

**Ordinance 2019-1**

**An ordinance amending the Pleasant View City Municipal Code, Chapters 13.08, 13.09, and 13.10 relating to storm water.**

**Whereas**, The Pleasant View City Council finds that it is necessary to update the storm water regulations as expressed below;

**Whereas**, The Pleasant View City Council finds that such amendments are in the best interest of the City;

**Now, Therefore**, Be it hereby ordained that:

**Section One:** Chapter 13.08 – Storm Water Utility, Chapter 13.09 – Storm Drainage, and Chapter 13.10 Storm Water Permit of the Pleasant View City Municipal Code are hereby amended and read as follows in “Exhibit A” attached.

**Section Two:** This ordinance shall take effect immediately upon posting.

Dated this 12<sup>th</sup> day of February, 2019.

  
Leonard M Call, Mayor

Attest:

  
Laurie Hellstrom, City Recorder

This ordinance has been approved by the following vote of the Pleasant View City Council:

Yes Councilmember Burns  
Yes Councilmember Hansen  
Yes Councilmember Gibson  
Yes Councilmember Urry  
Yes Councilmember Francis



## Chapter 13.08 - Storm Water Utility

### 13.08.10 Findings.

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

- A. The City's existing storm water 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.
- B. Uncontrolled or inadequately controlled storm water runoff endangers the City's groundwater supply.
- C. Uncontrolled or inadequately controlled storm water runoff causes erosion and property damage.
- D. Uncontrolled or inadequately controlled storm water runoff hinders the City's ability to provide emergency services to its residents.
- E. Uncontrolled or inadequately controlled storm water runoff impedes the regular flow of traffic in the City.
- F. Uncontrolled or inadequately controlled storm water runoff poses health hazards to the citizens of the community.
- G. 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.
- H. All developed properties in the City contribute to the need for the storm water system by converting natural ground cover into impervious surfaces.
- I. All developed properties in the City make use of or benefit from the City's operation and maintenance of the storm water system.
- J. ~~The EPA and the DEQ are developing additional storm water permitting requirements that will apply to cities~~The City has prepared and must comply with its Storm Water Management Plan.
- K. 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.
- L. A storm water 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 water system. (Ord.2011-2, dated 3/22/11)

### 13.08.020 Purpose.

The purpose of this Chapter is to protect the health, safety and welfare of the City and its inhabitants by improving the City's storm water 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 water system. (Ord.2011-2, dated 3/22/11)

### 13.08.30 Definitions.

The following bolded words and phrases shall be defined as follows in this Chapter and for all other chapters relating to storm water:

- 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 Pleasant View City Storm Water Management Plan ~~dated 2010~~, current version (available at the Pleasant View City Hall.)
- B. **Catch Basin.** A structure drain inlet designed to capture and convey storm water into the City's storm water system and keep out large or obstructive matter.
- C. **City or Municipality** or similar term means Pleasant View City, Utah, its geographical boundaries, jurisdiction, and its contract providers as the context may dictate. The City may also be referred to as a Municipal Separate Storm Sewer System (MS4).
- D. **City Council** or **Council** means the governing body of the City.
- E. **Debris.** Any dirt, rock, sand, vegetation, rubbish, or litter.
- F. **Detention Basin.** An area designed to detain peak flows from storm water runoff and to regulate release rates of that water into the City's storm drainage system, also allowing debris to settle out. Detention basin outlets are connected directly to downstream storm drains. All flow entering detention basins are released via outlet piping. Regional Detention Basins are defined as large detention basins owned and maintained by the City. Local Detention Basins are defined as smaller basins typically in subdivisions and constructed by developers. Following conditional acceptance of the construction, the ~~ownership~~, operation and maintenance may either be conveyed and maintained by the City or owned and maintained by private property owners.

- G. **Developed Property.** Any property that has been altered from its natural condition by grading, filling, or the construction of improvements or other impervious surfaces.
- H. **Development or Land Development.** Any man-made change to improved or unimproved real estate, including but not limited to site preparation, filling, grading, paving, excavation, development of a parcel, lot, subdivision plat or site plan and construction of buildings or other structures.
- I. **Director.** The Public Works Director or Superintendent of Pleasant View City or his duly appointed deputy, agent, or representative.
- J. **Disturb.** To alter the physical condition, natural terrain or vegetation of land by clearing, grubbing, grading, excavating, filling, building or other construction activity.
- K. **Drain Inlet.** A point of entry into a sump, detention basin, or storm drain system.
- L. **Drinking Water Source Protection Zone.** Zones determined by Geo-Hydrology designed to protect groundwater aquifers of a well in a Culinary Water System.
- M. **Equivalent Residential Unit ("ERU").** The average amount of impervious surface, expressed in square feet, on developed single family residential parcels in Pleasant View.
- N. **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.
- O. **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.

- P. **Illicit Discharge.** Any non-storm water discharge to the storm water system. 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 draininlets).
- Q. **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 (including roofs, concrete, etc.).
- R. **Municipal Separate Storm Sewer System (MS4).** A conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains.
- S. **NPDES Permit.** A general permit obtained by the State of Utah from the Environmental Protection Agency under the National Pollutant Discharge Elimination System (NPDES), as authorized by the Clean Water Act, under which the City's discharges of storm water are regulated.
- T. **Percolation.** The ability of a soil to absorb water. Typically measured by a Standard Percolation Test in units of minute per inch.
- U. **Person.** Any individual, corporation, partnership, association, company or body politic, including any agency of the State of Utah and the United States government.
- V. **Pollutant.** Dredged spoil; solid waste; incinerator residue; filter backwash; sewage sludge; munitions; chemical wastes; biological materials; radioactive materials; 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 resinates); and noxious or offensive matter of any kind.
- W. **Redevelopment.** Alterations of a property that change the footprint of a site or building in such a way that disturbs one acre of land or more.
- X. **Retention Basin.** Means an area designed to retain flows from storm water runoff and to encourage infiltration into surrounding sub-surface soils. Retention basins do not have outlet piping connected into a storm water system. A retention basin allows debris to settle out.

- Y. **Sanitary Sewer Overflow (SSO).** A discharge of untreated sanitary wastewater. SSOs are illegal and must be eliminated. All SSOs must be reported to the Division of Water Quality.
- Z. **Storm Drain.** A closed conduit for conducting collected storm water.
- AA. **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.
- BB. **Storm Water System.** The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, detention basins, curbs, gutters, ditches, natural channels, man-made channels, sumps, storm drains, and ground water) owned and operated or utilized by the City, which is designed and used for collecting or conveying storm water. The storm water system is also referred to as a "municipal separate storm sewer system" or "MS4".
- CC. **Storm Water Runoff.** Water that is generated by storm water flows over land.
- DD. **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.2011-2, dated 3/22/11)
- 13.08.40 Storm Water Utility.**
- A. **Creation.** The Storm Sewer Utility created by Ordinance No. 99-13 shall henceforth be known as the Storm Water Utility. The storm water utility shall plan, design, construct, maintain, administer and operate the City's storm water system.
- B. **Enterprise Fund.** The storm water utility enterprise fund established by Ordinance No. 99- 13 shall handle all income, expenses and other financial transactions related to the storm water utility. All storm water utility service charges shall be deposited in the enterprise fund. Money in the storm water utility enterprise fund shall not be commingled with or transferred to other City funds. However, the storm water utility may pay other City funds for services and expenses directly attributable to the storm water utility. The enterprise fund shall be operated according to State law and City policy.
- C. **Facilities and Assets.** The storm water utility shall operate independently of City operations funded by the general fund. The storm water 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 by Ordinance No. 99-13, all of the City's storm water facilities and assets (other than streets and other facilities and assets designated by the City Council) were transferred to the storm water utility in consideration for the storm water utility's agreement to take primary responsibility for planning, designing, constructing, maintaining, administering and operating the City's

storm water system. (Ord.2011-2, dated 3/22/11)

#### **13.08.50 Storm Water Utility Fee.**

- A. **Imposed.** Each developed parcel of real property in the City shall be charged a storm water utility fee.
- B. **ERU.** The fee shall be based on the number of equivalent residential units (ERU's) contained in the parcel. The City Council finds that the ERU is the most accurate measurement for determining the amount that each parcel contributes to, benefits from, and otherwise uses the storm water utility. The storm water utility fee shall be based on the number of ERU's contained in the parcel. The ERU for one single family residential lot is an average of 3,000 square feet of impervious surface.
- 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) ERU. All non-single family residential parcels shall pay a multiple of this base rate, expressed in ERU's, according to the measured impervious area on the parcel.
- D. **Charge per ERU.** The amount charged for each ERU shall be established by resolution of the City Council.
- E. **Exemptions and Credits.** The City Council may establish exemptions and credits to the storm water utility fee by resolution.
- F. **Policies.** The City may adopt policies, consistent with this Chapter and any resolutions passed by the City Council, to assist in the application, administration and interpretation of this Chapter and any resolutions related to the storm water utility.
- G. **Appeals.** Any person or entity that believes that this Chapter, or any storm water utility rate resolution, was interpreted or applied erroneously may appeal to the City Council. 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 City Council's decision shall be final and binding on all parties. (Ord.2011-5, dated 9/27/11 and Ord.2011- 2, dated 3/22/11)

#### **13.08.60 Billing.**

- A. **Consolidated Utility Bill.** The City's culinary water distribution system, sanitary sewer system, storm 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 water utility fee shall be included on the city's regular utility bill for any given property.
- B. **Applies to All Developed Properties with Impervious Surface.** All developed properties with impervious surface within the city shall be charged the storm water

utility fee, regardless of whether or not the owner or occupant of the property requests the storm water utility service. The city shall mail a written statement for the storm sewer utility fee once each month or such other regular intervals as the city council shall direct. The statement shall separately specify the amount of the bill and the place of payment and date due.

- C. **Late Penalties.** If any person fails to pay storm water utility or any combination of city utility charges by the 10<sup>th</sup> day of the month following the date due, a penalty will be charged on the unpaid balance. If the balance remains unpaid for 30 days of the date due, under the direction of the utility superintendent, the customer may be given notice in writing of intent to discontinue the water service to the customer unless the customer pays the bill in full ten days from the date of notice. The customer will be charged a fee for the notice given of the intent to discontinue the water service as set by resolution of the governing body. If there is no water service for the property, the storm water utility fee shall be deemed a civil debt owed to the city by the person or entity paying for city utility services provided to the property.
- D. **Restoration of Service.** If the water service is thereafter discontinued for failure to make payment, then before the water service to the premises shall again be provided, all delinquent charges must have been paid to the city or arrangements made for their payment in a manner satisfactory to the city. In the event water is turned off for nonpayment of charges, then before the water service to the premises shall again be provided, the customer shall pay, in addition to all delinquent water charges, such extra charge for turning the water on as established by resolution of the governing body. (Ord.2011-2, dated 3/22/11)

*(Ord.2011-2, dated 3/22/11 repealed and replaced Chapter 13.08 in its entirety which consisted of the following ordinances: Ord. 87-15.04(x), 1987 and Ord. 91-5, 7/9/91)*

## Chapter 13.09 - Storm Drainage

### 13.09.10 Prohibited Obstructions.

A. It is unlawful for any person to:

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

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

1. Street and/or storm water 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 serving as best management practices as part of a Storm Water Pollution Prevention Plan.
5. 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.2011- 2, dated 3/22/11)
3. ~~—~~
4. ~~—~~

~~M. 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.2011- 2, dated 3/22/11)~~

### 13.09.20 Prohibited Discharges.

A. It is unlawful for any person to discharge non-storm water discharges to the MS4 including spills, illicit connections, illegal dumping and sanitary sewer overflows ("SSOs") into the storm sewer system. All SSOs must be reported to the Division of Water Quality.

~~B. The following~~ A list of discharges to the storm water system that are exempt from the prohibitions of this section are found in the City's Storm Water Management Plan, current version. :

- ~~C. —~~
- ~~D. Water line flushing~~
- ~~E. —~~
- ~~F. Water line breaks / leaks~~
- ~~G. —~~
- ~~H. Landscape irrigation runoff~~

- I. —
- J. ~~Diverted stream flows~~
- K. —
- L. ~~Rising ground waters~~
- M. —
- N. ~~Uncontaminated ground water infiltration~~
- O. —
- P. ~~Uncontaminated pumped ground water~~
- Q. —
- R. ~~Discharges from potable water sources~~
- S. —
- T. ~~Foundation drains~~
- U. —
- V. ~~Air conditioning condensate~~
- W. —
- X. ~~Springs~~
- Y. —
- Z. ~~Water from crawl space pumps~~
- AA. —
- BB. ~~Footing drains~~
- CC. —
- DD. — ~~Individual residential car washing~~
- EE. —
- FF. ~~Flows from riparian habitats and wetlands~~
- GG. —
- HH. — ~~Dechlorinated swimming pool discharges~~
- II. —
- JJ. ~~Residual wash water (e.g. home maintenance)~~
- KK. —
- LL. ~~Dechlorinated water reservoir discharges~~
- MM. —
- NN.B. — ~~Discharges or flows from firefighting activity~~ (Ord.2011-2, dated 3/22/11)

### 13.09.30 Prohibited Storage and Littering.

- A. 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 water system (e.g. open containers of paint or chemicals, rusted items, etc.). (Ord.2011-2, dated 3/22/11)

### 13.09.40 Best Management Practices.

- A. Any person connecting to the storm water system or developing a commercial or industrial site shall employ Best Management Practices (BMPs) approved by the City. ~~The City shall adopt a policy establishing a A~~ menu of BMPs that may be used to satisfy this requirement are found in the City's Storm Water Management Plan. The BMPs may be structural and/or non-structural, depending on the needs of the site. The

BMPs shall be designed to ensure that the quality and quantity of storm water released to the City's storm water system meets the requirements of federal, state and local laws and regulations and the City's NPDES-UPDES permit, and will not exceed the designed capacity of the storm water system or jeopardize the integrity of the storm water system. (Ord.2011-2, dated 3/22/11)

#### **13.09.50 Easements.**

- A. The director and his assigns 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 water facilities lying within the easement, or the performance of any other duties pertinent to the operation of the storm water system. All entry and subsequent work, if any, on an easement, shall be completed according to any special terms of the easement. (Ord.2011-2, dated 3/22/11)

#### **13.09.60 Authority to Inspect.**

- A. Whenever necessary to make an inspection to enforce any provision of this Chapter, or whenever the City has cause to believe that there exists, or potentially exists, a condition which constitutes a violation of this Chapter, the City may direct its qualified personnel to request entrance to the premises at all reasonable times to inspect, detect, investigate, eliminate and enforce any suspected non-storm water discharges, including illegal dumping, into the City's storm water system. During the same time, the City may 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.
- B. The access for the City to inspect storm water control measures on private property that is vested subsequent to the effective date of this Chapter includes both construction-phase and post-construction access. Upon approval of the Director, and in lieu of City employees inspecting and maintaining storm water controls on private property, the City may allow the owner/operators or a qualified third party to conduct maintenance so long as:
  1. At least annual certification, in the form of inspection documentation which has been performed, is provided to the City; and
  2. The structural controls are adequately operating and maintained as such were designed to protect water quality as provided in the original maintenance agreement and plans submitted upon vesting and approval of the site.
  - 2.3. Permission is granted for city employees to enter the property and conduct an inspection every five (5) years as required by the State of Utah General Permit for Discharges from Small Municipal Separate Storm Sewer Systems

C. A long-term storm water maintenance agreement is required on private property that is vested subsequent to the effective date of this Chapter including both construction-phase and post-construction access and where owner/operators or a qualified third party conduct maintenance as provided herein. Said maintenance agreement shall be promulgated in the form and manner as determined by the Director so long as the agreement at a minimum:

1. Allows the City inspection and oversight authority of the storm water measures;
2. Includes a provision that the agreement acts as a covenant that runs with the land;
3. Allows the City to perform necessary maintenance or corrective actions neglected by the owner/operators or the qualified third party; and
4. Allows the City to recoup the costs from the owner/operator as necessary to cover the expenses for actions conducted by the City.

ND. The City interprets this regulation as secondary and subservient to the United States Constitution and the Utah State Constitution as applied to property rights, land use, development, and similar rights. Specifically, the intent of this regulation is not to be applied to violate vested property rights nor to be a physical invasion of property rights as determined by the United States Supreme Court in Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419 (1982). The City recognizes that the United States Supreme Court interprets property right in conjunction with the laws and constitutions of each state. Therefore, Utah law also plays an important role in defining property rights. For the purpose of determining when a property right is vested the City shall continue to apply the Utah Supreme Court ruling in Western Land Equities, Inc. V. City of Logan, 617 P.2d 388 (1980) that states a property owner is vested to follow the City's regulations in effect at the time a land use application is filed. Furthermore, where there is vagueness in any land use regulation, including the storm water regulations, it shall be interpreted in favor of the property owner. (Ord.2011-2, dated 3/22/11)

#### **13.09.70 Requirement to Monitor and Analyze.**

- A. 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 water 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 Chapter. (Ord.2011-2, dated 3/22/11)

#### **13.09.80 Enforcement Procedures.**

Whenever the City finds that a person, organization, or institution (not to exclude the State or Federal government) has violated a prohibition or failed to comply with a requirement of this Chapter, the Director or his designee will order compliance by the following procedure:

- A. A verbal warning shall be given. The verbal warning shall be documented in the City records by the qualified person (code enforcement officer, city inspector, public works employee) who issued the warning. The City may skip the requirements set forth in this Section and immediately proceed with other more severe actions 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.
- B. Issue a written notice of violation to the responsible person(s), company or institution. The notice of violation shall be documented in the City records by the qualified person who issued the notice. Such notice may require without limitation:
1. The performance of monitoring, analyses, and reporting;
  2. The elimination of illicit connections or discharges;
  3. That violating discharges, practices, or operations shall cease and desist;
  4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
  5. Payment to cover administrative, remediation, monitoring, analyses, and reporting costs; and
  6. 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.
- C. Issue a citation, penalty or stop work order. The citation, penalty, or stop work order shall be documented in the City records by the qualified person who issued it. Such violations may penalize the violator as follows:

1. The violation of any provision of this Chapter is a Class B misdemeanor. Each day that a violation occurs shall constitute a separate offense.
2. If, as the result of the violation of any provision of this Chapter, 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.
3. In addition to the provisions of 1 and 2 above, violators of this Chapter may also be subject to prosecution, fines and penalties from the State of Utah and the United States EPA, as provided by the Small MS4 General UPDES Permit No. UTR090000, Utah stormwater regulations, and the Clean Water Act. As circumstances warrant,  
the City may request that the State of Utah and/or the United States EPA assist with enforcement.
4. The Small MS4 General UPDES Permit, Permit No. UTR090000 defines the maximum penalties for violations of Permit conditions as follows:
  - a. The *General UPDES Permit* provides that any person who violates a Permit condition implementing provisions of the [Utah Water Quality] Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates Permit conditions or the Act is subject to a fine not exceeding \$25,000 per day of violation. Any person convicted under *UCA 19-5-115(2)* a second time shall be punished by a fine not exceeding \$50,000 per day.
  - b. The *General UPDES Permit* provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this Permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000.00 per violation, or by imprisonment for not more than six months per violation, or by both. Utah Code Ann. § 19-5-115(4).
  - c. The *General UPDES Permit* provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this Permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.
5. A stop work order may be issued upon the discovery of work being conducted without a permit as required by Chapter 13.10. The stop work order may be issued by inspectors in the Public Works or Community

Development Departments (including Building Inspection and Code Enforcement). 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.2011-2, dated 3/22/11)

**13.09.090 Damage to Storm Water System.**

Any person who damages any portion of the storm water system, including ditches, man-made channels, and natural channels, shall be responsible for repairing the damages. Owners of property affected by easements for the storm water system or adjacent to any portion of the storm water system shall be responsible for maintaining their property in a manner that does not damage the storm water system. Any 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 water system without permission from the Director. (Ord.2011-2, dated 3/22/11)

**13.09.100 Manhole Covers.**

It shall be unlawful to open any storm water manhole or other storm water fixture (such as grates, lids or inlets) without permission from the Director. (Ord.2011-2, dated 3/22/11)

**13.09.110 Compliance with Federal and State Law.**

Nothing in this Chapter 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.2011-2, dated 3/22/11)

*(Ord.2011-2, dated 3/22/11 repealed and replaced Chapter 13.09 in its entirety which consisted of the following ordinances: Ord. 99-13, dated 6/8/99, Ord. 99-16, dated 7/27/99, Res. 2009-B, dated 2/27/09, Ord.2000-14, dated 5/23/00, and Ord.2010-16, dated 6/8/10)*

## Chapter 13.10 – STORM WATER PERMITS Storm Water Permits

### 13.10.010 Purpose and Intent.

The purpose of this Chapter 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.2011-2, dated 3/22/11)

### 13.10.20 Storm Water Construction Activity Permit - When Required.

A Pleasant View City Storm Water Construction Activity Permit is required before any person or entity may 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 of the following types of property located within the City:

A. One Acre or More. Any parcel, lot or land development which is equal to or greater than one acre (43,560 square feet) in size or less than one acre and part of a larger common plan of development or sale. A subdivision development greater than or equal to one acre in size qualifies under this subsection even if each of the individual lots in the subdivision is smaller than one acre.

A.B. Part of a Common Plan of Development. Any parcel, lot, or land development that is less than one acre but part of a larger common plan of development or sale.

B.C. Special Concern Areas. Any parcel, lot or land development, regardless of size, for which the City determines that because of the nature or type of the parcel, lot or development, disturbance of the land is likely to result in erosion or the transport of sediment off of the site by storm water to a degree substantially greater than that which would occur under natural landscape conditions. (Ord.2011-2, dated 3/22/11)

### 13.10.30 Storm Water Construction Activity Permit - Application.

Any person or entity desiring a Storm Water Construction Activity Permit must first file an application with the City. The application shall be submitted with, or as part of an application for a site plan or subdivision approval or building permit. Any person or entity desiring a Storm Water Construction Activity Permit must also prepare a Storm Water Pollution Prevention Plan and submit a Notice of Intent (NOI) with the State of Utah.

A. **Content.** The application shall include a Storm Water Pollution Prevention Plan which meets the criteria set forth in Section 13.10.040.

B. **Timing.** 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. **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.
  4. **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 Chapter.
- C. **Compliance.** 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.
- 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.
- E. **Application Approval.** The City shall approve the application and grant the permit if the application is complete and meets the criteria set forth in Section 13.10.040. The City shall deny the application or approve the application with conditions if the City determines that the measures proposed in the Plan fail to meet the criteria set forth in Section 13.10.040. Conditions the City 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.
- 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:

- i. The City issues a final certificate of occupancy for each lot in the subdivision, or
    - ii. Individual Storm Water Construction Activity Permits have been issued for each lot in the subdivision not having a final occupancy permit, or
    - iii. 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.
- G. **Termination.** No Storm Water Construction Activity Permit shall be considered terminated until the Permittee notifies the City of the completion of the project and a final inspection is performed by an authorized City inspector to verify site stabilization. When the City inspector has verified the site is stabilized, a Notice of Termination shall be submitted to the State of Utah by the Permittee. The Permittee shall keep and maintain all Permit-required improvements on the site until the City accepts the Notice of Termination.
- H. **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 13.10.040. (Ord.2011-2, dated 3/22/11)

#### 13.10.40 Storm Water Pollution Prevention Plan.

- A. **Required Information.** The Storm Water Pollution Prevention Plan (SWPPP) shall be required for all sites disturbing one acre or greater and for sites that are less than one acre that are part of a common plan of development or sale. The SWPPP shall contain the following information, though the following is not a comprehensive list of required elements of a Storm Water Pollution Prevention Plan. For complete

requirements, see the General Permit for Construction Activities, which can be found at the State of Utah Division of Water Quality.

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 measures and controls 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 (A). The Plan shall also state the name, phone number, and email address of the person or entity responsible for implementation of each control measure.
- B. **Goals and Criteria.** The proposed measures and controls described in the Plan shall be designed to meet the following goals and criteria:
1. **Prevent or Minimize Discharge.** The proposed measures and controls 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.
  2. **Prevent or Minimize Construction Debris.** The proposed measures and controls 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. Any such discharge shall be cleaned up and removed immediately upon notification to the Permittee or when it otherwise comes to the attention of the Permittee. At a minimum, the deposit or discharge shall be cleaned and removed at the end of the work shift in which the deposit occurred, or at the end of the work day, whichever comes first.
  3. **BMPs.** The proposed measures and controls shall consist of 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, pipe slope drains, rock outlet protection, reinforced soil retaining systems, and gabions.

4. **Stabilization.** The proposed measures and controls 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:
  - a. 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
  - b. 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.
5. **Minimize Risk of Discharge of Other Materials.** The proposed measures and controls 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.2011-2, dated 3/22/11)

#### **13.10.050 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 3.10.030(G). (Ord.2011-2, dated 3/22/11)

#### **13.10.060 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. See Section 13.09.060 for further information on inspection authority. (Ord.2011-2, dated 3/22/11)

### **13.10.70 Revocation or Suspension of Storm Water Construction Activity Permit.**

- A. **Revocation or Suspension.** A Storm Water Construction Activity Permit may be revoked or suspended by the City 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 Chapter or any other applicable law, ordinance, rule or regulation related to storm water; or
  3. A determination by the City 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.
- B. **Notice.** The City shall mail and/or personally deliver 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 City may suspend or revoke the Permit by mailing or delivering written notice of the suspension or revocation to the Permittee.
- 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.
- D. **Stop Work Order.** A stop work order may be issued upon the revocation or suspension of 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 Public Works or Community Development Departments. 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.

- E. **Reinstatement.** A Storm Water Construction Activity Permit may be reinstated or reissued upon compliance with all provisions of this Chapter 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.2011-2, dated 3/22/11)

#### 13.10.80 Storm Water Connection Permit.

- A. **Permit Required.** No person shall connect to the City's storm water system, either directly or indirectly, without first obtaining a storm water connection permit from the City.
- B. **When Permit Required.** Any person beginning new construction (development of an undeveloped parcel) or redevelopment (as defined in this Chapter) in the City shall obtain a Storm Water Connection Permit before commencing construction.
- C. **Application.** The applicant for a Storm Water Connection Permit shall submit the following to the City as part of the Building Permit or Subdivision Approval:
1. **Application Form.** A completed application form. Application forms will be available at the City.
  2. **BMP Plan.** A plan incorporating storm water BMPs that meet the requirements of Section 13.09.040.
  3. **Maintenance Plan.** A plan outlining how the applicant will maintain the storm water improvements listed in the application.
  4. **Fee.** A fee in an amount set by resolution of the City Council.
- D. **Review.** The Storm Water Connection Permit application shall be reviewed by the City Engineer or Building Official, or his designee, for respectively subdivision and commercial site plans or private residences.
- E. **Factors.** A Storm Water Connection Permit application will be approved if:
1. The application complies with applicable City ordinances and policies.
  2. The application complies with the Pleasant View City Storm Water Master Plan.
  3. The proposed connection incorporates effective Best Management Practices.

4. The proposed connection does not introduce pollutants into the storm water system.
  5. The proposed connection does not create a safety hazard.
  6. The proposed connection does not negatively affect the integrity of the storm water system infrastructure.
  7. The proposed connection does not endanger the City's drinking water.
  8. The applicant has submitted a maintenance plan ensuring the proper maintenance and upkeep of the applicant's connection and on-site storm water improvements.
- F. **Failure.** Failure to construct or maintain storm water improvements in accordance with an approved Storm Water Connection Permit shall be a violation of this Chapter.
- G. **As-Builts.** Any person connecting to the storm water system shall provide the City's Storm Water Utility with "as-built" plans showing the details and the location of the connection and all system extensions. The plans shall be in a format that is acceptable to the City.
- H. **Discharge Rate.** Connections to the storm water system shall be designed so that the discharge to the storm water system ~~does not exceed one tenth cubic foot per second (0.1 cfs) per acre.~~ meets the requirements found in the Development, Design, and Construction Standards.
- I. **Exempt Connections.** The following connections to the storm water system are exempt from the permitting requirements of this section:
1. Connections from single family residences, provided that the runoff from the residences 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 Water Connection Permit.
  2. Connections made by the City. (Ord.2011-2, dated 3/22/11)

#### 13.10.90 Violations and Enforcement.

- A. The violation of any of the provisions of this Chapter shall be a Class B misdemeanor. Each day that a violation occurs shall constitute a separate offense.

- B. Violators of this Chapter 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, Chapter 5 of the Utah Code.
- C. In addition to any criminal fines and/or penalties which may be assessed for a violation of this Chapter, the City shall have the right to issue a stop work order or 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 Chapter. 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.
- D. Inasmuch as they are applicable, the City may utilize the same enforcement procedures as outlined in Section 13.09.080 of the Pleasant View City Code to enforce the provisions of this Chapter.
- E. Violators of this Chapter may also be subject to prosecution, fines and penalties from the State of Utah and the United States EPA. (Ord.2011-2, dated 3/22/11)

#### **13.10.100 Exemptions.**

The following activities are exempt from the requirements of this Chapter:

- A. Actions by a public utility, the City, or any other entity to remove or alleviate an emergency condition, restore utility service, reopen a public thoroughfare to traffic, or otherwise protect public health and safety and welfare.
- B. Bona fide agricultural and farming operations which constitute the principal use of any lot or tract of ground located within the City and which meet the requirements of the zoning code of the City. (Ord.2011-2, dated 3/22/11)

#### **13.10.110 Compliance with Federal and State Law.**

Nothing contained in this Chapter 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.2011-2, dated 3/22/11)