compliance by giving written notice of violation to the responsible person. Requirements in this Notice are at the discretion of the City Storm Drain Representative, and may include monitoring, payment to cover costs relating to the non-compliance, and/or the implementation of Best Management Practices.
- 28-29. “Off-site Facility” means a structural BMP located outside the subject property boundary described in the permit application for land development activity, which provides an integral part of the storm drain system for a given parcel.
- 29-30. “On-site Facility” means a structural BMP located within the subject property boundary described in the permit application for land development activity.
- 30-31. “Peak Flow” means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
- 31-32. “Person” means any individual, corporation, partnership, firm, association, company, or body politic organized or existing under the laws of this or any other state or country, including any agency of the State of Utah and the United States government, this includes both the singular and plural form of said groups, who acts to discharge to or otherwise influence City’s storm water system.
- 32-33. “Pre-Existing Conditions” means conditions of property in its native state or changed under approval by the City or changed property that is grandfathered.
- 33-34. “Priority Area” means “Hot Spot” as herein defined.
- 34-35. “Property Owner” means the owner of record of real property located within the boundaries of Salem City.
- 35-36. “Runoff” means that portion of the precipitation or other naturally or artificially occurring water on a drainage area that is discharged from the area into the Municipal Separate Storm Water System. Also, water produced by storms, surface drainage, snow and ice melt, and other water handled by the MS4.

- 36:37. “Salem City Storm Water Management Program” means those certain manuals, drawings, documents, specifications, ordinances, practices, and policies set in place by City to regulate, permit, manage, and otherwise oversee the discharge of storm water within the corporate boundaries 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, adopted, or revised in future actions.
- 37:38. “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 or within any part of the storm drainage system.
- 38:39. “Sedimentation” means soil particles suspended in storm water that can or have settled in stream beds and which disrupt the natural flow of the stream or otherwise disrupt the intended storm drain system function.
- 39:40. “Sensitive Lands” means wetlands, slopes over 30% grade, and other unique features on land as designated by the City Engineer.
- 40:41. “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, licensed in the State of Utah, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.
- 41:42. “Stabilization” means providing adequate measures, vegetative and/or structural, that will prevent erosion.
- 42:43. “Storm water” means storm water runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration, and drainage.
- 43:44. “Storm Water Design Standards and Regulations” means the Salem City storm water design standards and regulations adopted by the City as part of Salem City’s Construction and Development Standards, the Salem City Municipal Code, policies, and other appurtenant documentation.
- 44:45. “Storm Water Master Plan” means the most recent version of the Salem City Storm Water Master Plan as adopted by City.
- 45:46. “Storm Water Management” means the programs adopted to maintain the quality and quantity of storm water runoff to pre-development levels.
- 46:47. “Storm Water Management Facilities System” means the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which storm water is collected, transported, pumped, treated, or disposed of.
- 47:48. “Storm Water Management Plan” means the 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 storm water runoff to pre-development levels.

~~48-49.~~ “Storm Water Runoff” means water flow on the surface of the ground, resulting from precipitation.

~~49-50.~~ “Storm Water Utility” means the storm water utility created by ordinance to administer the storm water management ordinance, and other storm water rules and regulations adopted by City.

~~50-51.~~ “Structural BMPs” means devices that are constructed to control storm water runoff.

~~51-52.~~ “Surface Water” includes waters upon the surface of the earth created naturally or artificially including, but not limited to, streams, ditches, lakes, reservoirs, ponds, sloughs, canals, or other bodies of water.

~~52-53.~~ “SWPPP” means Storm Water Pollution Prevention Plan. A set of plans showing the location of the BMPs during the different phases of construction and system management.

~~53-54.~~ “SWMP” means the developer’s Storm Water Management Plan. A Technical Report including a copy of the Land Disturbance Permit, Notice of Intent (NOI) if applicable, Storm Water Pollution Prevention Plan 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.

~~54-55.~~ “Watercourse” means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

~~55-56.~~ “Watershed” means all the land area that contributes runoff to a particular point along a waterway.

~~56-57.~~ “UPDES” means the Utah Pollution Discharge Elimination System.

11-8-030. Land Disturbance Permits.

(1) When required.

- a. Every person will be required to obtain a Land Disturbance Permit in the following cases:
 - i. Land disturbing activity which generally disturbs one (1) or more acres of land.
 - ii. Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acres of land;
 - iii. Land disturbing activity of less than one (1) acre of land, if in the discretion of the City Engineer, 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 and/or decorative material for off-site location.

- v. Development of a single family home, which is not part of a subdivision project.
- vi. Processing of earthen materials such as top soil and gravel screening.
- vii. Construction of parking lots.
- viii. Creation of an impervious area 0.25 acres/10,890 square feet constructed with compacted gravel, asphalt, concrete, or other impervious or semi-impervious material.
- ix. Creation or alteration of storm drain works or systems.
- x. Excavation or disturbance of more than 1,000 cubic yards of material in any non-agricultural earth moving activity.

(2) **Drainage channels, waterways, and sensitive areas.**

- a. Property owners shall not fill wetlands or alter or restrict natural channels and waterways without proper permits.
- b. Modifications of Sensitive Lands will require a Land Disturbance Permit and approval from all other responsible governing agencies.
- c. Property owners proposing to redirect runoff, surface, and/or pipe flow to properties or facilities outside Salem City boundaries must provide written approval from the applicable governing agency.
- d. Property owners are responsible for the protection of Channels located within their property in compliance with this ordinance.
- e. Discharges or modifications to irrigation ditches or canals require written approval from the canal owners and applicable governing agencies.

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

(4) **Exemptions.** The following activities are exempt from the Land Disturbance Permit requirement:

- a. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources including activities required to promote public safety, repairs to water lines, and/or other City infrastructure repairs.
- b. Nursery and agricultural operations conducted as permitted uses.
- c. Any agricultural activity that is consistent with an approved farm conservation plan or a management plan prepared or approved by the appropriate government agency.
- d. Additions or modifications to existing single family structures.
- e. Landscape modifications resulting in disturbances below the limits identified in §11-8-030(1).

f. Excavation activities necessary for public purposes approved by City.

(5) Application for a Land Disturbance Permit.

a. Each application shall include the following information:

- i. Name of applicant;
- ii. Address of applicant;
- iii. Name, address, and telephone number of the Property Owner;
- iv. Address and legal description of the subject property including the tax serial/parcel number of the subject property;
- v. Name, address, and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who are responsible for the erosion and sediment control plan;
- vi. A statement indicating the nature, extent, and purpose of the land disturbing activity, including the size of the area for which the permit shall be applicable, and a schedule for the starting and completion dates of the land disturbing activity.

b. The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property. However, the inclusion of those permits in the application shall not preclude the City Engineer from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits. Failure of the applicant to obtain the necessary permits may be a basis for denial of issuance of a Land Disturbance Permit.

c. Each application shall be accompanied by:

- i. A sediment and erosion control plan.
- ii. A Storm Water Management Plan providing for storm water management during the land disturbing activity and after the activity has been completed.

d. Each application for a Land Disturbance Permit shall be accompanied by payment of appropriate fees, as adopted by the Council in the annual budget or by resolution.

(6) Review and approval of application.

a. The City Engineer or designee will review each application for a land disturbance permit to determine its conformance with the provisions of this Chapter. Within 45 days after receiving an application, the City Engineer or designee shall provide one of the following responses in writing or via email:

- i. Approval of the permit application;

- ii. Approval of the permit application, subject to such reasonable conditions as may be necessary to secure the objectives of this Chapter; or
 - iii. Denial of the permit application, indicating the reason(s) for the denial.
- b. If the City Engineer or designee has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established. However, the applicant shall be allowed to proceed with the land disturbing activity provided it conforms to conditions established by the City Engineer, and further provided the revised plan is submitted within 15 days.
- c. No land disturbing activities shall be allowed until the land disturbance permit has been approved.

(7) Permit duration.

- a. Every land disturbance permit shall expire and become null and void if substantial work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance, or is not complete within one year from the date of the preconstruction meeting.

(8) Notice of construction.

- a. The applicant must notify the City Engineer ten (10) working days in advance of the commencement of construction. Regular inspections of the storm water management system construction shall be conducted by the City Engineer or designee. All inspections shall be documented and written reports prepared that contain the following information:
 - i. The date and location of the inspection;
 - ii. Whether construction is in compliance with the approved storm water management plan;
 - iii. Variations from the approved construction specifications;
 - iv. Any violations that exist.

(9) Performance bonds.

- a. The City Engineer shall:
 - i. Require the submittal of a performance bond in the form of an escrow bond, letter of credit, or cash. The bond must be drawn on financial institutions licensed to conduct business in the State of Utah. The bond shall be provided prior to issuance of a permit in order to ensure that the storm water pollution prevention practices are installed by the permit holder as required by the approved Storm Water Management Plan.
 - 1. The amount of the performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for administration, enforcement, etc.

2. The performance bond shall be forfeited for failure to timely complete work specified in the Storm Water Management Plan.
 3. The applicant shall provide an itemized 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 cost estimates and revise the opinion of probable costs accordingly.
- b. For single family residences, the performance bond is required in cash.
 - c. The bond may be released in full only upon completion and City approval of all final inspection punch list items and removal of all temporary control measures.
 - d. The City Engineer or designee will make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of this Chapter. Provisions for a partial pro-rata release of the performance bond based on the completion of various development phases may be made at the discretion of the City Engineer.

11-8-040. Storm Water System Design and Management Standards.

(1) Irrigation ditches.

- a. Existing irrigation ditches located on the site or straddling a site property boundary shall be piped with a sufficient size pipe to handle the irrigation need and shall be coordinated with the City Engineer and the irrigation company unless otherwise approved by the City Engineer.
- b. Property Owners are responsible for the protection of irrigation ditches.
- c. Discharges to private irrigation ditches require written approval from the ditch owner(s) and design shall comply with the terms of approvals and the Storm Water Design Standards and Regulations and the Land Disturbance Permit.
- d. Piping of irrigation ditches and modification to the diversion boxes require the irrigation company to sign the plat or give written consent. If the City Engineer deems the conditions onerous, he/she may approve less onerous conditions. Design and coordination requirements shall comply with the Storm Water Design Standards and Regulations and the Land Disturbance Permit documents.

(2) Storm water design and BMP manuals.

- a. Adoption. City adopts as its storm water design and best management practices (BMP) manuals the following publications, which are incorporated by reference in this Chapter as if fully set out herein:
 - i. Salem City's Construction and Development Standards.
 - ii. Salem City Storm Water Master Plan.

- iii. Guidance Document for Storm Water Management (prepared by the Salt Lake County Public Works Department).
 - b. These manuals include a list of acceptable BMPs and include specific design performance criteria and operation and maintenance requirements for each storm water practice. The manuals may be updated and expanded from time to time, at the discretion of the City Council, upon the recommendation of the City Engineer, based on improvements in engineering, science, monitory, and local maintenance experience. Storm water facilities that are designed, constructed, and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.
- (3) **General performance criteria for storm water management.** Unless granted a waiver or determined by the City Engineer to be exempt, the following post construction performance criteria shall be addressed for storm water management at all sites:
- a. Design of storm drain systems in City boundaries and discharges into a Salem City storm drain system requires direct supervision of a Utah Registered Professional Engineer, and shall carry his/her seal.
 - b. All site designs shall control the peak flow rates of storm water discharge associated with design storms specified in this ordinance or in the BMP manual and reduce the generation of post construction storm water runoff to pre-construction levels or 100 year historical runoff flow rates. These practices should seek to utilize pervious areas for storm water treatment and to infiltrate storm water runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.
 - c. Specific channel protection criteria shall be provided as prescribed in the BMP manual to protect stream channels from degradation.
 - d. Storm water discharges to critical areas with sensitive resources (i.e., cold water fisheries, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain storm water management practices.
 - e. Storm water discharges from “hot spots” may require the application of specific structural BMPs and pollution prevention practices.
 - f. Prior to or during the site design process, applicants for land disturbance permits shall consult with the City Engineer or designee to determine if they are subject to additional storm water design requirements.
 - g. The calculations for determining peak flows as found in the BMP manual shall be used for sizing all storm water facilities.
- (4) **Minimum control requirements.**
- a. Storm water discharge during all construction activities shall comply with the terms of the Land Disturbance Permit, the Storm Water Design Standards and

Regulations, and/or requirements set forth in the most recent edition of the International Building Code, and the State of Utah UPDES requirements.

- b. Storm water designs shall meet the multi-stage storm frequency storage requirements as identified in the BMP manual unless the City Engineer has granted the applicant a full or partial waiver for a particular BMP under §11-8-060 of this ordinance.
- c. Runoff rates from one lot to another may not exceed pre-existing conditions as defined by City, nor in such a manner that may unreasonably and unnecessarily cause more harm than formerly.
- d. If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City Engineer or designee may impose additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(5) Storm water management plan requirements. Property Owners are responsible to manage storm water runoff and sediment which originates on their property. This responsibility may extend to the defining of agreements, easements, and other appropriate measures to address storm water management. The storm water management plan shall include sufficient information to allow the City Engineer to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing storm water generated at the project site. To accomplish this goal the storm water management plan shall comply with all requirements in the Storm Water Design Standards and Regulations.

a. Every person will be required to create a Long-Term Storm Water Controls in the following cases:

- i. Development or redevelopment which generally disturbs one (1) or more acres of land.
- ii. Development or redevelopment of less than one (1) acre of land if such Development or redevelopment is part of a larger common plan of development that affects one (1) or more acres of land;
- iii. Development or redevelopment of less than one (1) acre of land, if in the discretion of the City Engineer, development poses a unique threat to water, or public health or safety;

~~(5)~~

- (6) **Maintenance Easements.** The applicant must ensure access to the site for the purpose of inspection and repair by securing all the easements needed. These easements must be properly recorded in the office of the Utah County Recorder.
- (7) **Maintenance Agreement.** The Property Owner to be served by an on-site storm water management facility must execute a Maintenance Agreement for the storm water facilities. The maintenance agreement shall:

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- a. Assign responsibility for the maintenance and repair of the storm water facility to the Property Owner upon whose property the facility is located.
 - b. Provide for a periodic 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 Chapter. The Property Owner will arrange for this inspection to be conducted by a qualified person as defined by the Utah Division of Water Quality who will submit a sealed report of the inspection to the City Engineer.
 - c. Grant permission to City's employees or agents to enter the property at reasonable times to inspect the storm water facility to ensure that it is being properly maintained.
 - d. Provide that the minimum maintenance and repair needs for detention and retention basins, and inlets and drainage pipes and any other storm water facilities including, but 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. 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 or designee.
 - f. Provide that if the property is not maintained or repaired within the prescribed schedule, City may perform the maintenance and repair at its expense, and bill the same to the Property Owner. The Maintenance Agreement shall also provide that City's cost of performing maintenance shall be a lien against the property until paid in full.
- (8) **Dedication.** City shall have the discretion to accept the dedication of any existing or future storm water management facilities, provided such facility meets the requirements of this Chapter, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any storm water facility accepted by City must also meet City's Construction and Development Standards and any other standards and specifications that apply to the particular storm water facility in question.
- (9) **Sediment and Erosion Control Plans.** The applicant must prepare a sediment and erosion control plan for all construction activities that meets the requirements below.
- a. The sediment and erosion control plan shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these 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. The plan shall be prepared by a qualified individual as defined by the State of

Utah. The plan shall also conform to the requirements found in the BMP manual, and shall include at least the following:

- i. Project Description - Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.
- ii. A topographic map with contour intervals of five (5) feet or less showing present conditions and proposed contours resulting from land disturbing activity.
- iii. All existing drainage ways, including intermittent and wet-weather drainage ways. Include any designated floodways or flood plains.
- iv. A general description of existing land cover. Individual trees and shrubs do not need to be identified.
- v. 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.
- vi. Approximate limits of proposed clearing, grading and filling.
- vii. Approximate flows of existing storm water leaving any portion of the site.
- viii. A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.
- ix. Location, size, and layout of proposed storm water and sedimentation control improvements.
- x. Proposed drainage network.
- xi. Proposed drain tile or waterway sizes.
- xii. Proposed sizing for storm system piping, dewatering facilities, or other waterways.
- xiii. 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: when water is concentrated, what is the capacity of waterways, if any, accepting storm water off-site; and what measures,

including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.

- xiv. 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 BMP's.
- xv. Specific remediation measures to prevent erosion and sedimentation runoff. 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.
- xvi. Specific details for: the construction of rock pads, wash down pads, and settling basins for controlling erosion; road access points; eliminating or mitigating soil, sediment, and debris on streets and public ways to a level acceptable to the City Engineer or designee. 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 designee. Failure to remove the sediment, soil, or debris shall be deemed a violation of this Chapter.
- xvii. Proposed structures; location (to the extent possible) and identification of any proposed additional buildings, structures, or development on the site.
- xviii. A description of on-site measures to be taken to recharge surface water into the ground water system through infiltration.
- xix. Future phasing plans and impervious areas, if applicable.

11-8-050. Post Construction.

- (1) **As built plans.** All applicants are required to submit actual as built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all storm water management facilities and must be signed by a Registered Professional Engineer licensed to practice in Utah. A final inspection by the City Engineer or designee is required before any performance bond will be released. The City Engineer shall have the discretion to adopt provisions for a partial pro-rata release of the performance bond on the completion of various stages of development. In addition, certificates of occupancy shall not be granted until corrections to all BMP's have been made and accepted by the City Engineer or designee. These requirements may be waived for single family residential sites or projects with minimal on-site storm water facilities as determined appropriate by the City Engineer.
- (2) **Landscaping and stabilization requirements.** Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities

shall be revegetated according to a schedule approved by the City Engineer or designee. 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 ninety percent (90%) of the seeded area.
 - 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. Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the full year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival rate for one (1) year is achieved.
 - d. 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 storm water management facilities.** Periodic inspections of facilities shall be performed as provided for in this Chapter.
- (4) **Records of installation and maintenance activities.** Parties responsible for the operation and maintenance of a storm water management facility shall make records of the installation of the storm water facility, and of all maintenance and repairs to the facility, and shall retain the records for at least five (5) years. These records shall be made available to the City Engineer or designee 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 storm water facilities under this ordinance, the City Engineer or designee, after reasonable notice, 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 storm water management facility becomes a danger to public safety or public health, the City Engineer or designee shall notify, in writing, the party responsible for maintenance of the storm water 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. In the event that corrective action is not undertaken within that time, the City Engineer or designee may take necessary corrective action. The cost of any action by the City Engineer or designee under this section shall be charged to the responsible party, and may act as a lien against the property until paid in full.

11-8-060. Waivers.

- (1) **General.** Every applicant shall provide for post construction storm water management as required by this Chapter, unless a written request to waive this requirement is filed and approved. Requests to waive the storm water management plan requirements shall be submitted to the City Engineer for approval.
- (2) **Conditions for waiver.** The minimum requirements for storm water 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 Chapter.
 - b. Alternative minimum requirements for on-site management of storm water discharges have been established in a storm water management plan that has been approved by the City Engineer or designee.
 - c. Provisions are made to manage storm water by an off-site facility. The off-site facility must be in place and designed to provide the level of storm water 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, etc. 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, or 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) **Land disturbance permit not to be issued where waiver requested.** No land disturbance permit shall be issued where a waiver has been requested until the waiver is granted. If no waiver is granted, the plans must be resubmitted with a storm water management plan.

11-8-070. Existing locations and developments.

- (1) **Requirements for all existing commercial and industrial 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 Chapter:
 - a. Denuded areas must be vegetated or covered under the standards and guidelines specified in the BMP manual and on a schedule approved by the City Engineer or designee.

- b. Cuts and slopes must be properly covered with appropriate vegetation and/or properly designed 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. Storm water runoff shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures shall include those methods and measures identified in the Salem City Storm Water Management Program.
- (2) **Requirements for existing problem locations.** The City Engineer or designee shall, in writing, notify the owners of existing locations and developments of specific drainage, erosion, or sediment problems affecting such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.
- (3) **Inspection of existing facilities.** The City Engineer or designee may, to the extent authorized by state or federal law, establish inspection programs to verify that all storm water management facilities, including those built before as well as after the adoption of this Chapter, 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 City's NPDES/UPDES storm water permit; and joint inspections with other agencies inspecting under environmental or safety laws. 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) **Corrections of problems subject to appeal.** Corrective measures imposed by the City Engineer or designee under this section are subject to appeal under §11-8-110.

11-8-080. Illicit discharges.

- (1) **Scope.** This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm water system.
- (2) **Prohibition of illicit discharges.** No person shall introduce or cause to be introduced into the municipal separate storm water system any discharge that is not composed entirely of storm water. The commencement, conduct, or continuance of any non-storm water discharge to the municipal separate storm water 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 City's pressure irrigation water,
- iii. Diverted stream flows,
- iv. Rising ground water,
- v. Groundwater infiltration to storm drains,
- vi. Uncontaminated pumped groundwater,
- vii. Foundation or footing drains,
- viii. Crawl space pumps,
- ix. Air conditioning condensation,
- x. Springs,
- xi. Natural riparian habitat or wet-land flows,
- xii. Swimming pools (if dechlorinated - typically less than one PPM chlorine),
- xiii. ~~Fire fighting~~Firefighting activities, and
- xiv. Any other uncontaminated water source.
- xv. Discharges specified in writing by the City Engineer as being necessary to protect public health and safety.
- xvi. Dye testing is an allowable discharge if the City Engineer has so specified in writing.
- xvii. 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 storm water pollutants by the use of best management practices. Any person responsible for 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 water

system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed 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 the municipal separate storm water system, 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 non-hazardous materials, the person shall notify the City Engineer or designee 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 or designee 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.

11-8-090. Enforcement.

- (1) **Enforcement authority.** The City Engineer or designee 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 City storm water permit, the City Engineer or designee shall be permitted to enter and inspect facilities subject to this Chapter at all reasonable times and as often as necessary to determine compliance. Violations of this Chapter may result in penalties being assessed as established herein, or by other applicable laws.
- (2) **Notification of violation.**
- a. **Written Notice.** Whenever the City Engineer or designee finds that any permittee or any other person discharging storm water has violated or is violating this Chapter or a permit or order issued hereunder, the City Engineer or designee 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 City Engineer or designee. 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 or designee 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 orders issued pursuant to paragraphs (d) and (e) below.

- c. **Show Cause Hearing.** The City Engineer or designee 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 with the City Engineer or designee, 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 certified mail (return receipt requested) at least ten (10) days prior to the hearing.
- d. **Compliance Order.** When the City Engineer or designee finds that any person has violated or continues to violate this Chapter or a permit or order issued thereunder, he/she 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 to prevent future violations. 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 Orders.** When the City Engineer or designee finds that any person has violated or continues to violate this Chapter or any permit or order issued hereunder, the City Engineer or designee may issue an order to cease and desist all such violations and direct those persons in noncompliance to:
 - i. Comply forthwith; or
 - ii. 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 City under this Chapter, the strictest standard shall prevail.

11-8-100. Civil Fine Pass Through Recovery

In the event that a non-domestic user discharges water into the Salem Separate Storm Sewer System which causes City to violate any conditions of its state or federal storm water discharge obligations and City is fined by the State of Utah or EPA for such violations, then such non-domestic user shall be fully liable for the total amount of the fines and civil penalties assessed against City, together with all administrative costs incurred, including attorneys fees.

11-8-110. Violations and 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 by the City Engineer or designee, shall be guilty of a Class C Misdemeanor. Each day of violation shall constitute a separate violation.
- (2) **Penalties.** In addition to any criminal penalties, each violation may also subject the violator to civil penalties of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000.00) per day for each day of violation.
- (3) **Measuring civil penalties.** In assessing a civil penalty, the City Engineer or designee 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 the violation;
 - e. Any unusual or extraordinary enforcement costs incurred by the City;
 - 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.
- (4) **Recovery of damages and costs.** In addition to the civil penalty in subsection (3) above, City may recover:
 - a. All damages proximately caused by the violator to 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 City's maintenance of storm water facilities when the user of such facilities fails to maintain them as required by this Chapter.
- (5) **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.
- (6) **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.

11-8-120. Appeals.

- (1) **Appeals to municipal governing body.** Any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this Chapter may appeal said penalty or damage assessment to the City Council. Notice of appeal must be filed with the City Recorder within 10 days of the civil penalty or damage assessment. A hearing with the City Council will be scheduled within 30 days of the receipt of the notice of appeal by the City Recorder. The decision of the City Council shall be final and non-appealable.

11-8-130. SEVERABILITY

- (1) If any provision or clause of this chapter or its application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses, or applications which can be implemented without the invalid provision, clause, or application. To this end, the provisions of this Chapter are declared to be severable.

II.

This ordinance shall become effective twenty days after passage and posting.

DATED this 18th day of February, 2015

BRAILSFORD, Mayor
Attest:

KURT L CHRISTENSEN RANDY A.

Jeffrey D. Nielson, City Recorder

AFFIDAVIT OF POSTING

JEFFREY D. NIELSON, being first duly sworn, deposes and says that he is the duly appointed and qualified recorder of the City of Salem, a Municipal Corporation of the State of Utah, and that on the ____ day of ~~December, 2020~~March, 2015 he posted a true and correct copy of Ordinance No. 21815 as enacted by Salem City Council on the 18th day of February, 2015 said posting being made at the City Offices, at the United States Post Office, and at the Salem City Library, all being public places and located within the City Limits of Salem, Utah County, Utah.

DATED this ____ day of ~~December~~ March, 2015

JEFFREY D. NIELSON, City Recorder

STATE OF UTAH)
 : ss
COUNTY OF UTAH)

The foregoing instrument was acknowledged before me this ____ day of March, 2015, by Jeffrey D. Nielson.

NOTARY PUBLIC

