

## CHAPTER 4

## STORM WATER AND DRAINAGE

**ARTICLE C. STORM WATER CONSTRUCTION ACTIVITY PERMIT**

## SECTION:

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8-4C-1: **PURPOSE:** 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. 2003-01, 4-29-2003)

8-4C-2: **WHEN PERMIT REQUIRED:** A 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. A subdivision development greater than or equal to one acre in size qualifies under this subsection even if each of the other individual lots in the subdivision is smaller than one acre.
- B. Less Than One Acre: Any parcel, lot or land development smaller than one acre in size, if any portion of the parcel, lot or land development lies within the area known as erosion sensitive areas (see appendix O attached to ordinance 2003-01 on file in the city office).
- C. Special Concern Areas: Any parcel, lot or land development 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. 2003-01, 4-29-2003)

**8-4C-3: APPLICATION FOR PERMIT:** Any person or entity desiring a storm water construction activity permit must first file an application with the development services department. The application may be submitted independently, or as part of an application for a preliminary site plan approval, site plan approval or building permit.

- A. Content: The application shall include a storm water pollution prevention plan which meets the criteria set forth in section 8-4C-4 of this article.
- 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 article.

- C. Compliance: If an applicant's development comes under more than one of the categories listed in subsection B of this section, 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 sewer superintendent or designee shall approve the application and grant the permit if the application is complete and meets the criteria set forth in section 8-4C-4 of this article. The sewer superintendent 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 8-4C-4 of this article. Conditions the sewer superintendent 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 (3) 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 revegetated 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 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 article. The permittee shall keep and maintain all permit required improvements on the site until the city accepts the notice.

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 8-4C-4 of this article. (Ord. 2003-01, 4-29-2003)

**8-4C-4: STORM WATER POLLUTION PREVENTION PLAN:****A. Required Information: 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 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 A1 of this section. The plan shall also state the name and phone number 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 workday, 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, subsurface drains, pipe slope drains, level spreaders, 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 fourteen (14) days after the construction activity in that portion of the site has temporarily or permanently ceased, except under the following circumstances: (Ord. 2003-01, 4-29-2003)

a. If the initiation of stabilization measures by the fourteenth day after construction activity temporarily or permanently ceases, it precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable; or (Ord. 2003-01, 4-29-2003; amd. 2006 Code)

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

5. **Minimize Risk Of Discharge Of Construction Pollutants:** 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. 2003-01, 4-29-2003)

8-4C-5:       **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 manufacturer's 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 subsection 8-4C-3G of this article. (Ord. 2003-01, 4-29-2003)

8-4C-6:       **INSPECTION AND ENTRY:** The permittee shall allow any authorized employees and representatives of the city, representatives of the state 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. 2003-01, 4-29-2003)

8-4C-7:       **REVOCAION OR SUSPENSION OF PERMIT:**

- 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.
- 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 8-4C-10 of this article.

- 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 in this subsection, 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 department or 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.
- 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 A3 of this section, upon the filing of an amended storm water pollution prevention plan which is designed to correct the deficiencies of the original plan. (Ord. 2003-01, 4-29-2003)

**8-4C-8: VIOLATIONS AND ENFORCEMENT:**

- A. The violation of any of the provisions of this article shall be a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this

code. Each day that a violation occurs shall constitute a separate offense. (Ord. 2003-01, 4-29-2003; amd. 2006 Code)

- B. Violators of this article are also subject to any penalties that may be imposed by the state under the authority of the Utah water quality act, Utah Code Annotated title 19, chapter 5.
- C. 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 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 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 twenty five percent (25%) penalty charge. The city may assess said charges against the bond posted by the contractor and/or property owner.
- D. Violators of this article may also be subject to prosecution, fines and penalties from the state and the United States EPA. (Ord. 2003-01, 4-29-2003)

8-4C-9:       **EXEMPTIONS:** The following activities are exempt from the requirements of this article:

- A. Actions by a public utility, the city or any other governmental entity to remove or alleviate an emergency condition, restore utility service or reopen a public thoroughfare to traffic;
- B. 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, restore utility service or reopen a public thoroughfare to traffic;
- C. Construction activities which disturb less than five hundred (500) square feet of land surface area, or which consist of the excavation and/or fill of less than twenty (20) cubic yards of material;
- D. Landscape maintenance activities on fully developed properties, necessary to maintain the existing developed landscape; and

- E. 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. 2003-01, 4-29-2003)

**8-4C-10: APPEAL:**

- A. 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 with the city recorder within ten (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.
- B. Upon receipt of the notice of appeal, the city recorder shall set a date for an informal hearing to consider the appeal. The informal hearing shall be conducted before the director in accordance with policies established by the city manager.
- C. The director shall uphold the decision or directive being appealed unless the city hearing officer finds that there has been an error in the interpretation or implementation of this article. The director shall render a decision on the appeal within ten (10) days of the informal hearing with the appellant. The director shall have authority to affirm, reverse or modify any decision or directive appealed pursuant to this section. (Ord. 2003-01, 4-29-2003)

**8-4C-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. 2003-01, 4-29-2003)