

ORDINANCE 16-05

WHEREAS, on January 6, 1994, the Hyrum City Council passed and posted an ordinance adopting the "Hyrum City Municipal Code", a recodification of municipal ordinances encompassing the "Revised Ordinances of Hyrum City" and ordinances adopted through July 15, 1993; and

WHEREAS, the United States Environmental Protection Agency (EPA) Phase II Storm Water Regulations requires Hyrum City to adopt and enforce certain regulations pertaining to storm water runoff; and

WHEREAS, to comply with the regulations set forth by the EPA, the Hyrum City Council adopted Ordinance 06-04 creating Hyrum City's storm water utility on April 20, 2006 providing requirements and conditions pertaining to the management, collection, and disposal of storm water runoff; and

WHEREAS, the EPA has imposed further restrictions and is requiring more stringent penalties to reduce or eliminate pollution from storm water discharges through proper management and maintenance of the storm water system.

NOW, THEREFORE, based upon the recommendations of the City Engineer, the Hyrum City Council hereby adopts, passes, and publishes the following:

AN ORDINANCE AMENDING SECTION 13.06.310 OF CHAPTER 13.06 DRINKING WATER SOURCE PROTECTION; AND CHAPTER 13.18 THE STORM WATER ORDINANCE OF THE HYRUM CITY MUNICIPAL CODE TO FURTHER COMPLY WITH STATE AND FEDERAL LAWS.

BE IT ORDAINED BY THE CITY COUNCIL OF HYRUM CITY, CACHE COUNTY, STATE OF UTAH, AS FOLLOWS:

1. Section 13.06.310 of the Hyrum City Municipal Code, is hereby amended as follows:

13.06.310 General storm water management.

All future storm water management systems to be constructed and implemented for facilities within the protection zones and recharge areas shall be permitted in accordance with applicable local, state, and federal laws

and regulations. The discharge of storm water into drainage wells or open sinkholes shall be prohibited without some form of treatment. This treatment shall be applied to at least the first 0.5-inch of runoff from the area tributary to the well or open sinkhole. The Clean Water and Storm Water Regulations require municipalities and industries to identify, monitor, and limit urban runoff that may enter rivers, thus potentially affecting groundwater quality. (Ord. 16-05)

2. Chapter 13.18 of the Hyrum City Municipal Code, is hereby amended as follows:

Chapter 13.18

STORM WATER DRAINAGE

Sections

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13.18.010 Purpose.

The purpose of this ordinance is to protect the health, safety and welfare of Hyrum City residents by maintaining and improving the City's storm water system; managing and controlling storm water runoff; protecting public and private property from damage caused by uncontrolled storm water runoff or by pollutants conveyed

by storm water runoff; and preventing polluted water from entering the City's storm water system and other receiving waters to the maximum extent practicable as required by federal and state law. The principal objectives of this ordinance are:

- A. To regulate the discharge of pollutants into the municipal storm water system;
- B. To prohibit illicit connections and discharges to the system;
- C. To guide, regulate, and control the design, construction, use, and maintenance of any development or other activity that results in the movement of soil within the City;
- D. To minimize increases in nonpoint source pollution caused by storm water runoff from construction sites, which would otherwise degrade local water quality;
- E. To reduce storm water runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through storm water management controls and to ensure that these management controls are properly maintained and pose no threat to public safety;
- F. To establish a viable and fair method of financing the construction, operation, and maintenance of the storm water system;
- G. To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this ordinance; and
- H. To clarify permitting processes and identify responsibility to obtain certain permits required by the Environmental Protection Agency (EPA), the State Department of Environmental Quality (DEQ), and Hyrum City.

13.18.020 Definitions.

For the purposes of this ordinance, the following shall mean:

Best Management Practices (BMP's). Includes schedules of activities, prohibitions of practices, maintenance procedures, design standards, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly into the Waters of the State or Waters of the United States. BMP's also include treatment requirements, operating

procedures, educational activities, and practices to control plant site runoff spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Building Permit. Permits for alteration or construction (except for fences and detached accessory buildings as exempted by city code) issued pursuant to the provisions of Chapter 15.08 of the Hyrum City Municipal Code.

Conveyance System. Any channel or pipe for collecting or directing the flow of storm water.

Culvert. A covered channel or large diameter pipe that conducts or directs water flow below the ground surface.

Degradation. 1. Biological or chemical: The breakdown of chemical compounds into simpler substances, usually less harmful than the original compound, as with the degradation of a persistent pesticide. 2. Geological: Wearing down by erosion. 3. Water: The lowering of the water quality of a watercourse by an increase in the amount of pollutant(s).

Department of Environmental Quality (DEQ). The State of Utah Department of Environmental Quality. **Discharge.** The release of storm water or other substance from a conveyance system or storage container.

Drainage. Refers to the collection, conveyance, containment, and/or discharge of surface and storm water runoff.

Equivalent Service Unit (ESU). The approximate size of impervious surface area on an average residential lot.

Erosion. The wearing away of land surface by wind or water. Erosion occurs naturally from weather or runoff but can be intensified by land-clearing practices related to farming, residential or industrial development, road building, or timber cutting.

Excavation Permit. Permit issued authorizing excavation within Hyrum City pursuant to the provisions and regulations found in Chapter 12.12 and 12.24 of the Hyrum City Municipal Code.

Field Drain. Refers to an underground drainage system installed to drain agricultural fields and typically ends in an irrigation tail water ditch.

Fill. A deposit of earth material placed by artificial means.

Grading. The cutting and/or filling of the land surface to a desired slope or elevation.

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm water system, except discharges allowed by the current Hyrum City MS4 Permit issued by DEQ.

Illicit Connection. Any physical connection to the Hyrum City storm water system allowing discharge of non-storm water, which has not been permitted by this ordinance.

Impervious Surface. A surface which prevents or retards the penetration of water into the ground including, but not limited to, roofs, sidewalks, patios, driveways, parking lots, concrete and asphalt paving, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of storm water.

Infiltration. The downward movement of water from the surface to the subsoil. The infiltration capacity is expressed in terms of inches per hour.

Ingress/Egress. The points of access to and from a property.

Inlet. An entrance into a ditch, culvert, or other conveyance structure.

Land Drain. Refers to an underground drainage system installed during the development of a subdivision that is installed within the public right-of-way and designed to meet City standards and is approved by the City Engineer to reduce or limit ground water travel in the vicinity of the drains.

Municipal Separate Storm Sewer System (MS4). See Stormwater System.

National Pollutant Discharge Elimination System (NPDES). EPA's program to control the discharge of pollutants to Waters of the United States.

Nonpoint Source. Pollution caused by diffuse sources (not a single location i.e. pipe) such as agricultural or urban runoff.

Notice of Intent (NOI). Permit issued by the State DEQ for storm water discharges associated with construction activities under the NDPES General Permit.

NPDES Permit. An authorization, license, or equivalent control document issued by the EPA or an approved state agency to implement the requirements of the NPDES program.

Off-site. Any area lying upstream of the site that drains onto the site and any area lying downstream of the site to which the site drains.

On-site. The entire property that includes the proposed development.

Outfall. The point, location, or structure where storm water or drainage discharges from a storm water pipe, ditch, or other conveyance to a receiving body of water.

Point Source. Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel from which pollutants are or may be discharged.

Plat. A map or representation of a subdivision showing the division of a tract or parcel of land into lots, blocks, streets, or other divisions and dedications.

Pollutant. Generally any substance introduced into the environment that adversely affects the usefulness of a resource. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations so that same 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 resulting from the construction of a building or structure; and noxious or offensive matter of any kind.

Receiving Waters. Bodies of water or surface water systems receiving water from upstream constructed (or natural) systems.

Riparian. A relatively narrow strip of land that borders a stream or river.

Runoff. That part of precipitation, snowmelt, or irrigation water that runs off the land into streams or other surface water with the potential

to carry pollutants from the air and land into the receiving waters.

Sedimentation. The process of depositing soil particles, clays, sands, or other sediments that were picked up by runoff.

Source Control. A practice or structural measure to prevent pollutants from entering storm water runoff or other environmental media.

Stabilization. The proper placing, grading and/or covering of soil, rock, or earth to ensure its resistance to erosion, sliding, or other movement.

Storm Drain. An opening leading to an underground pipe or open ditch for carrying surface runoff.

Storm Water. Rainfall runoff, snowmelt runoff, and drainage. It excludes infiltration.

Storm Water Management Concept Plan. A document which describes the Best Management Practices and activities to be implemented by a person, business, or developer to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters.

Storm Water Pollution Prevention Plan (SWPPP): A document outlined in the UPDES General Permits for Construction Activities which describes the general plan for addressing storm water pollutants at a given site. The plan characterizes the nature of the potential pollutants, describes methods and concepts for controlling those pollutants short term and long term and identifies those responsible for the plan. A SWPPP is required to obtain an NOI.

Storm Water System A municipally owned and operated storm water collection system consisting of the following: curb and gutter, drainage swales, piping, ditches, canals, detention basins, inlet boxes, land drain systems, field drain systems, or any other system used to convey storm water that discharges into canals, ditches, streams, rivers, or lakes not owned and operated by the municipality.

Swale. An elongated depression in the land surface that is at least seasonally wet, it may or may not be heavily vegetated, and is normally without flowing water. Swales direct storm water

flows into primary drainage channels and allow some of the storm water to infiltrate into the ground surface.

Utah Pollutant Discharge Elimination System (UPDES). Utah Division of Environmental Quality's (DEQ) program to control the discharge of pollutants to Waters of the United States.

UPDES Permit. An authorization, license, or equivalent control document issued by the DEQ or an approved state agency to implement the requirements of the UPDES program.

Waters of the United States. Surface watercourses and water bodies as defined in 40 CFR § 122.2., including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry storm water during all times and seasons.

Waters of the State. Surface and ground water within the boundaries of the State of Utah and subject to its jurisdiction.

13.18.030 Application.

This ordinance shall apply to all water entering the MS4.

13.18.040 Responsibility of Administration.

The Storm Water Coordinator shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the City may be delegated in writing by the Storm Water Coordinator to persons or entities acting in the beneficial interest of or in the employ of the City.

13.18.050 Ultimate Responsibility.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor illegal discharge of pollutants.

13.18.060 Policies.

The City Council may adopt policies consistent with this ordinance to assist in the application, administration, and interpretation of this ordinance and any resolutions related to the storm water utility.

13.18.070 Storm Water Utility Fee.

- A. **Fee Imposed** - Each developed parcel of real property in the City shall be charged a storm water utility fee.
- B. **ESU** - The fee shall be based on the number of ESU's contained in the parcel. The City has concluded that the ESU is the most equitable and practical measurement for determining the amount that each parcel contributes to, benefits from, and otherwise uses the storm water utility. Based on a study completed by the City Engineer, the City establishes that one ESU equals 2,700 square feet of impervious surface area.
- C. **Basis** - The City has determined that each single-family residential parcel generates approximately the same amount of storm water runoff; therefore, each developed single family residential parcel shall pay a base rate of one (1) ESU. All non-single family residential parcels shall pay a multiple of this base rate, expressed in ESU's, according to the number of residential units located on the parcel. The City Council may adopt separate rates for planned residential developments, condominiums, and other uses that do not typically conform to the ESU standard. The Hyrum City Council, pursuant to an engineering study, may by resolution amend the impervious surface area that equals one ESU.
- D. **Charge per ESU** - The amount charged for each ESU shall be established from time to time by resolution of the City Council.
- E. **Exemptions and Credits** - The City Council may establish exemptions and credits to the stormwater utility fee by resolution.
- F. **Appeals** - Any person or entity that believes that this ordinance, or any storm water utility rate resolution, was interpreted or applied erroneously may appeal to the City Administrator. The appeal shall be in writing, shall state any facts supporting the appeal, and shall be made within ten (10) days of the assessment. The Administrator's response shall be made within ten (10) days of when the appeal is

filed. If the person or entity is not satisfied with the Administrator's decision, a further appeal may be made to the City Council. The City Council's decision shall be final and binding on all parties.

13.18.080 Billing.

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

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3.18.090 Prohibitions.

It is unlawful for any person to:

- A. Track mud or sediment onto public streets by construction or delivery vehicles. Provisions shall be made at all construction sites to clean the vehicles before leaving the site or otherwise prevent the tracking of site soils onto city streets.
- B. Wash or rinse concrete trucks within the city right of way or where concrete or rinse water could enter the municipal storm water system. Dumping of excess concrete shall not be allowed anywhere within city right of way or on public property.
- C. Use soil ramps in the gutter to provide access to lots fronted by curb and gutter for an extended period of time and/or during wet weather.
- D. Stockpile construction materials or debris in the street or in the gutter in such a manner that the material may be considered a source

of pollution in the storm water system.
(Ord. 12-01)

13.18.100 Illegal Discharges and Exemptions.

- A. No person shall discharge or cause to be discharged into the municipal storm water system or watercourses any water or materials containing any pollutants that cause or contribute to a violation of applicable water quality standards.
- B. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether said connection was permissible under law or practices applicable or prevailing at the time of connection. This prohibition also expressly includes, without limitation, connections of sanitary sewer lines to the system.
- C. Notification of spills. In the event of a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the City in person or by telephone or email no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the City within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least 5 years.
- D. Clean up of spills. Within the requirements of the law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into storm water and / or the municipal

separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

- E. Prohibition of Illegal Discharges. No person shall introduce or cause to be introduced any non-storm water discharge to the municipal separate storm sewer system as described in the current Utah Pollutant Discharge Elimination System (UPDES) General Permit for Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) permit.
- F. Dye testing is an allowable discharge but requires a verbal notification to the City Engineer or designee prior to the time of the test.
- G. The prohibition shall not apply to any nonstorm water discharge permitted under an UPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Utah Department of Environmental Quality, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval from the City Engineer has been granted for any discharge to the storm water system. (Ord. 12-01)

13.18.110 Notice of Intent (NOI) - Exemptions.

- A. No person shall be granted a building or excavation permit for land-disturbing activity without a Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) from the State of Utah unless such activity is specifically exempted by state law. No building or excavation permit application will be considered complete until accompanied by proof of the NOI. Refer to the State DEQ website for information pertaining to the SWPPP and NOI.
- B. A NOI is generally not required for the following activities; however, it is the responsibility of the person to confirm any and all exemptions:

1. Emergency activity that is immediately necessary for the protection of life, property, or natural resources.
2. Existing nursery and agricultural operations conducted as a permitted main or accessory use.
3. Home gardens for family food production and/or pleasure.
4. Disturbances less than one (1) acre that are not part of a larger common plan of development project.

13.18.120 Storm water Management Concept Plan.

- A. In addition to and independent of the NOI required herein, and in accordance with the requirements of Section 16.20.200 of this code, a Storm Water Management Concept Plan shall be required with the preliminary plat for all platted subdivisions, site plans for all multifamily housing projects, single family home construction involving soil disturbing activities of one acre or more, mobile home parks, churches, commercial buildings and sites, and industrial buildings and sites and will include sufficient information (e.g., maps, hydrologic calculations, etc.) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing storm water generated at the project site. The intent of this conceptual planning process is to determine the type of storm water management measures necessary for the proposed project, and ensure adequate planning for management of storm water runoff from the development. This plan is not a Storm Water Pollution Prevention Plan required for the NOI.
- B. For development or redevelopment occurring on a previously developed site, an applicant shall be required to include within the storm water concept plan measures for controlling existing storm water runoff

discharges from the site in accordance with the standards of this Ordinance to the maximum extent practicable.

13.18.130 Landscaping Plans Required.

Landscaping shall conform to the intent of the storm water management concept plan. At a minimum, the landscaping plan shall detail vegetation and grading and shall include any non-standard maintenance requirements that may be associated with the landscaping. The extent of the landscaping plan shall incorporate at a minimum all storm water facilities and shall be submitted with the final plat submittal. Additional landscaping plan requirements may be required by other ordinances.

13.18.140 Municipal Storm Water System Maintenance.

Unless otherwise established in writing and agreed to by the City the following storm water system maintenance arrangements shall be implemented:

- A. Landscape maintenance and preservation of land use systems such as detention, retention, and swale features for storm water management are to be maintained by property owners, home owner associations, or development groups. Storm water structures such as pipes, catch basins, and sumps will be maintained by the city. Easements to access and inspect the storm water system and to perform maintenance of the system shall be established on the plat or recorded with the property title in perpetuity.
- B. If a responsible party fails or refuses to meet the maintenance requirements of this ordinance, whether it be the normal or immediate correction time period, after reasonable notice, the Storm Water Coordinator may order the Public Works Department to abate or procure the abatement of the violation. In the event that the storm water management facility becomes a danger to public safety or public health, the Storm Water Coordinator shall notify the party responsible for maintenance of the storm water management facility in writing. Upon receipt of that notice, the responsible person shall have ten (10) days to effect maintenance and repair of the facility in an approved manner. After proper notice, the City may assess the owner(s) of the facility

for the cost of repair work and any penalties plus appropriate administrative charges; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the county.

13.18.150 Inspection.

- A. To verify compliance with the NOI, the City Engineer or designee may conduct field inspections.
- B. The City Engineer or designee shall at all ordinary hours have free access to construction sites permitted under this chapter or other chapters of the Hyrum City Municipal Code for the purpose of inspecting or evaluating the construction, maintenance, and performance of storm water features.

13.18.160 Post Construction.

Applicant shall comply with the post construction provisions of the NOI and provisions of this code.

13.18.170 Enforcement.

In the event that any person holding an excavation permit, building permit, or platted subdivision approval violates the terms of the permit or the ordinances of this City or conducts site development in such a manner as to adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Storm Water Inspector may suspend or revoke the building permit or place a stop order on all work.

13.18.180 Storm Water Inspector.

The position of Storm Water Inspector is hereby created for the purpose of administering the provisions of this Chapter and the powers delegated to it by laws and statutes relating to the storm water system in the City, subject to such control, assignment, and review as the Storm Water Coordinator may from time to time direct.

- A. The Storm Water Coordinator may appoint a Storm Water Inspector and Assistant Inspectors as needed. The powers and duties of the assistants shall be the same as those of the Storm Water Inspector unless

otherwise specified by the Storm Water Coordinator.

B. Duties of Inspector. The Storm Water Inspector is hereby authorized and directed to:

1. Perform all functions necessary to enforce the provisions of this code;
2. Inspect or cause to be inspected, as often as needed, all sites or places for the purpose of determining whether they are in compliance with all provisions of this code as outlined in this chapter.

C. If the Storm Water Inspector determines that any of the conditions listed in this chapter exist on any property within the limits of Hyrum City, or if the impact of any conditions listed in this chapter exist outside of this City due to operations within the City, the Storm water Inspector shall:

1. Ascertain the names of the owners and occupants of the property where the conditions exist, together with a description of the property;
2. Ascertain the names of the persons conducting operations on the property in violation of this code and associated information related to the permit, if issued;
3. Issue a written notice to the owner, occupant, or persons conducting operations on the property identifying the conditions violating this chapter and give notice that they must be corrected within the next ten (10) calendar days;
4. If the situation warrants, issue a stop work order to the owner, occupant, or persons conducting operations on the property identifying the conditions violating this chapter and give notice that all operations must stop immediately, within the confines of public safety;
5. All stop work orders shall also state that failure to comply with this

request shall result in the City taking action to remedy the problem by any means available, including legal action.

6. The stop work order shall:
 - a. require the person to whom it is sent to correct the violation within the time period the Storm Water Inspector shall designate, which shall be not less than ten (10) days, nor greater than twenty (20) days and shall be known as the correction period. The time given to remedy the violation shall begin to accumulate the day following the day on which the citation is issued.
 - b. Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists.
 - c. Inform the person to whom the notice is issued that, if compliance is accomplished within the correction period and is fully remedied as outlined in Section 13.18.230, the notice will be signed by the Storm Water Inspector and filed with the building permit.
 - d. Inform the person that in the event a criminal prosecution is pursued, the prosecution shall be for a Class C Misdemeanor.

13.18.190 Compliance and Reinspection.

In the event the person complies with the notice of the Storm Water Inspector within the correction period, the person shall notify the Storm Water Inspector a minimum of 48 hours (not including weekends or holidays) prior to the end of the correction period. A date and time for inspection prior to the appearance date shall be assigned and the Storm Water Inspector shall again inspect the property.

- A. If the property is in compliance with this chapter, the Storm Water Inspector shall

- sign off compliance on the cited person's copy of the notice.
- B. In the event the person in violation has not received a reinspection indicating compliance with this chapter prior to the end of the correction period, criminal prosecution of the matter shall proceed.
 - C. In the event that the violation is an immediate threat to the public health, safety or welfare, the Storm Water Inspector may require immediate correction for up to a period of 48 hours. If this violation is not corrected and reinspection requested within the required time, the citation will be referred directly to the Hyrum City Prosecutor.
 - D. In the event that the violation listed on the citation is not corrected within the appropriate time period, whether it be the normal or immediate correction time period, the Storm Water Coordinator may order the Public Works Department to abate or procure the abatement of the violation. Should the City abate the violation, the cited person shall still face criminal prosecution. The actual expenses and the appointed administrative fee for the City abating the violation shall be collected from the person, firm, or corporation in violation of this chapter and be added to any fine and penalties set by the court.

13.18.200 Violation and Penalties.

A. Whenever the Storm Water Inspector finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Storm Water Inspector may order compliance by written notice of violation to the responsible person. 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 of a fine to cover administrative and remediation costs; and
6. The implementation of source control or treatment BMP's.

B. Infractions / Penalties:

1. In minor violations a penalty for infractions may be implemented. Such penalty shall be consistent with the severity of the violation and shall not exceed \$750. Penalties for specific infractions are established by resolution through the City Council.
2. Criminal penalties first offense: any person violating the provisions of this ordinance for the first time may be assessed a Class C Misdemeanor with a maximum fine of \$2,500 per day for each violation.
3. Criminal penalties second offense: any person violating the provisions of this ordinance for the second time may be assessed a Class B Misdemeanor with a maximum fine of \$5,000 per day for each violation.
4. Measuring civil penalties. In assessing a civil penalty, the City may consider:
 - a. The harm done to the public health or the environment;
 - b. Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
 - c. The economic benefit gained by the violator;
 - d. The amount of effort put forth by the violator to remedy this violation;
 - e. Any unusual or extraordinary enforcement costs incurred by the municipality;
 - f. The amount of penalty established by ordinance or resolution for specific categories of violations; and
 - g. Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

5. Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the municipality may recover;
 - a. All damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation.
 - b. The costs of the municipality's maintenance of storm water facilities when the user of such facilities fails to maintain them as required by this ordinance.
 - c. Recovery of costs imposed on the City, including attorney's fees, by state or federal entities.
6. Other remedies. The municipality may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
7. Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (Ord. 12-01; 16-05)

3. REPEALER. All ordinances, resolutions, and policies of the City, or parts thereof inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution or ordinance or part thereof.

4. DECLARATION OF SEVERABILITY. Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Hyrum City Municipal Code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid

provisions or applications and to this end the parts, sections, and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.

5. EFFECTIVE DATE. This ordinance shall become effective upon posting three (3) copies in three (3) public places within Hyrum City.

ADOPTION. This ordinance is hereby adopted and passed by the Hyrum City Council this 18th day of August, 2016.

HYRUM CITY

BY: _____
Stephanie Miller
Mayor

ATTEST:

Stephanie Fricke
City Recorder

Posted: _____