

Ordinance 2014-21

SHORT TITLE:

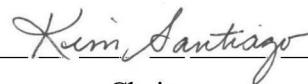
An ordinance adding Title 18 Storm Water to the Provo City Code to adopt new text for the proper management of storm water and drainage and to comply with the Federal Clean Water Act.

PASSAGE BY MUNICIPAL COUNCIL

ROLL CALL

DISTRICT	NAME	MOTION	SECOND	FOR	AGAINST	OTHER	
CW 1	DAVID SEWELL			✓			
CW 2	GARY GARRETT					Excused	
CD 1	GARY WINTERTON			✓			
CD 2	KIM SANTIAGO			✓			
CD 3	HAL MILLER					Excused	
CD 4	KAY VAN BUREN		✓	✓			
CD 5	STEPHEN HALES	✓		✓			
				TOTALS	5	0	2

This ordinance was passed by the Municipal Council of Provo City, on the 15th day of July, 2014 on a roll call vote as described above. Signed this 17th day of July, 2014.



Chair

II

APPROVAL BY MAYOR

This ordinance is approved by me this 21 day of July 2014.



Mayor

ORDINANCE 2014-21

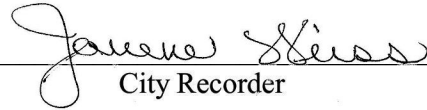
III

CITY RECORDER'S CERTIFICATE AND ATTEST

This ordinance was recorded in the office of the Provo City Recorder on the 21st day of July 2014, with a short summary being published on the 19th day of July 2014, in The Daily Herald, a newspaper circulated in Provo, Utah. I hereby certify and attest that the foregoing constitutes a true and accurate record of proceedings with respect to Ordinance Number 2014-21.



Signed this 21st day of July 2014.



City Recorder

ORDINANCE 2014-21.

AN ORDINANCE ADDING TITLE 18 STORM WATER TO THE PROVO CITY CODE TO ADOPT NEW TEXT FOR THE PROPER MANAGEMENT OF STORM WATER AND DRAINAGE AND TO COMPLY WITH THE FEDERAL CLEAN WATER ACT. CITY WIDE IMPACT. 14-0003OA

WHEREAS, it is proposed that Title 18 Storm Water be added to the Provo City Code to adopt new text for the proper management of storm water and drainage and to comply with the Federal Clean Water Act; and

WHEREAS, the City was audited in 2011, by the State Department of Water Quality, and asked to provide an ordinance governing storm water; and

WHEREAS, the municipal code is missing storm water management regulations, causing the City to be out of compliance with the Federal Clean Water Act and State DWQ requirements; and

WHEREAS, if the code is not brought into compliance, the City may be assessed penalties by the State; and

WHEREAS, on April 23, 2014 the Planning Commission held a duly noticed public hearing to consider the proposal and after such hearing the Planning Commission recommended to the Municipal Council that the proposed addition be approved as set forth below; and

WHEREAS, on July 14, 2014 the Municipal Council held a duly noticed public hearing to receive public comment and ascertain the facts regarding this matter, which facts and comments are found in the hearing record; and

WHEREAS, after considering the Planning Commission's recommendation, and facts and comments presented to the Municipal Council, the Council finds (i) Title 18 Storm Water should be added to the Provo City Code on the basis recommended by the Planning Commission and (ii) this action, as set forth below, reasonably furthers the health, safety and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

Title 18 Storm Water is hereby added to the Provo City code as follows:

**Title 18
Storm Water**

- Chapter 18.01 Storm Water Utility**
- Chapter 18.02 Storm Water Discharges**
- Chapter 18.03 Storm Drainage System Design and Management**
- Chapter 18.04 Storm Water Pollution Prevention Plan Bond**

Chapter 18.01 Storm Water Utility.

- 18.01.010 Findings
- 18.01.020 Purpose
- 18.01.030 Definitions
- 18.01.040 Storm Water Utility
- 18.01.050 Storm Water Utility Fee
- 18.01.060 Storm Water Utility Fee Exemption & Credits
- 18.01.070 Billing
- 18.01.080 Storm Water Impact Fee
- 18.01.090 Storm Water Impact Fee Exemption & Credits

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58 **18.01.010 Findings**
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60 Provo City Municipal Council makes the following findings with regard to storm water runoff and
61 the City's storm drainage system:

- 62 (1) The City has an existing storm drainage system that consists of a network of man-made and
63 natural channels, structures, and conduits that collect and convey storm water runoff.
64 (2) Land development alters the hydrologic response of watersheds by converting natural ground
65 to impervious surfaces, resulting in increased storm water runoff rates and volumes, increased potential
66 for flooding, increased stream and drainage channel erosion, and increased sediment transport and
67 deposition.

68 (3) Storm water runoff produced by land development activities places increased demands on the
69 City's storm drainage system.

70 (4) Any or all of the following conditions can result from uncontrolled or inadequately controlled
71 storm water runoff:

- 72 (a) Property damage,
73 (b) Erosion and sedimentation,
74 (c) Contaminated ground water supply,
75 (d) Hindered ability for the City to provide emergency services to its residents,
76 (e) Impeded traffic flow, and
77 (f) Health and life safety hazards to citizens within the City.

78 (5) Storm water runoff potentially carries concentrations of grease, oil, nutrients, chemicals, metal,
79 toxic constituents and otherwise undesirable materials that may cause adverse effects on the receiving
80 waters, including ground water.

81 (6) All developments within the City benefit from the City's operation and maintenance of the
82 storm drainage system.

83 (7) The Environmental Protection Agency (EPA) and the Utah State Department of Environmental
84 Quality (DEQ) have increased storm water regulations as part of Phase II of the National Pollutant
85 Discharge Elimination System (NPDES) that will motivate the City to commit additional resources to
86 implement and maintain the following programs as they relate to storm water quality:

- 87 (a) Public Education and Outreach,
88 (b) Public Participation/ Involvement,
89 (c) Illicit Discharge Detection and Elimination,
90 (d) Construction Site Runoff Control,
91 (e) Post-Construction Runoff Control, and
92 (f) Pollution Prevention/ Good Housekeeping.

93 (8) A Storm Water Utility is the most equitable and effective method of managing storm water
94 runoff in the City, complying with state and federal regulations, and ensuring that each property in the city
95 pays a fair amount to the extent that it contributes to, benefits from, and otherwise uses the storm
96 drainage system.

97 (9) Adopting this Title is necessary for the preservation of public health, safety, and welfare, as
98 well as preservation of the quality of waters that receive storm water runoff.

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100 **18.01.020 Purpose**
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102 The purpose of this Title is to increase the protection of the health, safety, and general welfare of
103 the City and its residents by improving the City's storm drainage system, managing and controlling storm
104 water runoff, protecting property, preventing contamination of receiving waters, and to establish an
105 effective and fair method of financing the construction, operation, management, and maintenance of the
106 City's storm drainage system.

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108 **18.01.030 Definitions**
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110 The following definitions are limited to this Title of the Provo City Code:

111 (1) The following words and phrases shall have the meanings respectfully ascribed to them as
112 follows unless the context in which they are used specifically indicates otherwise:

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“**Best Management Practice (BMP)**” is any program, technology, process, operating method, measure or device, which reduces storm water runoff and/or controls, prevents, removes, or reduces storm water pollution.

“**Clean Water Act**” is the Federal Water Pollution Control Act, 33 USC Sec 1251 et seq., as amended, and the applicable regulations promulgated thereunder.

“**Single-Family Residential Unit**” shall consist of one or more rooms, a bathroom, and kitchen designed for occupancy by one family, and shall include houses, physically separate townhouses or condominiums on individual lots, duplexes having individual water meters, manufactured housing and mobile homes located on individual lots.

“**Detention**” is a system which is designed to capture storm water and release it over a given period of time through an outlet structure at a controlled rate.

“**Developed Land**” shall be all property altered from a natural state by grading, paving, compaction, construction of structures, impervious surfaces, or drainage works so that storm water runoff from the property is changed in quantity, quality, or point of discharge from that which would occur in the natural condition, or so that provision of control and management of storm water runoff from other properties is necessary to prevent property damage and/or personal hazard during storm events.

“**Discharger**” is any person or entity who directly or indirectly discharges storm water from any property or who directly or indirectly discharges any substance into a storm drainage system.

“**Drainage-way**” means a course, waterway, conduit, or channel that conveys storm water runoff.

“**Equivalent Service Unit (ESU)**” means the average amount of impervious surface, expressed in square feet, on developed single family residential parcels in Provo City. One ESU is equal to 3200 square feet of impervious surface area.

“**Erosion**” is the process by which the ground surface is worn away and transported by action of wind, water, ice, gravity, or a combination thereof.

“**Hydrologic Response**” is the manner and means whereby storm water collects, remains, infiltrates, and is conveyed from a property. It is dependent on a number of factors, including but not limited to the presence of impervious area, size, shape, topography, vegetation, surficial geologic conditions, antecedent moisture conditions, and groundwater conditions on each property.

“**Illicit Connection**” is any method or means of conveying an illicit discharge into a water body, drainage channel, or a public or private storm drainage system.

“**Illicit Discharge**” is any discharge into a water body, drainage channel, or a public or private drainage system that does not consist entirely of storm water runoff or uncontaminated ground water or discharges exempted in Title **##.02.020(2)**.

“**Impervious Surface**” means any hard surface, other than an undisturbed natural surface, that prevents or retards the absorption of water into the soil, or that causes water to run off the surface at a rate or quantity greater than that of the natural surface. Common impervious surfaces include, but are not limited to rooftops, sidewalks, walkways, patio areas, driveways, parking lots, and storage areas.

“**National Pollutant Discharge Elimination System (NPDES)**” is a Federal permitting program, as authorized by Section 402 of the Clean Water Act to control water pollution by regulating point sources that discharge pollutants.

“**Non-Single-Family Residential Unit**” any developed property not fitting the definition of single-family residential unit contained in this Section shall be deemed and treated as a non-single-family

169 residential unit for the purposes of storm water management service charges. Non-Single-Family-
170 residential units shall include but not be limited to attached townhouses, condominiums, and boarding
171 houses, hotels and motels, houses used primarily for commercial storage areas, public and private
172 schools and universities, churches, hospitals and convalescent centers, office buildings, commercial
173 developments, industrial developments, and municipal facilities.

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175 **“Point Source”** any discernible, confined, or discrete conveyance, including but not limited to,
176 any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, concentrated animal feeding
177 operation (CAFO), landfill leachate collection system, vessel or other floating craft from which pollutants
178 are or may be discharged.

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180 **“Pollutant”** is any substance which has the potential to impair water quality including, but is not
181 limited to the following: solid wastes, vehicle fluids, yard wastes, landscape materials, animal wastes,
182 sediment, sewage, garbage, chemical wastes, biological wastes, soils, rocks, sand, or any other
183 substance defined as a pollutant under the Clean Water Act.

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185 **“Private Drainage”** is all storm water that originates within the boundaries of private property,
186 including, but not limited to, residential, commercial, industrial, or agricultural. It shall retain private
187 classification up to the point where it is discharged to a public storm water conveyance facility.

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189 **“Retention”** is a system which is designed to capture storm water and contain it until it infiltrates
190 into the soil or evaporates.

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192 **“Sedimentation”** is the gravitational process of deposition of transported solid material from a
193 suspended state in a fluid.

194
195 **“Storm Drainage System”** a network of man-made and natural channels, structures, basins, and
196 conduits that collect, convey, treat, and detain or retain storm water runoff.

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198 **“Storm Water Runoff”** is the runoff and drainage of precipitation resulting from rainfall, snowfall,
199 or snow/ice melt or other natural events or processes.

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201 **“Undeveloped Land”** Land in a unaltered natural state or which has been modified to such
202 minimal degree as to have a hydrologic condition comparable to land in an unaltered natural state shall
203 be deemed undeveloped for the purposes of applying surface charge that would prevent infiltration or
204 cause storm water to collect, concentrate, or flow in a manner materially different than that which would
205 occur if the land was in an unaltered natural state.

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207 **“Water Body”** is any river, lake, stream, creeks, or other watercourse wetland that may or may
208 not convey storm water.

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210 **“Watershed”** is a region that drains to a water body.

211 (2) Words that are used in this Title that are not specifically defined in this Title but are defined in
212 another title of this Ordinance shall have the meanings set forth in that Title.

213 214 **18.01.040 Storm Water Utility**

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216 (1) **Creation.** By Resolution Number 1992-01 of the Provo City Municipal Council the Storm Water
217 Service District was created, herein referred to as the Storm Water Utility. The Storm Water Utility shall
218 plan, design, construct, maintain, administer, operate, and obtain necessary State and Federal permits
219 for the City’s storm drainage system.

220 (2) **Purpose.** The Storm Water Utility shall be responsible for storm water management
221 throughout the City’s corporate limits, and shall provide for the conservation, management, protection,
222 control, regulation, use, and enhancement of storm water quality through acquisition, management,
223 maintenance, extension, and improvement of the public storm water systems to collect, control, convey,
224 store, detain, retain, recharge, and treat storm water and through regulation of storm water management

225 systems on private property. It shall be the long-term objective of the City to provide a comparable and
226 consistent level of storm water service to similarly situated properties throughout the City.

227 (3) **Enterprise Fund.** By Resolution Number 1992-01 of the Provo City Municipal Council the
228 Storm Water Service District Special Enterprise Fund was established to be used solely for the
229 independent and separate accounting of all revenues, expenditures, assets and liabilities, earnings and
230 obligations of the Storm Water Special Service District. Unless otherwise specifically authorized by the
231 Municipal Council, the revenues and other assets of the District shall be used only for the conservation,
232 management, protection, control, regulation, use, and enhancement of storm water in the City and the
233 acquisition, management, maintenance, extension, and improvement of public and private storm water
234 systems, facilities, and activities related thereto. The enterprise fund shall be operated according to Utah
235 State law and City policy.

236 (4) **Limitations of the City's Storm Water System.** The City's storm water system shall be
237 limited to those drainage facilities within Provo City which are located in public streets, rights of way, and
238 easements and those subject to rights of entry, rights of use, and those within privately owned roads,
239 which roads: 1) meet the City's design standards; 2) are commonly available for use by the general public
240 without restriction or limitation; and 3) are subject to an easement which allows adequate access for the
241 operation and maintenance of the systems. Storm water systems located on private property and public
242 properties not owned by Provo City and which are not subject to public dedication of the facilities,
243 easements, and/or rights of entry or use shall be and remain the responsibility of the property owner,
244 except as responsibility may be affected by the laws of the State of Utah and the United States of
245 America.

246 (5) **Administration.** The storm water utility shall be administered by the Public Works Director or
247 his designee.

248 (6) **Funding.** It shall be the policy of the City that funding for the Storm Water Utility be equitably
249 derived through methods which have a demonstrable relationship to the varied demands imposed on the
250 storm water systems and programs, and/or the level of service provided, and/or benefits realized as a
251 result of the provision of adequate storm water management services and facilities. Service charges for
252 storm water management shall be fair and reasonable, and shall bear a substantial relationship to the
253 cost of providing services and facilities may include operating, capital improvement, and reserve
254 expenses, and may consider management requirements for storm water quality as well as storm water
255 quantity. Similarly-situated properties shall pay similar charges. Service charge rates shall be designed to
256 be consistent and coordinated with the City's use of other storm water management funding mechanisms,
257 including but not limited to plan review and inspection, fees, special fees for services, fees in-lieu of
258 regulatory requirements, impact fees, system development charges, and special assessments so as to
259 accomplish the City's overall objective of equitable storm water management funding.

260 261 **18.01.050 Storm Water Utility Fee**

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263 (1) **Imposed.** Each developed parcel of real property in the City shall be assessed a monthly
264 storm water utility fee. The purpose of the storm water utility fee is to recover the cost of providing
265 services and facilities to properly control storm water runoff quantity and quality. The most important
266 factor in the City's present cost of providing storm water management services and facilities to individual
267 properties is the amount of impervious coverage on those properties which causes increases in the total
268 volume, peak rate, and quality of storm water runoff.

269 (2) **Fee per Equivalent Service Unit (ESU).** The fee shall be based on the number of equivalent
270 service units contained in the parcel. The amount charged for an ESU shall be determined by the
271 Municipal Council and listed on the Consolidated Fee Schedule of the Provo City Code.

272 (3) **Calculation.** Each parcel containing one single family residential unit shall be assigned one
273 ESU. All properties that are not defined as single-family residential units shall be assigned an ESU value
274 based on the number of equivalent services units calculated to exist.

275 (4) **Disputes.** Any person or entity believing that calculations for assigning ESU's were performed
276 erroneously may express such belief to the administrator of the storm water utility. Such expression shall
277 be submitted in writing and shall include a survey prepared by a registered land surveyor or professional
278 engineer showing the total property area of the parcel, the impervious surface area of the parcel, and
279 other features or conditions which may influence the hydrologic response of the property. The
280 administrator of the storm water utility or his designee shall work with the person or entity toward

281 resolving the issue. If resolve cannot be reached with the administrator of the storm water utility or his
282 designee, an appeal may be taken to the Public Works Director. The appeal shall be in writing and shall
283 be made within ten (10) days of the storm water utility administrator's adverse decision. The Director may
284 decide to hold a hearing for the appeal. The Director shall decide the appeal within ten (10) days of the
285 receipt of the appeal. If the person or entity is not satisfied with the decision of the Public Works Director,
286 a further appeal may be taken to the Municipal Council. The decision of the Municipal Council shall be
287 final and binding on all parties.

288 (5) **Reassessment.** If a parcel significantly increases or decreases its impervious surface area, or
289 as warranted by a dispute resolution, the storm water utility shall recalculate the impervious surface area,
290 reassign the ESU's, and adjust the storm water utility fee accordingly.

292 **18.01.060 Exemptions and Credits Applicable to Storm Water Utility Fee**

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294 Except as provided in this section, no property shall be exempt from storm water impact fees or
295 receive a credit against such fees. No exemption or credit in that storm water impact fee shall be granted
296 based on the age, tax or economic status, race, or religion of the property owner, or other conditions
297 unrelated to the cost of providing storm water services and facilities.

298 (1) **Exemptions.** The following are exempted from being assessed a storm water impact fee:

299 (a) Developed lands which have no impervious area.

300 (b) Developed, publicly-owned roadways which are available for use in common by the
301 general public for motor vehicle transportation shall be exempted from storm water utility fees. These
302 properties may include public road rights-of-way owned by the City, County, State, or Federal
303 government. This exemption shall not include public lands used for offices, maintenance yards,
304 water and wastewater treatment plants, water reservoirs and storage facilities, parking lots, park
305 and recreation facilities, libraries, schools, colleges, universities, churches, social service centers,
306 public housing, public hospitals or convalescent centers, and similar public properties, nor shall the
307 exemption apply to internal site roadways or parking lots within such facilities, all of which shall be
308 charged in a manner consistent with that applied to comparable non-publicly owned properties. This
309 exemption shall not apply to private roads or drives, or to internal roads, drives and parking areas in
310 privately-owned, properties regardless of the degree of access to those sites, roads, and drives,
311 except in cases where the road or drives allowed to the general public, except in cases where the road or
312 drive is designed, constructed, and maintained in conformance with the City's road standards and the
313 road or drive is normally available for use in common by the general public for motor vehicle
314 transportation.

315 (2) **Credits.** Credits to the storm water utility fee shall be allowed in the following case:

316 (a) An existing developed property that is proposing redevelopment, which has impervious
317 area and within the last 12 months has been assessed a storm water utility fee and has not defaulted
318 on payment of such fee shall be eligible to receive a credit. Such credit shall be calculated by
319 multiplying the number of storm water ESU's shown on the most recent utility bill by the current
320 impact fee rate, as shown on the Consolidated Fee Schedule.

321 (b) Storm water utility fee credits shall not be transferred from one parcel of property to another.

323 **Chapter 18.02 Storm Water Discharges.**

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325 18.02.010 Prohibited Obstructions and Interferences

326 18.02.020 Prohibited Discharges

327 18.02.030 Prohibited Storage and Littering

328 18.02.040 Inspection and Monitoring

329 18.02.050 Enforcement, Penalties and Abatements

331 **18.02.010 Prohibited Obstructions and Interferences**

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333 (1) **Unlawful Obstructions and Interferences.** It is unlawful for any person to:

334 (a) Obstruct the flow of water in any component of the storm drainage system.

335 (b) Contribute to or allow an obstruction of the flow of water in the storm drainage system.

336 (c) Cover or obstruct any storm water inlet grate.

- 337 (d) Cause or allow shrubs, trees, or other vegetation to grow in a manner that interferes
338 with the flow of the water in the storm drainage system.
- 339 (e) Plant or maintain trees, shrubs or other vegetation in a drainage-way that has the
340 potential to cause or contribute to an obstruction or interference to flow of water in a drainage-way.
341 (f) Divert flows from a drainage-way or storm drainage system.
- 342 (2) **Exceptions.** The following obstructions are exempt from the prohibitions of this section:
343 (a) Street and/or storm drainage system improvement projects authorized by the City.
344 (b) Flood control and prevention activities performed by the City.
345 (c) Obstructions performed as part of a Storm Water Pollution Prevention Plan approved
346 by the City.

347 **18.02.020 Prohibited Discharges**

349 (1) **Illicit Discharges.** It is unlawful for any person to cause or allow the discharge into a water
350 body or storm drainage system, either directly or indirectly, of any substance not comprised entirely of
351 storm water or an exempted discharge listed in Title 18.02.020(2).

352 (2) **Exempted Discharges.** The following non-storm water discharges shall be permissible,
353 provided that they do not result in a violation of water quality standards set forth by the State of Utah
354 and/or Federal Agencies:

- 355 (a) Discharges regulated under a valid National Pollutant Discharge Elimination System
356 (NPDES) discharge permit, provided that the discharge complies with the terms of the permit.
- 357 (b) Discharges from water line flushing.
- 358 (c) Discharges from landscape or lawn watering.
- 359 (d) Uncontaminated ground water.
- 360 (e) Uncontaminated irrigation water.
- 361 (f) Discharges from natural riparian habitat or wetland flows.
- 362 (g) Discharges from air conditioning condensate.
- 363 (h) Discharges or flows from emergency management or firefighting activities.
- 364 (i) Discharges from foundation drains, footing drains, or crawlspace or basement pumps,
365 provided that the discharge is approved by the Public Works Director or his designee.
- 366 (j) Discharges resulting from municipal infrastructure management, including street wash
367 water, storm drainage system jetting, hydrant flushing and/or testing, etc.

368 (3) **Accidental Discharges.** Any person who accidentally discharges into a water body or storm
369 drainage system shall immediately inform the Public Works Director or his designee of the discharge. If
370 such information is given orally, a written report concerning the discharge is to be submitted by the
371 discharger to the Public Works director, or his designee, within 10 days of the discharge. The written
372 report shall specify:

- 373 (a) The composition of the discharge and the cause thereof.
- 374 (b) The exact date, time and estimated volume of the discharge.
- 375 (c) All measures taken to clean up the accidental discharge.
- 376 (d) Proposed measures to be taken to prevent any recurrence.
- 377 (e) The name and contact information of the person making the report.

378 A properly-reported accidental discharge shall be considered an affirmative defense to a civil
379 infraction of this Title; however, it shall not be a defense to legal action brought to obtain an injunction, to
380 recover costs, or to obtain other relief from any adversities resulting from the discharge. A discharge shall
381 be considered properly reported only if the discharger complies with all requirements of this section.

382 **18.02.030 Prohibited Storage and Littering**

383 (1) It is unlawful for any person to place garbage, refuse, yard waste, pet waste, rocks, soil, mud,
384 or any other tangible material/substance into any street, gutter, or component of the storm drainage
385 system.

386 (2) Except as permitted by law and where adequate protection and containment is provided, it is
387 unlawful for any person to store, stockpile, keep, or leave any pollutant or hazardous material, or any item
388 containing a pollutant or hazardous material, within a drainage-way, or in a manner that is likely to result
389 in the discharge of material into the storm drainage system.

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18.02.040 Inspection, Monitoring and Sampling

(1) Under the direction of the Public Works Director or his designee a properly identified City representative may inspect, monitor and/or obtain samples from storm water runoff facilities of any discharger to determine compliance with the requirements of this ordinance.

(2) Any discharger shall allow the City's representative to enter upon the premises of the discharger during regular business hours for the purpose of inspecting, monitoring and/or sampling storm water discharges.

(3) The discharger shall allow the City's representative to temporarily place on the discharger's property the equipment or devices necessary to perform proper inspections, monitoring, and/or sampling of storm water discharges.

18.02.050 Enforcement, Penalties and Abatement

(1) **Enforcement Authority.** The Public Works Director, or his designee, shall have the authority to issue notices of violation, stop work orders and to impose civil penalties for any violation of Title 18.

(2) **Notice of Violation.** Whenever the Public Works Director or his designee finds that a person has violated any of the provisions of Title 18, the Director or his designee may issue a written notice of violation. Such notice shall comply with the provisions of Section 17.03.020 of the Provo City Code and may require any or all of the following:

- (a) Elimination of illicit connections or discharges;
- (b) That the violating discharges, practices, or operations shall cease and desist;
- (c) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- (d) Payment to cover remediation costs incurred by the City;
- (e) The implementation of proper BMP's to prevent future occurrences.

Within ten (10) days of the date of the notice, the violator shall submit to the Public Works Director or his designee a plan for the satisfactory correction of the discharge or a request for an administrative hearing. The Public Works Director or his designee may skip the notice requirements set forth in this Section and immediately proceed with civil and/or criminal 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 Director or his designee creates a serious risk to the public, the environment, or property, or (3) the Director or his designee deems the violation an emergency.

(3) **Stop Work Order.** Where there is work in progress that causes or constitutes a violation of any provision of this Title, the Public Works Director or his designee is authorized to issue a Stop Work Order to prevent further or continuing violations and/or adverse effect. All persons to whom the Stop Work Order is directed, or who are involved, in any way, with the work described in the Stop Work Order shall fully comply therewith. In situations which may be deemed a risk to the public health or safety, the Director or his designee may also undertake or cause to be undertaken any necessary or advisable protective measures to correct the violation and prevent further unauthorized discharge, the cost of which shall be the responsibility of the owner of the property upon which the work is being done and any person carrying out or participating in the work. Such costs shall be a lien upon the property.

(4) **Penalties.** A first offense violation of any provision of Title 18 is a Class C misdemeanor with a penalty of no less than fifty dollars (\$50) and no more than one thousand dollars (\$1000) per day. Each day that a violation occurs or continues shall constitute a separate and distinct offense.

If, as the result of the violation of any provision of Title 18, the City, or any other party, suffers damages and is required to make repairs and/or replace any materials, the cost of such 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.

(5) **Administrative Hearing.** A person or entity served a notice of violation of any of the provisions of title 18 shall have the right to an administrative hearing. A request for such hearing shall be in writing and shall be filed, with the Public Works Director or his designee within ten (10) days from the date of service of the notice. Failure to request an administrative hearing shall constitute a waiver to an administrative hearing and a waiver of the right to appeal. Administrative hearings shall adhere to the provisions of Chapter 17.02 of the Provo City Code.

449 (6) Violators of Title 18 may be subject to prosecution, fines, and penalties from the State of Utah
450 and the United States EPA. Nothing in Title 18 shall be interpreted to relieve any person from an
451 obligation to comply with applicable Federal, State or local laws related to storm water discharge or
452 drinking water protection.
453

454 **Chapter 18.03 Storm Drainage System Design and Management.**

- 455 18.03.010 General Performance Criteria
- 456 18.03.020 Storm Drainage System Performance Standards
- 457 18.03.030 Storm Drainage Report and Management Plan
- 458 18.03.040 Storm Water Pollution Prevention Plan
- 459 18.03.050 Storm Water Easements
- 460 18.03.060 Storm Drainage System Maintenance Agreements
- 461 18.03.070 Access to Inspect Storm Water Controls
- 462 18.03.080 Private Drainage
- 463
- 464

465 **18.03.010 Performance Criteria**

466
467 The following storm water management performance criteria shall be addressed for all
468 development sites within the City unless granted a waiver in writing from the Public Works Director or his
469 designee:

- 470 (1) Control the peak flow rates of storm water discharge as specified in the publications listed in
471 Title 18.03.020 of the Provo City Code.
- 472 (2) Protect streams and other drainage channels from erosion and other degradation.
- 473 (3) Protect hillside slopes from erosion and other degradation.
- 474 (4) Prevent the degradation of storm water quality and the downstream or subsurface receiving
475 waters.
- 476 (5) All new development and redevelopment projects are required to implement post-construction
477 storm water controls, including selection of BMP's, design, installation, operation and maintenance
478 necessary to protect storm water quality. Post-construction storm water controls shall conform to the
479 criteria set forth in the publications listed in Title 18.03.020 of the Provo City Code.
- 480

481 **18.03.020 Storm Drainage Systems Performance Standards**

482
483 (1) **Adoption.** The Provo City Municipal Council hereby adopts as the City's storm water systems
484 design, management, and performance standards the following publications:

- 485 (a) Provo City Storm Drainage System Design and Management Manual
- 486 (b) Provo City Erosion Control & Storm Water Quality Manual
- 487 (c) Provo City Storm Water Management Program

488 The above publications include acceptable BMP's and specific criteria for the performance,
489 design, and maintenance of storm water management systems within the City. The publications may be
490 updated and/or expanded periodically at the discretion of the Public Works Director, or his designee,
491 based on improvements in engineering, technology, and maintenance experience to meet the minimum
492 standards.
493

494 **18.03.0030 Storm Drainage Report and Management Plan**

495
496 Any project, subdivision, or other development that is subject to the Provo City development
497 review process is required to submit a Storm Drainage Report as part of the development review process.
498 The Storm Drainage Report shall include sufficient information to allow development reviewers to
499 evaluate the existing and future environmental characteristics of the project site, the potential water
500 quality impacts of proposed development of the site, the effectiveness and acceptability of the proposed
501 methods to manage storm water generated on the site, and the adequate conveyance of existing storm
502 water and irrigation systems through the site. The Storm Drainage Report and Management Plan shall
503 conform to the criteria set forth in the publications listed in Title 18.03.020 of the Provo City Code.
504

505 **18.03.040 Storm Water Pollution Prevention Plan (SWPPP)**
506

507 Any project, subdivision, development, or other land grading activity that disturbs one (1) acre (or
508 greater) of land within Provo City or projects that disturb less than one (1) acre that are part of a larger
509 common plan of development, shall be required to submit a Storm Water Pollution Prevention Plan. If the
510 grading activity is part of a project that is subject to the Provo City development review process, the
511 SWPPP shall be submitted as part of the review process. Land disturbances that are not subject to the
512 development review process shall submit the SWPPP to the Public Works Director, or his designee. The
513 SWPPP shall conform to the criteria set forth in the publications listed in Title 18.03.020 of the Provo City
514 Code.

515 **18.03.050 Storm Water Easements**
516

517 The requirements for this Section apply to all persons required to submit a plan or project that is
518 subject to the Provo City development review process.

519 (1) The Developer shall provide a Storm Drainage System Maintenance Agreement for all
520 components of the proposed private drainage system. The agreement shall include, but not be limited to,
521 the following: storm drain piping, storm water inlet boxes, storm drain junction boxes, detention facilities,
522 retention facilities, flow restriction devices, water quality devices, diversion structures, and screening
523 structures.

524 (2) The maintenance agreement shall adequately describe the following:

525 (a) The party responsible for executing the maintenance agreement, i.e. homeowners
526 associations, property owners, etc.

527 (b) Extent of the maintenance activities to be performed.

528 (c) Frequency of proposed maintenance activities.

529 (d) Method of recordkeeping and reporting of performed maintenance and inspection
530 activities.

531 (3) The maintenance agreement shall provide a statement of indemnification that holds the City
532 harmless from any liability in the event that any portion of the private drainage system fails to operate
533 properly.

534 (4) Storm drainage system maintenance agreements shall be provided in form and substance as
535 required by the Public Works Director, or his designee, and shall be properly recorded in the Utah County
536 Recorder's Office and shall constitute a covenant running with the land and shall be binding on the
537 landowner, executors, assigns, heirs, and any other successors of interest, including any homeowners
538 associations, as addressed in 18.03.060(2)(a).

539 **18.03.060 Storm Drainage System Maintenance Agreements**
540

541 The requirements for this Section apply to all projects proposing private storm drainage systems
542 that are required to submit a plan that is subject to the Provo City development review process.

543 (1) The Developer shall provide a Storm Drainage System Maintenance Agreement for all
544 components of the proposed private drainage system. The agreement shall include, but not be limited to,
545 the following: storm drain piping, storm water inlet boxes, storm drain junction boxes, detention facilities,
546 retention facilities, flow restriction devices, water quality devices, diversion structures, and screening
547 devices.

548 (2) The maintenance agreement shall adequately describe the following:

549 (a) The party responsible for executing the maintenance agreement, i.e. homeowners
550 association, property owner, etc.

551 (b) Extent of the maintenance activities to be performed.

552 (c) Frequency of proposed recordkeeping and reporting of performed maintenance and
553 inspection activities.

554 (3) The maintenance agreement shall provide a statement of indemnification that holds the City
555 harmless from any liability in the event of any portion of the drainage system fails to operate properly.

556 (4) Storm drainage system maintenance agreements shall be provided in form and substance as
557 required by the Public Works Director or his designee and shall be properly recorded in the Utah County
558 Recorder's office and shall constitute a covenant running with the land and shall be binding on the
559
560

561 landowner, executors, assigns, heirs, and any other successor of interest, including any homeowners
562 association, as addressed in 18.03.060(2)(a).

563
564 **18.03.070 Access to Inspect Temporary and Permanent Storm Water Controls**

565
566 (1) The Public Works Director or his designee shall the have the right to access any project,
567 subdivision, development, or other land grading activity that is required to submit and implement a
568 SWPPP to ensure compliance with the publications listed in Title 18.03.020 of the Provo City Code.

569 (2) The Public Works Director or his designee shall also have the right to access and inspect post-
570 construction storm water controls on private properties to ensure that adequate maintenance is being
571 performed. In lieu of granting access to the Public Works Director or his designee a property owner may
572 submit an annual certification that the storm water controls have been adequately maintained and that
573 said controls are operating as designed to protect storm water quality.

574
575 **18.03.080 Private Drainage**

576
577 (1) It shall be the responsibility of the property owner to ensure that the private drainage
578 generated within the private property is adequately handled and does not create a nuisance on
579 neighboring properties, by one, or any combination, of the following methods:

580 (a) Private drainage may be conveyed to a public drainage facility at a location and by any
581 means approved by the Public Works Director or his designee.

582 (b) Private drainage may be conveyed to a private drainage facility provided that written
583 consent to do so is obtained from the owner of the private facility.

584 (c) Private drainage may be retained on site by dispersing it in a manner that it is absorbed
585 into the landscape as long as such retention system is not restricted by Title 15.05.170.

586 (2) Approval from the Public Works Director or his designee must be obtained prior to the
587 subsurface discharge of any private drainage. A soils report may be required, at the discretion of the
588 Public Works Director or his designee as part of the subsurface discharge approval. The soils report shall
589 conform to the guidelines as set forth in the publications listed in Title 18.03.020.

590 (3) **Lot Grading Plan.** All construction that increases the net impervious surface area and
591 requires a building permit shall submit, as part of the permit application, a Lot Grading Plan that conforms
592 to the requirements as described in the publications listed in 18.03.020 and 15.06.

593 (4) **Gutters Fronting Private Property.** It shall be the responsibility of the owner, tenant, or
594 leases of property to clean, sweep, or otherwise remove and properly dispose of debris from the gutter, or
595 other drainage-way, that fronts or runs contiguous to said property.

596
597 **18.04 Storm Water Pollution Prevention Plan Bond**

598
599 18.04.010 Bond Requirement

600 18.04.020 Purpose of Bond

601 18.04.030 Bond Amount

602 18.04.040 Bond Release

603
604 **18.04.010 Bond Requirement**

605
606 Any project that requires a Provo Storm Water Pollution Prevention Plan (SWPPP) shall post a
607 SWPPP bond with the City. The bond shall be posted before the City issues any permit.

608
609 **18.04.020 Purpose of Bond**

610
611 The purpose SWPPP bond is to guarantee the Best Management Practices (BMP) are placed
612 according to the SWPPP and removed when the project is stabilized.

613
614 **18.04.030 Bond Amount**

615
616 The SWPPP bond shall be calculated as follows:

617 (1) All projects shall pay five cents (.05) per square footage of the project area or two thousand
618 dollars (\$2,000), whichever is greater.

619
620 **18.04.040 Bond Release**

621
622 The City shall hold the SWPPP bond until the contractor has stabilized the project area, and all
623 temporary SWPPP BMPs are removed.

624
625 PART II:

- 626
- 627 A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance
628 shall prevail.
 - 629
 - 630 B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any
631 part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance
632 shall not be affected thereby.
 - 633
 - 634 C. The Municipal Council hereby directs that the official copy of the Provo City Code be updated to reflect the
635 provisions enacted by this ordinance.
 - 636
 - 637 D. This ordinance shall take effect immediately after being posted or published as required by law.

638
639 END OF ORDINANCE.

640