

## CHAPTER 23. STORM SEWER UTILITY

- Article 23-1. Storm Sewer Utility**  
**Article 23-2. Storm Drainage**  
**Article 23-3. Storm Water Construction Activity Permit**  
**Article 23-4. Storm Water Administrative Citation Procedure**

### Article 23-1. Storm Sewer Utility

- 23-1-1. Findings.**  
**23-1-2. Purpose.**  
**23-1-3. Definitions.**  
**23-1-4. Storm Sewer Utility.**  
**23-1-5. Storm Sewer Utility Fee.**  
**23-1-6. Billing.**

#### 23-1-1. Findings.

The City Council makes the following findings regarding storm water runoff and the City's storm sewer system:

A. The City's existing storm sewer system consists of a network of man-made and natural facilities, structures, and conduits, including groundwater and aquifers, that collect and route storm water runoff.

(Ord. No. O-96-0006, Enacted, 03/26/96; Ord. No. O-02-0033, Amended, 09/24/2002)

B. The City's existing storm sewer system does not adequately handle the storm water runoff generated in the City.

(Ord. No. O-96-0006, Enacted, 03/26/96; Ord. No. O-02-0033, Amended, 09/24/2002)

C. The City's anticipated growth will place increased demands on the already inadequate storm sewer system.

(Ord. No. O-96-0006, Enacted, 03/26/96; Ord. No. O-02-0033, Amended, 09/24/2002)

D. Uncontrolled or inadequately controlled storm water runoff endangers the City's groundwater supply.

(Ord. No. O-96-0006, Enacted, 03/26/96; Ord. No. O-02-0033, Amended, 09/24/2002)

E. Uncontrolled or inadequately controlled storm water runoff causes erosion and property damage.

(Ord. No. O-96-0006, Enacted, 03/26/96; Ord. No. O-02-0033, Amended, 09/24/2002)

F. Uncontrolled or inadequately controlled storm water runoff hinders the City's ability to provide emergency services to its residents.

(Ord. No. O-96-0006, Enacted, 03/26/96; Ord. No. O-02-0033, Amended, 09/24/2002)

G. Uncontrolled or inadequately controlled storm water runoff impedes the regular flow of traffic in the City.

(Ord. No. O-96-0006, Enacted, 03/26/96; Ord. No. O-02-0033, Amended, 09/24/2002)

H. Uncontrolled or inadequately controlled storm water runoff poses health hazards to the citizens of the community.

(Ord. No. O-96-0006, Enacted, 03/26/96; Ord. No. O-02-0033, Amended, 09/24/2002)

I. Storm water runoff carries concentrations of oil, grease, nutrients, chemicals, heavy metals, toxic materials, and other undesirable materials that may jeopardize the integrity of ground waters and receiving waters, including the City's culinary water supply.

(Ord. No. O-96-0006, Enacted, 03/26/96; Ord. No. O-02-0033, Amended, 09/24/2002)

J. All developed properties in the City contribute to the need for the storm sewer system by converting natural ground cover into impervious surfaces.

(Ord. No. O-96-0006, Enacted, 03/26/96; Ord. No. O-02-0033, Amended, 09/24/2002)

K. All developed properties in the City make use of or benefit from the City's operation and maintenance of the storm sewer system.

(Ord. No. O-96-0006, Enacted, 03/26/96; Ord. No. O-02-0033, Amended, 09/24/2002)

L. The State Department of Environmental Quality (DEQ) has determined that some of the City's storm water sumps must be included on the prioritized contamination sources for culinary wells.

(Ord. No. O-96-0006, Enacted, 03/26/96; Ord. No. O-02-0033, Amended, 09/24/2002)

M. The EPA and the DEQ are developing additional storm water permitting requirements that will apply to cities of Orem's size.

(Ord. No. O-96-0006, Enacted, 03/26/96; Ord. No. O-02-0033, Amended, 09/24/2002)

N. Absent effective maintenance, operation, regulation, and control, existing storm water drainage conditions in the City constitute a potential hazard to the health, safety, and general welfare of the City, its residents, and its businesses.

(Ord. No. O-96-0006, Enacted, 03/26/96; Ord. No. O-02-0033, Amended, 09/24/2002)

O. A storm sewer utility is the most equitable and efficient method of managing storm water in the City and ensuring that each property in the City pays its fair share of the amount that the property contributes to, benefits from, and otherwise uses the storm sewer system.

(Ord. No. O-96-0006, Enacted, 03/26/96; Ord. No. O-02-0033, Amended, 09/24/2002)

**23-1-2. Purpose.**

The purpose of this ordinance is to protect the health, safety and welfare of the City and its inhabitants by improving the City's storm sewer system, managing and controlling storm water runoff, protecting property, preventing polluted waters from entering the City's water supply and other receiving waters, and establishing a viable and fair method of financing the construction, operation and maintenance of the storm sewer system.

(Ord. No. O-96-0006, Enacted, 03/26/96)

**23-1-3. Definitions.**

The following bolded words and phrases shall be defined as follows:

**A. Developed parcel.** Any parcel that has been altered from its natural condition by grading, filling, or the construction of improvements or other impervious surfaces.

(Ord. No. O-96-0006, Enacted, 03/26/96; Ord. No. O-02-0033, Amended, 09/24/2002)

**B. Equivalent Service Unit ("ESU").** The average amount of impervious surface, expressed in square feet, on developed single family residential parcels in Orem. One ESU equals 2,700 square feet of impervious surface area.

(Ord. No. O-96-0006, Enacted, 03/26/96; Ord. No. O-02-0033, Amended, 09/24/2002)

**C. Impervious surface.** Any hard surface, other than the natural surface, that prevents or retards the absorption of water into the soil, or that causes water to run off the surface in greater quantities or at a greater rates of flow than the natural surface.

(Ord. No. O-96-0006, Enacted, 03/26/96; Ord. No. O-02-0033, Amended, 09/24/2002)

**23-1-4. Storm Sewer Utility.**

**A. Creation.** The City Council hereby creates and establishes a storm sewer utility as part of the City's overall sewer system. The storm sewer utility shall plan, design, construct, maintain, administer, and operate the City's storm sewer system.

(Ord. No. O-96-0006, Enacted, 03/26/96)

**B. Enterprise Fund.** The City Council hereby establishes a storm sewer utility enterprise fund to handle all income, expenses, and other financial transactions related to the storm sewer utility. All storm sewer utility service charges shall be deposited in the enterprise fund. Money in the storm sewer utility enterprise fund shall not be commingled with or transferred to other City funds. However, the storm sewer utility may pay other City funds for services and expenses directly attributable to the storm sewer utility.

The enterprise fund shall be operated according to State law and City policy.

(Ord. No. O-96-0006, Enacted, 03/26/96)

**C. Facilities and Assets.** The storm sewer utility shall operate independently of City operations funded by the general fund. The storm sewer utility shall have the same relationship to the City as other City utilities, such as the water utility and the sanitary sewer (waste water) utility. Upon creation of the utility, all of the City's storm sewer facilities and assets (other than streets and other facilities and assets designated by the City Manager) shall be transferred to the storm sewer utility in consideration for the storm sewer utility's agreement to take primary responsibility for planning, designing, constructing, maintaining, administering and operating the City's storm sewer system.

(Ord. No. O-96-0006, Enacted, 03/26/96)

**D. Administration.** The storm sewer utility shall be administered by the City's Public Works Director.

(Ord. No. O-96-0006, Enacted, 03/26/96)

**23-1-5. Storm Sewer Utility Fee.**

**A. Imposed.** Each developed parcel of real property in the City shall be charged a storm sewer utility fee.

(Ord. No. O-96-0006, Enacted, 03/26/96)

**B. ESU.** The fee shall be based on the number of equivalent service units (ESUs) contained in the parcel. The City Council finds that the ESU is the most accurate measurement for determining the amount that each parcel contributes to, benefits from, and otherwise uses the storm sewer utility. Based on a study completed by an independent engineer, the City Council finds and establishes that one ESU equals 2,700 square feet of impervious surface area.

(Ord. No. O-96-0006, Enacted, 03/26/96)

**C. Calculation.** The City Council finds that each single family residential parcel contributes approximately the same amount of storm water runoff; therefore, each developed single family residential parcel shall pay a base rate of one (1) ESU. All non-single family residential parcels shall pay a multiple of this base rate, expressed in ESUs, according to the measured impervious area on the parcel. The City Council may adopt separate rates for PRDs, condominiums and other uses that are not easily handled under the standard rate schedule.

(Ord. No. O-96-0006, Enacted, 03/26/96)

**D. Charge per ESU.** The amount charged for each ESU shall be established by resolution of the City Council.

(Ord. No. O-96-0006, Enacted, 03/26/96)

E. **Exemptions and Credits.** The City Council may establish exemptions and credits to the storm sewer utility fee by resolution.

(Ord. No. O-96-0006, Enacted, 03/26/96)

F. **Policies.** The Public Works Director may adopt policies, consistent with this ordinance and any resolutions passed by the City Council, to assist in the application, administration, and interpretation of this ordinance and any resolutions related to the storm sewer utility.

(Ord. No. O-96-0006, Enacted, 03/26/96)

G. **Appeals.** Any person or entity that believes that this ordinance, or any storm sewer utility rate resolution, was interpreted or applied erroneously may appeal to the Public Works Director ("Director"). The appeal shall be in writing, shall state any facts supporting the appeal, and shall be made within ten (10) days of the decision, action, or bill being appealed. The Director may elect to hold a hearing on the appeal. The Director shall decide the appeal within ten (10) days of when the appeal is filed. If the person or entity is not satisfied with the Director's decision, a further appeal may be made to the City Manager (or his or her designee). The appeal to the City Manager shall follow the same procedure as the appeal to the Director. The City Manager's decision shall be final and binding on all parties.

(Ord. No. O-96-0006, Enacted, 03/26/96)

### **23-1-6. Billing.**

The City Council finds that the City's storm sewer system, sanitary sewer system, culinary water system, and solid waste collection system are interrelated services that are part of a unified City plan to provide for the health, safety, and welfare of the City and its residents in an environmentally responsible manner. Therefore, the storm sewer utility fee shall be included on the City's regular monthly utility bill for any given property. If there is no regular utility bill for the property, the storm sewer utility fee shall be charged to the owner of the property. The fee shall be deemed a civil debt owed to the City by the person or entity paying for the City utility services provided to the property. All properties shall be charged the fee, regardless of whether or not the owner or occupant of the property requests the storm sewer utility service. Failure to pay any portion of the utility bill may result in termination of water service.

(Ord. No. O-96-0006, Enacted, 03/26/96)

**Article 23-2. Storm Drainage**

- 23-2-1. Definitions.**
- 23-2-2. Purpose.**
- 23-2-3. Prohibited Obstructions.**
- 23-2-4. Prohibited Discharges.**
- 23-2-5. Prohibited Storage and Littering.**
- 23-2-6. Requirements for Sumps.**
- 23-2-7. Storm Sewer Connection Permit.**
- 23-2-8. Easements.**
- 23-2-9. Authority to Inspect.**
- 23-2-10. Requirement to Monitor and Analyze.**
- 23-2-11. Notice of Violation.**
- 23-2-12. Damage to Storm Sewer System or Irrigation Lines.**
- 23-2-13. Manhole Covers.**
- 23-2-14. Drinking Water Protection.**
- 23-2-15. Violation and Penalty.**
- 23-2-16. Compliance with Federal and State Law.**

**23-2-1. Definitions.**

The following bolded words and phrases shall be defined as follows for the purpose of this Article and Article 23-3:

**A. Best Management Practices (BMPs).** A wide range of management procedures, schedules of activities, prohibitions of practices, maintenance procedures, and other management practices which have been demonstrated to effectively control the quality and/or quantity of storm water runoff and which are compatible with the planned land use. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw material storage. A list of sample BMPs and their effectiveness ratings can be found in the City of Orem Storm Water Quality Credit Package dated November 1996 (available at the City of Orem Public Works Department.)

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002)

**B. Catch Basin.** A drain inlet designed to keep out large or obstructive matter.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002)

**C. City Manager.** The City of Orem City Manager or his or her designee.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002)

**D. City Public Works Officer.** A city employee(s) designated by the City to enforce this ordinance.

(Ord. No. O-08-0036, Enacted 12/09/2008)

**E. Debris.** Any dirt, rock, sand, vegetation, rubbish, or litter.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**F. Dechlorinated Water.** Water with all traces of chlorine removed.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**G. Detention Basin.** A depression designed to detain storm water runoff until downstream storm sewer resources are less heavily taxed. A detention basin contains an inlet and an outlet, allows debris to settle out, and regulates water flow.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**H. Development.** Any man-made change to improved or unimproved real estate, including but not limited to site preparation, filling, grading, paving, excavation, and construction of buildings or other structures.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**I. Director.** The Public Works Director of the City of Orem or his duly appointed deputy, agent, or representative.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**J. Disturb.** To alter the physical condition, natural terrain or vegetation of land by clearing, grubbing, grading, excavating, filling, building or other construction activity.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**K. Drain Inlet.** A point of entry into a sump, detention basin, or storm drain system.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**L. Hazardous Material.** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or

significantly contribute to, a substantial presence or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Hazardous material includes, but is not limited to, any hazardous substance designated under 40 CFR part 116 pursuant to section 311 of the Clean Water Act. (Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**M. Hearing Officer.** The person(s) designated to hear appeals pursuant to this ordinance. The Hearing Officer shall be the Orem City Manager or his or her designee. The designee need not be a City employee. The City Manager may also appoint a committee to function as the Hearing Officer. (Ord. No. O-08-0036, Enacted 12/09/2008)

**N. Illicit Connection.** Illicit connection means either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system. Examples include, but are not limited to, any conveyances which allow non-storm water discharge such as sewage, process 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
2. Any drain or conveyance connected to or discharging to the storm drain 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.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**O. Illicit Discharge.** Any non-storm water discharge to the storm sewer system. Illicit discharges include both direct connections (e.g. wastewater piping either mistakenly or deliberately connected to the storm sewer system) and indirect connections (e.g. infiltration into the storm sewer system or spills collected by drain inlets).

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**P. Land Development.** Any development of a parcel, lot, subdivision plat or site plan. If there is more than one lot in the subdivision plat or site plan, all lots in the subdivision plat or site plan shall jointly be considered to be part of the land development.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**Q. Non-Storm Water Runoff.** Any runoff other than storm water.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**R. Person.** Any individual, corporation, partnership, association, company, or body politic, including any agency of the State of Utah and the United States government.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**S. Pollutant.** Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal and agricultural waste, paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, that may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete resins); and noxious or offensive matter of any kind.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**T. Pretreatment.** A structure or process that removes sediment, oils, and floatables from storm water.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**U. Redevelopment.** Alterations of a property that change the footprint of a site or building.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**V. Responsible Person.** The person(s) responsible for correcting or abating a violation pursuant to this ordinance. The Responsible Person includes the property owner and any person, who causes or permits a violation to occur or remain upon property in the City, and includes but is not limited to

the owner(s), lessor(s), lessee(s), or other person(s) entitled to control, use, and/or occupy property where a violation occurs. In cases where there is more than one Responsible Persons the City may proceed against one, some, or all of them.

(Ord. No. O-08-0036, Enacted 12/09/2008)

**W. Storm Drain.** A closed conduit for conducting collected storm water.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**X. Storm Sewer System.** The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, detention basins, curbs, gutters, ditches, man-made channels, sumps, storm drains, and ground water) owned and operated by the City, which is designed and used for collecting or conveying storm water. The storm sewer system is also referred to as a “municipal separate storm sewer system” or “MS4”.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**Y. Storm Water.** Any flow that occurs during or following any form of natural precipitation. Storm water includes only the portion of such flow that is composed of precipitation.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**Z. Storm Water Runoff.** Water that is generated by storm water flows over land.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**AA. Sump.** A formalized underground structure, surrounded by drain rock that acts as a detention basin to allow the slow release of water into the surrounding sub-soil. Sumps usually receive storm water runoff from paved areas such as streets, parking lots, building roofs, etc.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-1; Ord. No. O-02-0033, Amended, 09/24/2002; Ord. No. O-08-0036, Renumbered 12/09/2008)

**23-2-2. Purpose.**

The purposes of this Article and Article 23-3 are as follows:

A. To minimize the introduction of pollutants into the Storm Sewer System.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-2; Ord. No. O-02-0033, Rep&ReEn, 09/24/2002)

B. To comply with State and Federal laws and regulations.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-2; Ord. No. O-02-0033, Rep&ReEn, 09/24/2002)

C. To provide a means to monitor and control discharges to the Storm Sewer System.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-2; Ord. No. O-02-0033, Rep&ReEn, 09/24/2002)

**23-2-3. Prohibited Obstructions.**

**A. Unlawful Obstructions.** It is unlawful for any person to:

1. Obstruct the flow of water in the storm sewer system.
2. Contribute to the obstruction of the flow of water in the storm sewer system.
3. Cover or obstruct any drain inlet.

**B. Exceptions.** The following obstructions are exempt from the prohibitions of this section:

1. Street and/or storm sewer improvement projects authorized by the City.
2. Flood control and prevention activities performed by the City.
3. Obstructions approved by the City as part of a site’s storm water drainage plan.
4. Obstructions occurring during clean-up periods established by the City, provided that the materials are placed according to City directions and do not obstruct drain inlets.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-3; Ord. No. O-02-0033, Rep&ReEn, 09/24/2002)

**23-2-4. Prohibited Discharges.**

**A. Illicit Discharges.** It is unlawful for any person to cause or allow an illicit discharge to the storm sewer system.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-4; Ord. No. O-02-0033, Rep&ReEn, 09/24/2002)

**B. Exceptions.** The following discharges to the storm sewer system shall not be considered to be illicit discharges and shall be exempt from the prohibitions of this section:

1. Discharges regulated under a valid National Pollutant Discharge Elimination System (NPDES) storm discharge permit, provided that the discharge complies with the terms of the permit.
2. Discharges from water line flushing performed by the City.
3. Discharges from sprinkled landscape irrigation or sprinkled lawn watering.

4. Discharges from non-commercial car washing.

5. Discharges from natural riparian habitat or wetland flows.

6. Discharges from natural groundwater flows directly to a piped storm sewer system.

7. Discharges from air conditioning condensation.

8. Discharges from fire fighting or emergency management activities.

9. Discharges of dechlorinated water from swimming pools.

10. Discharges from foundation drains, footing drains, or crawl space or basement pumps if the discharges have been approved in writing by the City.

11. Discharges allowed by a City of Orem Storm Sewer Connection Permit.

(Ord. No. O-93-0003, Enacted, 02/02/93; Ord. No. O-96-0006, Rep&ReEn, 03/26/96, 16-4-4; Ord. No. O-02-0033, Rep&ReEn, 09/24/2002)

### 23-2-5. Prohibited Storage and Littering.

It is unlawful for any person to maintain, store, keep, deposit, or leave any pollutant or hazardous material, or any item containing a pollutant or hazardous material, in a manner that is likely to result in the discharge of the pollutant or hazardous material to the storm sewer system.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

### 23-2-6. Requirements for Sumps.

It is unlawful for any person to construct a sump in the City unless (1) the sump has been approved by the City, (2) the sump is designed to separate sediments, oil and grease, and floatables from the storm water, and (3) the sump complies with applicable City of Orem Construction Standards and Specifications.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

### 23-2-7. Storm Sewer Connection Permit.

**A. Permit Required.** No person shall connect to the City's storm sewer system without first obtaining a Storm Sewer Connection Permit from the City. The requirement to obtain a Storm Sewer Connection permit applies to direct connections to the storm sewer system (e.g. a piped connection to a piped portion of the storm sewer system) and indirect connections to the storm sewer system (e.g. discharges to sumps that are located on private property, or overland discharges to sumps that are part of the storm sewer system). The Storm Sewer Connection Permit described in this Article is a long-term permit designed to protect the storm sewer system, and is separate and distinct from the shorter-term Storm Water Construction Activity Permit

described in Article 3, which is designed to protect the storm sewer system during specified construction activities.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**B. Construction and Redevelopment.** Without affecting the generality of subsection A above, any person beginning any type of construction requiring a building permit shall obtain a Storm Sewer Connection Permit before commencing construction.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**C. Exempt Connections.** The following connections to the storm sewer system are exempt from the requirement to obtain a Storm Sewer Connection Permit:

1. Connections from a detached single family residence, provided that the runoff from the residence is handled according to a plat or site plan approved by the City. However, any person desiring to use a basement pump, foundation drain, or other related fixture directly or indirectly connecting to the storm sewer system must obtain a Storm Sewer Connection Permit.

2. Connections made by the City.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**D. Application.** The applicant for a Storm Sewer Connection Permit shall submit the following to the City's Development Services Department:

1. **Application Form.** A completed application form. If the applicant proposes to obtain the Permit in conjunction with another development activity requiring City approval (e.g. building permit, subdivision plat, site plan, or conditional use permit), the application for the Storm Sewer Connection Permit will be included as part of the application form for the other development activity. If the applicant proposes to obtain the Permit independent of any other City approval, the applicant shall apply for the Permit on a separate form prepared by the City. Application forms will be available at the City's Public Works and Development Services Departments.

2. **BMP Plan.** A Best Management Practices (BMP) plan.

a. **Requirements.** The BMP plan shall designate specific BMPs that the applicant will use to regulate, control, and facilitate storm water discharges from the site. All BMP plans shall provide for pretreatment of storm water unless the applicant demonstrates to the satisfaction of the DRC that pretreatment is not necessary because of (1) lack of pollutants in the storm water from the site, or (2)

insufficient quantity of storm water from the site.

b. **Purpose of BMPs.** The BMPs shall be designed to ensure that the quality and quantity of storm water discharged to the City’s storm sewer system meet the requirements of federal, state, and local laws and regulations and the City’s NPDES permit, and will not exceed the designed capacity of the storm sewer system or jeopardize the integrity of the storm sewer system.

c. **Acceptable BMPs.** BMPs may be structural and/or non-structural, depending on the needs of the site. The applicant may propose BMPs designed specifically for a given site, or may propose BMPs that have been pre-approved by the City. The City shall establish a menu of pre-approved BMPs by administrative policy. The policy may designate specified areas of the City where certain types of BMPs may or may not be used.

d. **City Approval of BMP Plan.** The applicant’s BMP Plan must be approved by the City. The BMP Plan will be reviewed as part of the Storm Water Connection Permit review process described below.

3. **Maintenance Plan.** A plan outlining how the applicant will maintain the storm water improvements listed in the application.

4. **Plans with Engineer’s Stamp.** Plans showing permanent storm water improvements to be made on the site. These plans shall be submitted with an engineer’s stamp.

5. **Fee.** A fee in an amount set by resolution of the City Council.

E. **Review of Application.** The Storm Sewer Connection Permit application shall be reviewed by the Development Review Committee (DRC) and either approved, approved with conditions, or denied.

1. **Factors.** When deciding whether to approve, conditionally approve, or deny a Storm Sewer Connection Permit application, the DRC shall consider the following factors:

a. Whether the application complies with applicable City ordinances and policies.

b. Whether the application complies with the City of Orem Storm Drainage Master Plan.

c. Whether the application includes an effective BMP plan. The BMP plan shall be considered effective if (1) it complies with the City’s menu of pre-approved BMPs, or (2) it ensures that the quality and quantity of storm water discharged to the City’s storm sewer system meets the requirements of federal, state

and local laws and regulations and the City’s NPDES permit, and will not exceed the designed capacity of the storm sewer system or jeopardize the integrity of the storm sewer system.

d. Whether the proposed connection introduces pollutants into the storm drain system.

e. Whether the proposed connection creates a safety hazard.

f. Whether the proposed connection affects the integrity of the storm sewer system infrastructure.

g. Whether the proposed connection endangers the City’s drinking water.

h. Whether the applicant has submitted a maintenance plan ensuring the proper maintenance and upkeep of the applicant’s connection and on-site storm water improvements.

2. **Appeals.** Either the permit applicant or the City may appeal the DRC’s decision to the City Manager. The appeal shall be made according to procedures established by the City Manager.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

F. **As-Builts.** Any person connecting to the storm sewer system shall provide the City’s Storm Sewer Utility with “as-built” plans showing the details and the location of the connection. The plans shall be in a format that is acceptable to the City.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

G. **Failure to Comply with Permit.** Failure to construct or maintain storm water improvements in accordance with an approved Storm Sewer Connection Permit (including the BMP plan and/or the maintenance plan) shall be a violation of this ordinance.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**23-2-8. Easements.**

The director may enter all private properties through which the City holds an easement for the purposes of inspecting, observing, measuring, sampling, repairing or maintaining any portion of the storm sewer facilities lying within the easement, or the performance of any other duties pertinent to the operation of the storm sewer system. All entry and subsequent work, if any, on an easement, shall be completed according to any special terms of the easement.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**23-2-9. Authority to Inspect.**

Whenever necessary to make an inspection to enforce any provision of this Article, or whenever the City has cause to believe that there exists, or potentially exists, a condition which constitutes a violation of this

Article, the City may enter the premises at all reasonable times to inspect the same and to inspect and copy records related to storm water compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.  
(Ord. No. O-02-0033, Enacted, 09/24/2002)

### **23-2-10. Requirements to Monitor and Analyze.**

If City tests or inspections indicate that a site is causing or contributing to storm water pollution, illegal discharges, and/or non-storm water discharges to the storm sewer system or waters of the United States, and if the violations continue after notice from the City, the City may require any person engaged in the illicit activity and/or the owner of operator of the site to provide, at their own expense, monitoring and analyses required by the City to determine compliance with this Article.  
(Ord. No. O-02-0033, Enacted, 09/24/2002)

### **23-2-11. Notice of Violation.**

Whenever the City finds that a person has violated a prohibition or failed to comply with a requirement of this Article, the City will order compliance by administrative citation or a written notice of violation to the responsible person. Such administrative citation or notice may require without limitation:  
(Ord. No. O-02-0033, Enacted, 09/24/2002; Ord. No. O-08-0036, Amended 12/09/2008)

A. The performance of monitoring, analyses, and reporting;  
(Ord. No. O-02-0033, Enacted, 09/24/2002)

B. The elimination of illicit connections or discharges;  
(Ord. No. O-02-0033, Enacted, 09/24/2002)

C. That violating discharges, practices, or operations shall cease and desist;  
(Ord. No. O-02-0033, Enacted, 09/24/2002)

D. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;  
(Ord. No. O-02-0033, Enacted, 09/24/2002)

E. Payment to cover administrative, remediation, monitoring, analyses, and reporting costs; and  
(Ord. No. O-02-0033, Enacted, 09/24/2002)

F. The implementation of source control or treatment BMPs.

The City may skip the notice requirements set forth in this Section and immediately proceed with criminal and/or civil action against the violator if (1) the violator has committed the same violation in the past, or (2) the

violation, in the opinion of the City, creates a serious risk to persons, the environment or property, or (3) the City deems the violation to constitute an emergency.  
(Ord. No. O-02-0033, Enacted, 09/24/2002)

### **23-2-12. Damage to Storm Sewer System or Irrigation Lines.**

Any person who damages any portion of the storm sewer system, a City-owned irrigation line, or a City-maintained irrigation line shall be responsible for repairing the damages. The damages shall be repaired by a licensed contractor bonded to do work in the City and shall be repaired in accordance with the City's Construction Standards and Specifications. It is unlawful to remove or alter any portion of the storm sewer system without permission from the Director.  
(Ord. No. O-02-0033, Enacted, 09/24/2002)

### **23-2-13. Manhole Covers.**

It shall be unlawful to open any storm sewer manhole or other storm sewer fixture (such as grates, lids or inlets) without permission from the Director.  
(Ord. No. O-02-0033, Enacted, 09/24/2002)

### **23-2-14. Drinking Water Protection.**

All storm water and non-storm water discharges shall comply with the City's drinking water source protection ordinance.  
(Ord. No. O-02-0033, Enacted, 09/24/2002)

### **23-2-15. Violation and Penalty.**

A. The violation of any provision of this Article is a Class C misdemeanor. Each day that a violation occurs shall constitute a separate offense.  
(Ord. No. O-02-0033, Enacted, 09/24/2002)

B. If, as the result of the violation of any provision of this Article, the City or any other party suffers damages and is required to make repairs and/or replace any materials, the cost of repair and/or replacement shall be borne by the violating party and shall be in addition to any criminal or civil fines and/or penalties.  
(Ord. No. O-02-0033, Enacted, 09/24/2002)

C. Violators of this Article may also be subject to prosecution, fines and penalties from the State of Utah and the United States EPA.  
(Ord. No. O-02-0033, Enacted, 09/24/2002)

### **23-2-16. Compliance with Federal and State Law.**

Nothing in this Article shall be interpreted to relieve any person from an obligation to comply with an applicable Federal, State, or local law relating to storm water discharges or drinking water protection.  
(Ord. No. O-02-0033, Enacted, 09/24/2002)

**Article 23-3. Storm Water Construction Activity Permit.**

- 23-3-1. Purpose and Intent.
- 23-3-2. Storm Water Construction Activity Permit – When Required.
- 23-3-3. Storm Water Construction Activity Permit – Application.
- 23-3-4. Storm Water Construction Activity Permit – Proper Operation and Maintenance.
- 23-3-5. Storm Water Construction Activity Permit – Inspection and Entry.
- 23-3-6. Storm Water Construction Activity Permit – Revocation or Suspension.
- 23-3-7. Storm Water Construction Activity Permit – Appeals.
- 23-3-8. Prohibited Activities.
- 23-3-9. Mud, Dirt and Debris on City Streets.
- 23-3-10. Violations and Enforcement.
- 23-3-11. Compliance with Federal and State Law.

**23-3-1. Purpose and Intent.**

The purpose of this Article is to prevent the discharge of sediment and other construction-related pollutants from construction sites. Sediment and debris from construction sites are a major source of pollution to waterways and water systems located within the City and surrounding areas. Each year storm water runoff carries tons of sediment from construction sites into local drainage systems, irrigation systems, canals, rivers, and lakes. Sediment from storm water runoff also clogs and obstructs storm drains, culverts, and canals and causes damage to private property, wildlife habitat and water quality.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**23-3-2. Storm Water Construction Activity Permit – When Required.**

**A. Permit Required.** A City of Orem Storm Water Construction Activity Permit is required before any person or entity may landscape, excavate, grub and clear, grade, or perform any type of construction activity that will disrupt or cause a change in the natural landscape upon any parcel of property located in the City.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**B. Exemptions.** The following activities are exempt from the permit requirements of this Article:

- 1. Actions by a public utility, the City, or any other governmental entity to remove or alleviate an emergency condition, including the restoration of utility service or the reopening of a public thoroughfare to traffic;

- 2. Actions by any other person when the City determines, and documents in writing, that the actions are necessary to remove or alleviate an emergency condition;

- 3. Construction activities disturbing less than 500 square feet of land surface area;

- 4. Residential landscaping activities disturbing less than 7,000 square feet of land surface area;

- 5. Residential gardening;

- 6. Bona fide agricultural and farming operations, provided that the agricultural and farming operations constitute the principal use of the parcel and provided that such use of the parcel does not conflict with the City’s zoning ordinance;

- 7. City of Orem capital improvement projects, provided that storm runoff control measures are included in the bid specifications and plans for the special improvement project.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**23-3-3. Storm Water Construction Activity Permit – Application.**

Any person or entity desiring a Storm Water Construction Activity Permit must first file an application with the Development Services Department.

**A. Application Form.** The application shall be submitted on a form approved by the City. If the applicant proposes to obtain the Permit in conjunction with another development activity requiring City approval (e.g. building permit, subdivision plat, site plan, or conditional use permit), the application for the Storm Water Construction Activity Permit will be included as part of the application form for the other development activity. If the applicant proposes to obtain the Permit independent of any other City approval, the applicant shall apply for the Permit on a separate form prepared by the City. Application forms will be available at the City’s Public Works and Development Services Departments.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**B. Storm Water Pollution Prevention Plan.** The applicant shall submit a Storm Water Pollution Prevention Plan with the application. The Storm Water Pollution Prevention Plan (the Plan) shall contain the following information:

- 1. **Site Description.** A site description (including a map with spot elevations and contour lines) which includes a description of the nature and location of the construction activity, a description of the intended sequence of major activities which will disturb soils for major portions of the site (e.g. grubbing, excavation, grading, utilities, and infrastructure installation, etc.), and

estimates of the total area of the site and the total area of the site that is expected to be disturbed by excavation, grading, or other activities;

2. **Control Description.** A description of the proposed control measures that will be implemented during construction activity and/or while the site is not stable. The Plan must clearly describe the times during the construction process that the measures will be implemented for each major activity identified pursuant to subsection (1). The Plan shall also state the name, address, and phone number of the person or entity responsible for implementation of each control measure.

3. **Control Measures.** Control measures meeting the following goals and criteria:

a. **Prevent or Minimize Discharge.**

The proposed control measures shall be designed to prevent or minimize, to the maximum extent practicable, the discharge of sediment, debris and other construction-related pollutants from the construction site by storm water runoff into the storm drainage system.

b. **Prevent or Minimize Construction Debris.** The proposed control measures shall be designed to prevent or minimize, to the maximum extent practicable, the deposit, discharge, tracking by construction vehicles, or dropping of mud, sediment, debris or other potential pollutants onto public streets and rights-of-way.

c. **Use of BMPs.** The proposed control measures shall include Best Management Practices (BMPs) available at the time that the Plan is submitted. BMPs may include, but shall not be limited to, temporary silt or sediment fences, sediment traps and detention ponds, gravel construction entrances and wash down pads to reduce or eliminate off-site tracking, straw bale sediment barriers, establishment of temporary grasses and permanent vegetative cover, use of straw mulch as a temporary ground cover, erosion control blankets, temporary interceptor dikes and swales, storm drain inlet protection, check dams, subsurface drains, pipe slope drains, level spreaders, rock outlet protection, reinforced soil retaining systems, and gabions.

d. **Stabilize Site.** The proposed control measures shall be designed to preserve existing vegetation, where possible. Disturbed portions of the site shall be stabilized. Stabilization practices may include temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer

strips, protection of trees, preservation of mature vegetation, and other appropriate measures. Use of impervious surfaces for stabilization should be avoided. Stabilization measures shall be initiated as soon as practicable in disturbed portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased, except under the following circumstances:

1. If the initiation of stabilization measures by the 14<sup>th</sup> day after construction activity temporarily or permanently ceases is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable; or

2. If construction activity on a portion of the site is temporarily ceased, and earth disturbing will resume within 21 days, temporary stabilization measures need not be initiated on that portion of the site.

e. **Minimize Risk of Discharge of Other Materials.** The proposed control measures shall be employed to minimize the risk of discharge of construction-related pollutants (such as paint, thinners, solvents and other chemicals) from the construction site. Such measures may include implementation of storage practices to minimize exposure of the material to storm water as well as spill prevention and response.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

C. **Timing for Filing Application.** The applicant shall file the application on or before the following dates:

1. **Subdivision.** The date that the applicant submits the preliminary subdivision plat application if the applicant proposes to develop a subdivision.

2. **Site Plan.** The date that the applicant submits a site plan application if the applicant proposes to develop a site plan or amended site plan.

3. **Conditional Use Permit.** The date that the applicant submits a conditional use permit application if the applicant proposes to develop a conditional use.

4. **Building Permit.** The date that the applicant submits a building permit application if

the applicant proposes to construct a building on an existing lot or parcel.

5. **Other.** At least two (2) weeks before the developer intends to perform any type of work not listed above that would require a Storm Water Construction Activity Permit pursuant to this Article.

If an applicant’s development comes under more than one of the categories listed above, then the applicant shall submit the Storm Water Construction Activity Permit Application on the earliest of the listed dates. Failure to comply with the application dates set forth above is not a criminal offense, but may delay the applicant’s project. Failure to acquire a required Storm Water Construction Activity Permit is grounds for denying a related subdivision application, site plan application, conditional use permit application, or building permit application. It is unlawful to commence work (move dirt) on a development site before obtaining a required Storm Water Construction Activity Permit.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

D. **Fee.** The applicant for a Storm Water Construction Activity Permit shall pay a fee in an amount set by resolution of the City Council.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

E. **Application Approval.** The Storm Sewer Utility Manager or designee shall approve the application and grant the permit if the application is complete and the Storm Water Pollution Prevention Plan meets the requirements of this ordinance. The Storm Sewer Utility Manager shall deny the application or approve the application with conditions if he or she determines that the measures proposed in the Plan fail to meet the criteria set forth in section 23-3-4. Conditions the Storm Sewer Utility Manager may impose in connection with the approval of a Permit include, but are not limited to, the establishment of specific measures and controls to prevent erosion and the discharge of sediment, debris and other construction-related pollutants from the site by storm water.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

F. **Term.** Unless otherwise revoked or suspended, a Storm Water Construction Activity Permit shall be in effect for the full period of the construction activity. The construction activity will not be considered to be completed until the following events occur:

1. **Subdivisions.** For Permits associated with a subdivision plat approval:
  - a. The Permittee must complete all required subdivision improvements; and

b. One of the following three events must occur:

1. The City issues a final certificate of occupancy for each lot in the subdivision, or
2. Individual Storm Water Construction Activity Permits have been issued for each lot in the subdivision not having a final occupancy permit, or
3. The property has been re-vegetated or landscaped in a manner that eliminates erosion and sediment discharge or that brings the property back to its natural state.

2. **Site Plans.** For Permits associated with a site plan approval, the date that the Permittee has completed all required landscaping and all outside construction work associated with the site plan.

3. **Building Permits.** For Permits associated with a building permit application, the date that the City issues a final occupancy permit for the structure covered by the building permit.

4. **Other.** For Permits issued that are not tied to other approvals from the City, the date that the Permittee has completed all work associated with the Permit and takes steps required by the Permit to prevent further erosion and runoff from the site.

No Storm Water Construction Activity Permit shall be considered terminated until the Permittee submits a Notice of Termination of Construction Activity Permit (“Notice”) to the City and the Notice is accepted by the City. The City shall accept the Notice if the Permittee has met the requirements of the Permit and this ordinance. The Permittee shall keep and maintain all Permit-required improvements on the site until the City accepts the Notice.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

G. **Amendments.** In the event that the proposed construction activity for a site to which a Permit pertains is materially altered from that described in an original Plan in a way that may have a significant impact upon the effectiveness of the measures and controls described in the original Plan, the Permittee shall file an amended Storm Water Pollution Prevention Plan which meets the criteria set forth in section 23-3-4.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**23-3-4. Storm Water Construction Activity Permit – Proper Operation and Maintenance.**

The recipient of a Storm Water Construction Activity Permit (the Permittee) shall install the erosion and sediment control measures required by the approved Storm Water Pollution Prevention Plan before commencing any construction activity on the site to

which the Plan applies or at such times indicated in the Plan. The erosion and sediment control measures shall be properly installed and maintained in accordance with the Permit, the manufacturers' specifications, and good engineering practices. The Permittee shall maintain such measures on the site until the City accepts the termination of the Permit pursuant to Section 23-3-3(F). (Ord. No. O-02-0033, Enacted, 09/24/2002)

**23-3-5. Storm Water Construction Activity Permit – Inspection and Entry.**

The Permittee shall allow any authorized employees and representatives of the City, representatives of the State of Utah Division of Water Quality, and representatives of the EPA, to enter the site to which a Permit applies at any time and to inspect the erosion and sediment control measures maintained by the Permittee. The Permittee shall also allow inspection of any records pertaining to the conditions of the Permit.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**23-3-6. Storm Water Construction Activity Permit – Revocation or Suspension.**

**A. Revocation or Suspension.** A Storm Water Construction Activity Permit may be revoked or suspended by the Director upon the occurrence of any one of the following events:

1. Failure of a Permittee to comply with the Plan or any condition of the Permit; or
2. Failure of a Permittee to comply with any provision of this Article or any other applicable law, ordinance, rule or regulation related to storm water; or
3. A determination by the Director that the erosion and sediment control measures implemented by a Permittee pursuant to the Plan are inadequate to prevent or minimize, to the maximum extent practicable, the discharge of sediment, debris or other pollutants from the construction site by storm water.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**B. Notice.** The City shall mail a Permittee written notice of noncompliance before revoking or suspending a Permit. The notice shall state the location and nature of the noncompliance and shall also specify what action is required for the Permittee to avoid revocation or suspension of the Permit. The notice shall allow the Permittee a reasonable time to take the necessary corrective action to avoid revocation or suspension of the Permit which time, in the absence of exceptional circumstances, shall not be less than ten (10) nor more than thirty (30) days. The notice shall be mailed to the address listed for the Permittee in the Application. If the

Permittee fails to correct the problems identified in the notice during the time specified in the notice, the Director may suspend or revoke the Permit by mailing or delivering written notice of the suspension or revocation to the Permittee. The Permittee may appeal a suspension or revocation of the Permit pursuant to the appeal procedure set forth in Section 23-3-7.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**C. Exceptional Circumstances.** For purposes of this Section, exceptional circumstances include, but are not limited to, situations which involve a risk of injury to persons, damage to storm drain facilities, or damage to other property or the environment. The City may take any steps the City deems necessary to alleviate any such exceptional circumstances as defined above, and may bill the owner, developer, or contractor responsible for creating the exceptional circumstances for the cost of alleviating said circumstances.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**D. Stop Work Order.** A stop work order may be issued upon the revocation or suspension of a Permit, upon discovery of work in violation of or not in accordance with a Permit, or upon the discovery of work being conducted without a required Permit. The stop work order may be issued by inspectors in the Development Services Department. No construction activity may be commenced or continued on any site for which a Permit has been revoked or suspended until the Permit has been reinstated or reissued.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**E. Reinstatement.** A Storm Water Construction Activity Permit may be reinstated or reissued upon compliance with all provisions of this Article and all Permit conditions, or in the case of a suspension for reasons provided in subsection (A)(3), upon the filing of an amended Storm Water Pollution Prevention Plan which is designed to correct the deficiencies of the original Plan.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**23-3-7. Storm Water Construction Activity Permit – Appeals.**

**A. Notice of Appeal.** An Applicant for a Storm Water Construction Activity Permit or a Permittee of a Storm Water Construction Activity Permit may appeal any decision or directive made by the City or its representatives pursuant to this Article. The party desiring to appeal shall file a notice of appeal at the City Manager's Office within 10 days of the decision or directive being appealed. The notice of appeal shall contain the following information:

1. The appellant's name, address and daytime telephone number;

2. A short statement describing the basis for the appeal; and

3. The relief sought by the appellant.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**B. Hearing.** Upon receipt of the notice of appeal, the City Manager shall set a date for an informal hearing to consider the appeal. The informal hearing shall be conducted in accordance with policies established by the City Manager. The City Manager shall uphold the decision or directive being appealed unless the City Manager finds that there has been an error in the interpretation or implementation of this ordinance. The City Manager shall render a decision on the appeal within 10 days of the informal hearing with the appellant. The City Manager shall have authority to affirm, reverse, or modify any decision or directive appealed pursuant to this Section.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**23-3-8. Prohibited Activities.**

The following activities are prohibited and unlawful, and shall be considered a nuisance under Article 11-1 of the City Code, regardless of whether or not the violator has a Storm Water Construction Activity Permit:

**A. Covering Sidewalk.** Covering any portion of a curb, gutter or sidewalk with mud, dirt or debris and failing to remove the mud, dirt or debris before leaving the site. In no case shall the mud, dirt or debris be left overnight.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**B. Washing Vehicles and Equipment.** Washing any vehicle or equipment in a manner that (1) leaves concrete, mud, dirt, or debris on a public or private street or on any portion of the public right-of-way, or (2) allows concrete, mud, dirt, or debris to enter the storm sewer system.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**23-3-9. Mud, Dirt and Debris on City Streets.**

**A. Clean-up Required.** Any person or entity that tracks, spills, deposits, discharges or drops any mud, dirt or other debris on a public or private street or a public right-of-way within the City must remove the mud, dirt or other debris within twenty-four (24) hours of when it is left on the street or right-of-way. Failure to do so shall be a violation of this ordinance and shall also be considered a nuisance that may be enforced and/or abated pursuant to Article 11-1 of the City Code. The requirement to clean mud, dirt and other debris from streets and rights-of-way applies regardless of whether or not the responsible parties are acting

pursuant to a Storm Water Construction Activity Permit.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**B. Responsible Parties.** The following people and entities shall be considered to be responsible parties for the purpose of enforcing this section:

1. **Driver.** The driver of the vehicle leaving the mud, dirt or debris; and

2. **General Contractor.** The general contractor or owner in charge of the job site from which the mud, dirt, or debris came.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**C. Possible Remedies.** The City may avail itself of any of the following non-exclusive remedies to enforce this section if the mud, dirt, or debris is not removed as required herein:

1. **Public Improvement and Repair Bond.** The City may clean (or may hire an independent contractor to clean) the mud, dirt or debris, and may deduct the cost of the clean-up, plus an administrative charge in an amount set by resolution of the City Council, from the Public Improvement and Repair Bond posted by the contractor on the job site from which the mud, dirt or debris came. The City may make draws against the public improvement and repair bond as specified in Section 7-3-2 of the City Code.

2. **Nuisance Abatement.** The violation may be treated as a nuisance under Article 11-1 of the City Code and enforced by one of the City's neighborhood preservation officers.

3. **Criminal Prosecution.** The City may prosecute the violation as a crime pursuant to Section 23-3-10.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

**23-3-10. Violations and Enforcement.**

**A.** The violation of any of the provisions of this article shall be a Class C misdemeanor. Each day that a violation occurs shall constitute a separate offense.

(Ord. No. O-02-0033, Enacted, 09/24/2002; Ord. No. O-08-0006, Amended 02/12/2008)

**B.** Authorized code enforcement personnel working under the direction of the City Manager are hereby declared to be public officials within the meaning of Section 77-7-18 Utah Code as amended, and these public officials are hereby authorized to issue misdemeanor citations and/or stop work orders for violations of this chapter or City Construction Standards and Specifications.

(Ord. No. O-02-0033, Enacted, 09/24/2002; Ord. No. O-08-0006, Amended 02/12/2008)

C. Violators of this article are also subject to any penalties that may be imposed by the State of Utah, under the authority of the Utah Water Quality Act, Title 19, and Chapter 5 of the Utah Code.

(Ord. No. O-02-0033, Enacted, 09/24/2002; Ord. No. O-08-0006, Amended 02/12/2008)

D. In addition to any criminal fines and/or penalties which may be assessed for a violation of this article, the City shall have the right to install and/or maintain appropriate erosion and sediment control measures on any site which is required to have such measures in the event that construction activity is commenced or continued without such measures having been installed as required by this article. The City shall have the right to have such measures installed or maintained by City personnel or to hire a private contractor to perform such work and the contractor and/or the property owner shall be liable for any and all expenses related to performing such work plus a 25% penalty charge. The City may assess said charges against the bond posted by the contractor and/or property owner.

(Ord. No. O-02-0033, Enacted, 09/24/2002; Ord. No. O-08-0006, Amended 02/12/2008)

E. Violators of this article may also be subject to prosecution, fines, and penalties from the State of Utah and the United States EPA.

(Ord. No. O-02-0033, Enacted, 09/24/2002; Ord. No. O-08-0006, Amended 02/12/2008)

### **23-3-11. Compliance with Federal and State Law.**

Nothing contained in this Article is intended to relieve any person or entity from any obligation to comply with applicable federal and state laws and regulations pertaining to clean water and/or storm water runoff.

(Ord. No. O-02-0033, Enacted, 09/24/2002)

## Article 23-4. Storm Water Administrative Citation Procedure.

### 23-4-1. Applicability.

### 23-4-2. Administrative Citation.

### 23-4-3. Appeals.

### 23-4-4. Non-Exclusive Remedies

#### 23-4-1. Applicability.

A. **Application.** This Article's administrative procedure shall be applicable to both Article 23-2 and Article 23-3.

(Ord. No. O-08-0036, Enacted 12/09/2008)

#### 23-4-2. Administrative Citation.

A. **Administrative Citation.** When a City Public Works Officer determines that a violation of this Chapter exists, the City Public Works Officer may issue an administrative citation to the Responsible Person.

(Ord. No. O-08-0036, Enacted 12/09/2008)

B. **Content of Administrative Citation.** The administrative citation shall include the following:

1. The name and address of the Responsible Person;
2. The street address of the violation or a description sufficient for identifying the building, structure, premises, or land upon or within which the violation is occurring;
3. A description of the violation and the City Code section violated;
4. An order prohibiting the continuation or repeated occurrence of the code violation described on the Administrative Citation;
5. An order to the responsible person to correct the violation(s) within the time specified, and an explanation of the consequences of failure to correct the violation(s), including the fine for the violation;
6. The amount of the fine and/or penalty and interest for the violation(s);
7. An explanation of how the fine shall be paid and the time period by which it shall be paid;
8. The time for appealing the administrative citation to the Hearing Officer and the procedure for filing an appeal; and
9. A statement that the City may abate the violation and assess costs and expenses of abatement and a monetary fine against the Responsible Person if the correction is not completed by the Responsible Person and approved by the City Public Works Director before the Completion Date.

(Ord. No. O-08-0036, Enacted 12/09/2008)

C. **Service of Administrative Citation.** The City Public Works Officer shall serve the administrative citation upon the Responsible Person, either personally or by mailing, certified, return receipt requested, a copy of the administrative citation to the Responsible Person at his/her last known address. If the Responsible Person cannot after due diligence be personally served within Utah County and if an address for mailed service cannot after due diligence be ascertained, notice shall be served by posting a copy of the administrative citation conspicuously on the affected property or structure. Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made, and if by posting, the facts showing that due diligence was used in attempting to serve the person personally or by mail.

(Ord. No. O-08-0036, Enacted 12/09/2008)

#### D. Fine Amounts.

1. The amounts of the fines imposed for violations of these Articles shall be set forth in the regular schedule of fines established by a Resolution of the City Council.

2. The schedule of fines shall specify any increased fines for repeat violations of the same code provision by the same person within any twelve (12) month period from the date of the preceding administrative citation.

3. Each and every day a violation of the provisions of the code exists constitutes a separate and distinct offense and shall be subject to a citation.

(Ord. No. O-08-0036, Enacted 12/09/2008)

E. **Failure to Pay Fines.** The failure of any person to pay the civil fines assessed by an Administrative Citation within the time specified on the citation or after an administrative hearing will result in the collection of the fine by the City. The City may pursue any available legal remedy to collect civil fines, including but not limited to judgments, liens, small claims actions, and collections. The City may also recover its collections costs according to proof.

(Ord. No. O-08-0036, Enacted 12/09/2008)

F. **Stop Work Order.** Upon the occurrence of a third violation the City may issue a Stop Work Order in conjunction with the Administrative Citation.

(Ord. No. O-08-0036, Enacted 12/09/2008)

G. **No Extension.** No extension of the time specified in the administrative citation for correction of the violation may be granted, except by order of the Hearing Officer.

(Ord. No. O-08-0036, Enacted 12/09/2008)

**23-4-3. Appeals.**

**A. Grounds.** Any person receiving an administrative citation may appeal the administrative citation to the Hearing Officer. Only the following issues may be appealed to the Hearing Officer:

1. The person charged in the administrative citation as the Responsible Person, is not the Responsible Person as defined by this ordinance.

2. The condition described as a violation in the administrative citation is not a violation as defined by this ordinance.

3. The Responsible Person claims that the requirement(s) of the administrative citation violates his/her constitutional rights.

(Ord. No. O-08-0036, Enacted 12/09/2008)

**B. Filing.**

1. A person desiring to appeal an administrative citation must file a notice of appeal at the City's Public Works Office within ten (10) days of being served with the administrative citation or within fifteen (15) days of the mailing date if the administrative citation is mailed.

2. The notice of appeal shall clearly and concisely set forth all the reasons for the appeal. The Hearing Officer shall examine the notice of appeal to determine whether a valid appeal has been stated. If the appellant has not stated a valid cause for appeal, as set forth in Section 23-4-3(A), or if the appellant has failed to show by a preponderance of the evidence, that he/she has an appealable issue, the appeal shall be denied and no hearing shall be held.

3. If the appellant has not shown due diligence and/or substantial progress in correcting the violation or has made no attempt to correct the violation, the filing of an appeal will not stop the accrual of the fines.

4. If the appellant has filed an appeal, the filing of such appeal will not prevent law enforcement officers from responding to the property on reports of new violations.

(Ord. No. O-08-0036, Enacted 12/09/2008)

**C. Hearing.** The hearing before the Hearing Officer shall be informal according to rules and procedures established by the Hearing Officer. The appellant may, but is not required to, bring an attorney or other representative to assist him or her. The appellant and the City Public Works Officer may each call witnesses at the hearing. The Hearing Officer may, with or without the parties present, visit the site of the alleged violation. If the Hearing Officer allows the parties at the site visit, both parties must be given the opportunity to be present. The Hearing Officer shall

endeavor to schedule the hearing within thirty (30) days of when the notice of appeal is filed with the City. The City Attorney, or his designee, shall be present for the hearing and act as legal adviser for the Hearing Officer.  
(Ord. No. O-08-0036, Enacted 12/09/2008)

**D. Burden of Proof.**

1. In appellant's notice of appeal, the appellant shall have the initial burden of proof to demonstrate by a preponderance of the evidence that he/she has stated a legitimate grounds for an appeal based upon reasons as set forth in Section 23-4-3(A).

2. If the appellant has timely filed his/her appeal and a hearing has been scheduled, the burden then shifts to the City to show by a preponderance of the evidence that a violation does exist.

3. The determination of the City Public Works Officer as to the need for the required corrective action shall be accorded substantial weight by the Hearing Officer in determining the reasonableness of the corrective action.

(Ord. No. O-08-0036, Enacted 12/09/2008)

**E. Authority of Hearing Officer.** The Hearing Officer shall have authority to affirm or vacate the administrative citation, or to modify or waive specific provisions of the administrative citation. If the appellant fails to attend the hearing, the Hearing Officer shall affirm the administrative citation. The Hearing Officer shall not vacate the administrative citation unless he/she finds that no violation exists. The Hearing Officer shall modify the administrative citation if he/she finds that a violation exists, but that one or more of the requirements of the administrative citation is improper or inappropriate. A requirement is improper if it is contrary to this ordinance. A requirement is inappropriate if the Hearing Officer finds that there is a better means of resolving the problem or that the proposed solution is inappropriate given the nature or severity of the problem. When determining whether to waive or modify a requirement of the administrative citation, the Hearing Officer may also consider:

1. Whether the appellant responded to the City Public Works Officer's attempts to contact the appellant and cooperated with efforts to correct the violation;

2. Whether the appellant has shown due diligence and/or substantial progress in correcting the violation;

3. The financial ability of the appellant and the amount, if any, that the appellant has benefited financially by maintaining the violation; and

4. Any other relevant factors.

(Ord. No. O-08-0036, Enacted 12/09/2008)

F. **Order.** The Hearing Officer shall issue a written Order to the appellant and the City notifying them of his/her decision. The Order shall include the Hearing Officer's findings of fact and ultimate decision. If the Hearing Officer modifies or waives provisions of the administrative citation, the Order shall specify which portions are modified and how they are modified. The Hearing Officer shall mail a copy of the Order to the appellant and the City within five (5) working days of the close of the hearing.

(Ord. No. O-08-0036, Enacted 12/09/2008)

G. **Appeal to District Court.** Either the City or the appellant may appeal the Hearing Officer's Order by filing a petition for review of the Order. The petition must be filed in the Fourth District Court within thirty (30) calendar days from the date the Hearing Officer's Order was mailed to the appellant. In the petition, the plaintiff may only allege that the Hearing Officer's order was arbitrary, capricious, or illegal. The Hearing Officer shall transmit to the reviewing court the record of its proceedings, including any minutes, findings, orders and, if available, a true and correct transcript of its proceedings. If, in the opinion of the District Court, there is a sufficient record to review the Hearing Officer's Order, the Court's review is limited to the record provided by the Hearing Officer. The District Court may not accept or consider any evidence outside of the Hearing Officer's record unless the evidence was offered to the Hearing Officer and the Court determines that it was improperly excluded by the Hearing Officer. If, in the opinion of the District Court, there is not a sufficient record to review the Hearing Officer's Order, the Court may call witnesses and take evidence. No petition or appeal may be filed in District Court unless the Responsible Person first appeals to the Hearing Officer pursuant to the terms set forth in this ordinance.

(Ord. No. O-08-0036, Enacted 12/09/2008)

#### **23-4-4. Non-Exclusive Remedies**

The City may take any or all of the abovementioned remedies (administrative, civil, or criminal) to abate a violation and/or to punish any person or entity that creates, causes, or allows a violation to exist. The abatement of a violation does not prejudice the right of the City or any person to recover damages or penalties for its past existence.

(Ord. No. O-08-0036, Enacted 12/09/2008)