

ORDINANCE NO. 1067

AN ORDINANCE REPEALING CHAPTER 4 OF TITLE 8 OF THE ROY CITY CODE IN ITS ENTIRETY AN REENACTING A NEW CHAPTER 4 OF TITLE 8 RELATING TO STORMWATER MANAGEMENT AND DISCHARGE CONTROL

Whereas, the Roy City Council desires to be in compliance with Federal and State law concerning stormwater management; and

Whereas, enacting a new Stormwater Management Ordinance will bring Roy City into compliance with current Federal and State of Utah requirements; and

Whereas, by enacting this Ordinance, the health, safety and welfare of the citizens of Roy City are best served by measures that ensure water quality standards and that control discharges of pollutants in to the City's stormwater system.

Now, therefore, be it ordained by the Roy City Council as follows:

Section 1: Chapter 4 of Title 8 of the Roy City code is hereby repealed in its entirety.

Section 2: A new Chapter 4 entitled Stormwater Management Ordinance is hereby added to the Roy City Code to read as follows:

Roy City Stormwater Management Ordinance

Section 1. General

(1) Purpose. It is the purpose of this ordinance is to:

- a. Protect, maintain, and enhance the environment of Roy City.
- b. Establish responsibilities for controlling and managing stormwater runoff.
- c. Protect the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city.
- d. Enable the City to comply with the National/Utah Pollution Discharge Elimination System permit (NPDES /UPDES) and applicable regulations, 40 CFR §122.26 for stormwater discharges.
- e. Allow the City to exercise the powers granted by Utah Code , which provides that, among other powers municipalities have with respect to stormwater facilities, is the power by ordinance or resolution to:
 - i. Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;
 - ii. Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
 - iii. Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;

- iv. Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;
- v. Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;
- vi. Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
- vii. Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
- viii. Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(2) Administering Entity.

The stormwater utility is the most equitable and efficient method of managing sotrmwater in the city and ensuring that each property in the city pays its fair share of the amount that the property contributes to, benefits from and otherwise uses the stormwater system.

Name: The name of the stormwater utility shall be the Roy City Water and sewer utilities division, hereinafter referred to in this chapter as the stormwater utility. The stormwater utility shall plan, design, construct, cause to be constructed, maintain, administer, regulate and operate the stormwater in the city.

Enterprise Fund: The stormwater utility enterprise fund is hereby established to receive all income and pay all necessary expenses relating to the stormwater utility. All funds received by the stormwater utility shall be deposited in the stormwater utility enterprise fund. Funds in this

stormwater utility enterprise fund shall not be commingled with other city funds. However, the stormwater utility may pay or transfer other city funds for services and expenses attributable to the stormwater utility and its operation. The stormwater utility enterprise fund shall operate independently from other city operations and funds.

Supervision: The water and sewer superintendent shall supervise the operation of the stormwater utility under the general direction of the public works director.

All stormwater facilities and associated assets are property of the stormwater utility. The stormwater utility is responsible for planning, designing, constructing, maintaining, administering and operating the stormwater system.

All stormwater improvements constructed shall be planned, designed, constructed, maintained, administered and operated by the stormwater utility.

The schedule of rates, fees and procedures for billing for stormwater services provided by the stormwater utility shall be established by resolution of the city council.

Section 2. Definitions.

For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word shall is mandatory and not discretionary. The word may is permissive.

Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

1. As built plans: drawings depicting conditions as they were actually constructed.
2. Best Management Practices or BMPs are physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by Roy City and that have been incorporated by reference into this ordinance as if fully set out therein. For purposes of this Title, the relevant BMP's are more particularly defined in the Roy City Guidance Document for Stormwater Management.
3. Channel: a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
4. City: Roy City
5. City Engineer: The City Engineer of Roy City, or authorized designee.
6. City Stormwater System: Storm Systems that receive runoff from public right-of-ways, natural waterways and systems identified in a City easement.
7. Contaminant: any physical, chemical, biological, or radiological substance or matter in water.
8. Design storm event : a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility.
9. Discharge: dispose, deposit, spill, pour, inject, seep, dump, leak or place by any or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any including any direct or indirect entry of any solid or liquid matter into the municipal stormsewer system.
10. Easement: an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

11. Erosion: the removal of soil particles by the action of water, wind, ice or other geological agents.
12. Erosion and sediment control plan: a written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.
13. General Construction Stormwater Permit: Permit required by the Utah Department of Environmental Quality, Division of Water Quality.
14. Groundwater: water in a saturated zone or stratum beneath the surface of the land or below a surface water body.
15. Hotspot or priority area: an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.
16. Illicit connections: illegal and/or unauthorized connections to the Municipal separate stormwater system whether or not such connections result in discharges into that system.
17. Illicit discharge: any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under Section 3.4.
18. Irrigation Ditches: Gravity irrigation ditches used by irrigation shareowners having a right of water passageway by right of way, easement or prescription.
18. Land Disturbance Permit: Roy City Land Disturbance Permit as adopted by the City.
19. Land disturbing activity: any activity on property that results in a change in the existing soil cover, whether both vegetative and non-vegetative and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

20. Maintenance: any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.
21. Maintenance agreement: a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.
22. Municipal Separate Stormwater System (MS4): the conveyances owned or operated by the municipality for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.
23. NPDES National Pollution Discharge Elimination System: EPA's program to control the discharge of pollutants in the waters of the United States.
24. National Pollutant Discharge Elimination System permit or NPDES permit: a permit issued pursuant to 33 U.S.C. §1342.
25. Notice of Violation: Whenever the Roy City Stormwater Superintendent finds that a person is in non-compliance with this ordinance; the Stormwater Superintendent will order compliance by written notice of violation to the responsible person. Requirements in this Notice are at the discretion of the Stormwater Superintendent, and may include monitoring, payment to cover costs relating to the non-compliance, and the implementation of Best Management Practices.
26. Off-site facility: a structural BMP located outside the subject property boundary described in the permit application for land development activity.

27. On-site facility: a structural BMP located within the subject property boundary described in the permit application for land development activity.
28. Peak flow: the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
29. Person: any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.
30. Pre-Existing Conditions: Conditions of property in its native state or changed under approval by the City or changed property that is grandfathered.
31. Priority area: hotspot as defined herein.
32. Property Owner: Landowner of property within the boundary of Roy City.
33. Runoff: that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system. Water produced by storms, surface drainage, snow and ice melt, and other water handled by the storm sewer drainage system.
34. Sediment: solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.
35. Sedimentation: soil particles suspended in stormwater that can settle in stream beds and disrupt the natural flow of the stream.
36. Soils Report: a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.

37. Stabilization: providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
38. Stormwater: stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.
39. Stormwater Design Standards and Regulations: Current Roy City Stormwater Standards and Regulations as adopted by the City.
40. Stormwater Master Plan: Current Roy City Stormwater Master Plan as adopted by the City.
41. Stormwater management: the programs to maintain quality and quantity of stormwater runoff to pre-development levels.
42. Stormwater management facilities system: the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.
43. Stormwater pollution prevention plan (SWPPP) : the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels during and after construction.
44. Stormwater runoff: flow on the surface of the ground, resulting from precipitation.
45. Stormwater Superintendent: the Public Works Department employee responsible for the stormwater system and the administration of this Ordinance or his designee.
46. Stormwater utility: the stormwater utility created by ordinance of the city to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by the municipality.
47. Structural BMPs: devices that are constructed to provide control of stormwater runoff.

48. Surface water includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.
49. Watercourse: a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
50. Watershed: all the land area that contributes runoff to a particular point along a waterway.
51. UPDES: Utah Pollution Discharge Elimination System.

Section 3. Land disturbance permits.

1. Every person will be required to obtain a land disturbance permit from the City Engineer in the following cases:
 - A. Land disturbing activity that generally disturbs one or more acres of land.
 - B. Land disturbing activity of less than one acre of land if such activity is part of a larger common plan of development that affects one or more acre of land;
 - C. Land disturbing activity of less than one acre of land, if in the discretion of the Stormwater Superintendent such activity poses a unique threat to water, or public health or safety;
 - D. The creation and use of borrow pits.
 - E. Development of a single family home.
 - F. Processing of earthen materials such as top soil and gravel screening.
 - G. Construction of parking lots.
2. Drainage channels, waterways and sensitive areas;
 - A. Property owners shall not alter or restrict natural channels and waterways without proper Federal, State and City permits.
 - B. Modifications of sensitive areas require a land disturbance permit after review and

approval by the Roy City Engineer.

- C. Property owners proposing to redirect runoff, surface and/or pipe flow to properties or facilities outside Roy City boundaries must provide written approval from the state, county or municipality or their agents.
 - D. Property owners are responsible for the protection of canals.
 - E. Discharges or modifications to the canals require written approval from the canal owners and applicable governing agencies.
3. Building permit. No building permit shall be issued until the applicant has obtained a Land Disturbance Permit when required by this ordinance.
4. Exemptions. The following activities are exempt from the permit requirement:
- A. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
 - B. Existing nursery and agricultural operations conducted as a permitted main or accessory use.
 - C. Any agricultural activity that is consistent with an approved farm conservation plan or a management plan prepared or approved by the appropriate City, Federal, or State Agency.
 - D. Additions or modifications to existing single family structures.
5. Application for a Land Disturbance Permit.
- A. Each application shall include the following:
 - i. Name of applicant;
 - ii. Business or residence address of applicant;

- iii. Name, address and telephone number of the owner of the property of record in the office of the assessor of property;
- iv. Address and legal description of subject property including the tax reference number and parcel number of the subject property;
- v. Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;
- vi. A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity.
- vii. A stormwater pollution prevention plan (SWPPP) providing for erosion and sediment control and stormwater management during the land disturbing activity and after the activity has been completed meeting the requirements of Stormwater General Permit for Construction Activities Permit No. UTR 090047.
- viii. Payment of land disturbance permit fees and other stormwater management fees, as adopted by resolution.

B. The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property, such as the UPDES Stormwater General Permit for Construction Activities UTR 090047.

However, the inclusion of those permits in the application shall not foreclose the Stormwater Superintendent from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits.

6. Review and approval of application.

A. The Stormwater Superintendent will review each application for a land disturbance permit to determine its conformance with the provisions of this ordinance. Within 15 days after receiving an application, the Stormwater Superintendent shall provide one of the following responses in writing:

- i. Approval of the permit application;
- ii. Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issue the permit subject to these conditions; or
- iii. Denial of the permit application, indicating the reason(s) for the denial.

B. If the Stormwater Superintendent has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the Stormwater Superintendent. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the Stormwater Superintendent.

C. No development plans will be released until the land disturbance permit has been approved.

7. Permit duration. Every land disturbance permit shall expire and become null and void if substantial work authorized by such permit has not commenced within one hundred eighty

(180) calendar days of issuance, or is not complete within eighteen (18) months from the date of the commencement of construction.

8. Notice of construction. The applicant must notify the Stormwater Superintendent ten working days in advance of the commencement of construction.

9. Inspection.

A. Regular inspections of the stormwater management system construction shall be conducted by the party responsible for the work and reviewed by the Stormwater Supervisor.

B. The property owner shall allow access to the Stormwater Superintendent or a representative to inspect stormwater control measures that discharge to the MS4. The inspection shall review the control measures in place, the maintenance plan, and the need for additional measures to completely address the erosion and sediment control for the project.

C. All inspections shall be documented and written reports prepared that contain the following information:

i. The date and location of the inspection;

ii. Whether construction is in compliance with the approved stormwater management plan;

iii. Variations from the approved construction specifications;

iv. Any violations that exist.

10. Performance bonds.

A. The City Engineer may, at his discretion:

- i. Require the submittal of a performance security or performance bond prior to issuance of a permit in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater pollution prevention plan.
 1. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement.
 2. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan.
 3. The applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment or rejection by the City Engineer.
 4. Alternatively the City Engineer shall have the right to calculate the cost of construction cost estimates.

B. The City Engineer will make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages can be made at the discretion of the City Engineer.

Section 4. Stormwater system design and management standards.

- (1) Irrigation ditches

- a. All existing irrigation ditches located on the site or straddling a site property boundary shall be piped with a sufficient size pipe and shall be coordinated with water user.
- b. Property owners are responsible for the protection of irrigation ditches in accordance with this ordinance.
- c. Discharges to private ditches require written approval from the ditch owners and design shall comply with the terms of approvals and The Guidance Document for Stormwater Management and the Land Disturbance Permit.
- d. Piping of ditches and modification to diversion boxes for shared stormwater irrigation facilities as determined by the City Engineer require documented coordination with ditch owners or representative but are not required to receive written approval of ditch owners. Design and coordination requirements shall comply with the Stormwater Design Standards and Regulations and the Land Disturbance Permit documents.

(2) Stormwater design and BMP manuals.

- a. Adoption. The municipality adopts as its stormwater design and best management practices (BMP) manuals the following publications, which are incorporated by reference in this ordinance as is fully set out herein:
 - i. Roy City Stormwater Master Plan.
 - ii. Guidance Document for Stormwater Management
- b. These manuals include a list of acceptable BMPs and include specific design performance criteria and operation and maintenance requirements for each stormwater practice. The manuals may be updated and expanded from time to time, at the discretion of the governing body of the City, upon the recommendation of the City Engineer, based on improvements in engineering, science, monitory and local maintenance experience.

Stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(3) General performance criteria for stormwater management. Unless granted a waiver or judged by the City Engineer to be exempt, the following post construction performance criteria shall be addressed for stormwater management at all sites:

- a. Design of storm drain systems within City boundaries and that discharge into a Roy City storm drain system requires direct supervision of a Utah registered professional engineer.
- b. Site designs shall control the peak flow rates of stormwater discharge associated with design storms specified in this ordinance or in the BMP manual and reduce the generation of post construction stormwater runoff to pre-construction levels according to the BMP manual. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.
- c. Specific channel protection criteria shall be provided as prescribed in the BMP manual to protect stream channels from degradation.
- d. Stormwater discharges to critical areas with sensitive resources such as, cold water fisheries, swimming beaches, recharge areas and water supply reservoirs, may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.
- e. Stormwater discharges from hotspots may require the application of specific structural BMPs and pollution prevention practices.

- f. Prior to or during the site design process, applicants for land disturbance permits shall consult with the City Engineer to determine if they are subject to additional stormwater design requirements.
- g. Calculations for determining allowable peak flows and runoff volumes as found in the BMP manual shall be used for sizing all stormwater facilities.

(4) Minimum control requirements.

- a. Stormwater discharge during all construction activities shall comply with the most current terms as adopted by the State of Utah of the UPDES Stormwater General Permit for Construction Activities, Guidance Document for Stormwater Management and/or requirements set forth by the Building Code, and the State of Utah UPDES requirements.
- b. Stormwater designs shall meet the multi-stage storm frequency storage and runoff volume requirements as identified in the BMP manual, along with the operation, installation, and maintenance standards in the BMP manual unless the Stormwater Superintendent has granted the applicant a full or partial waiver for a particular BMP.
- c. Runoff rates from one lot to another may not exceed pre-existing conditions or in such a manner that may unreasonably and unnecessarily cause more harm than formerly.
- d. If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the Stormwater Superintendent may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.
- e. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day by machine, broom or shovel to the satisfaction of the Stormwater

Superintendent. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.

(5) Stormwater Pollution Prevention Plan requirements. Property owners are responsible to manage stormwater runoff and sediment whether in conduit systems or on the surface that traverse or originate on their property, unless this responsibility is relinquished through the terms and conditions of an easement. In order to manage stormwater the Property Owner must develop a stormwater pollution prevention plan and implement the plan. The stormwater pollution prevention plan shall include sufficient information to allow the Stormwater Superintendent to evaluate the environmental and historical 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 stormwater generated at the project site. To accomplish this goal the stormwater pollution prevention plan shall include the following:

- a. Project Description - Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.
- b. Topographic Base Map: A 1 = 500 topographic base map of the site which extends a minimum of 1000 feet beyond the limits of the proposed development and indicates:
- c. Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;
- d. Current land use including all existing structures, locations of utilities, roads, and easements;

- e. All other existing significant natural and artificial features including a general description of existing land cover. Individual trees and shrubs do not need to be identified.
- f. Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading;
- g. Proposed structural BMPs;
- h. A written description of the site plan and justification of proposed changes in natural conditions may also be required.
- i. Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the BMP manual. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this ordinance and the guidelines of the BMP manual. Such calculations shall include:
 - j. A description of the design storm frequency, duration, and intensity where applicable;
 - k. Time of concentration;
 - l. Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
 - m. Peak runoff rates and total runoff volumes for each watershed area;
 - n. Infiltration rates, where applicable;
 - o. Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
 - p. Flow velocities;
 - q. Data on the increase in rate and volume of runoff for the design storms referenced in the BMP manual; and
 - r. Documentation of sources for all computation methods and field test results.

- s. Soils Information: If a stormwater management control measure depends on the hydrologic properties of soils as in infiltration basins, then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.
- t. Work Sequence: The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention facilities or any other structural BMP's.
- u. Installation, Maintenance and Repair Plan: The design and planning of all stormwater management facilities shall include detailed installation, maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. A permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the facility.
- v. Landscaping Plan: The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. Where it is required by the BMP.

- w. A description of on-site measures to be taken to recharge surface water into the ground water system through infiltration.
- x. Other SWPPP requirements as outlined in the Stormwater General Permit for Construction Activities Permit No. UTR 090047

(6) Maintenance Easements: The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the current property owner and all subsequent owners of the property and must be properly recorded in the land record.

(7) Maintenance Agreement: The owner of property to be served by an on-site stormwater management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners. The maintenance agreement shall:

- a. Assign responsibility for the maintenance and repair of the stormwater facility to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.
- b. Provide for annual inspection by the property owner for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this ordinance. The property owner will arrange for this inspection to be conducted by the Stormwater Superintendent. It shall also grant permission to the city to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.
- c. Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, grass cuttings and

vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities as required by the property owner by the City. It shall also provide that the property owner shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the BMP manual.

- d. Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the Stormwater Superintendent.
- e. Provide that if the property is not maintained or repaired within the prescribed schedule, the Stormwater Superintendent shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the Stormwater Superintendent's cost of performing the maintenance shall be a lien against the property.

(8) Dedication: Roy City shall have the discretion to accept the dedication of any existing or future stormwater management facility, provided such facility meets the requirements of this ordinance, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any stormwater facility accepted by Roy City must also meet Roy City's construction standards and any other standards and specifications that apply to the particular stormwater facility in question.

(9) Sediment and Erosion Control Plans: The applicant must prepare a sediment and erosion control plan for all construction activities that complies with the following requirements:

- a. The sediment and erosion control plan shall accurately illustrate the measures that are to be taken to control stormwater pollution problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and

- potential for off-site damage. It is recommended the plan shall be sealed by a registered professional engineer licensed in the state of Utah. The plan shall also conform to the requirements found in the BMP manual, and shall include at least the following:
- b. A topographic map with contour intervals of five (5) feet or less showing present conditions and proposed contours resulting from land disturbing activity.
 - c. All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.
 - d. Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.
 - e. Approximate limits of proposed clearing, grading and filling.
 - f. Location, size and layout of proposed stormwater and sedimentation control improvements.
 - g. Proposed drainage network.
 - h. Proposed drain tile or waterway sizes.
 - i. Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including

vegetation and non-vegetation measures, both temporary and permanent, will be detailed.

Detailed construction notes for all control measures in the plan.

- j. Specific details for the construction of rock pads, wash down pads, and settling basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the Stormwater Superintendent.
 - k. Proposed structures location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site.
- (10.) Plan Implementation: During construction the permittee must implement and maintain the erosion and sediment control plan.

Section 5. Inspections.

(1) Purpose. To be in accordance with the most current State of Utah General Permit for Discharges for Small Municipal Separate Storm Sewer Systems (MS4), permit, the City will conduct inspections to monitor all discharges to natural water bodies including lakes, rivers, stream and canals, stormwater controls and BMPs.

(2) Scope. Inspections relating to the MS4 Permit include but are not limited to illicit discharges, construction activities and post construction operation and maintenance of stormwater controls, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs either publicly or privately owned.

- (3) Access.
 - a. Visual Inspections. Visual inspections of discharges to natural water bodies, spills, stormwater related controls on private property within the Roy City limits are permitted by the Stormwater Superintendent at any time.
 - b. Other Inspections. When a visual inspection is not adequate to determine the extent of discharges to natural water bodies, spills or determine the status of stormwater related controls on private property, the City will give 24 hours notice of the inspection to take place and the extent of the inspection. Equipment and manpower necessary to perform the inspection will be allowed to access and work as necessary to determine the state of the situation.
 - c. Emergency Inspections. During times of emergency including discharges to natural water bodies, spills or potential damage to life or property, the City may access the location of concern as necessary and with the equipment required to determine the status of the situation. Reasonable attempts to contact the property owner prior to the inspection will be made prior to accessing private property.
- (4) Follow-up Inspections. During initial or routine inspections if problems are identified which require corrective actions then a follow-up inspection will be scheduled.

Section 6. Post Construction.

- (1) As built plans. All applicants are required to submit as built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Utah. A final inspection by the Stormwater Superintendent is required

before any performance security or performance bond will be released. The Stormwater Superintendent shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMP's have been made and accepted by the Stormwater Superintendent.

(2) Landscaping and stabilization requirements. Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be revegetated according to a schedule approved by the Stormwater Superintendent. The following criteria shall apply to revegetation efforts:

- a. Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over one hundred percent (100%) of the seeded area.
- b. Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
- c. Any area of revegetation must exhibit a minimum of seventy percent (70%) density of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy percent (70%) density for one (1) year is achieved.
- d. In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will

be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

- e. Stabilization must occur as required in the most recent State of Utah Stormwater General Permit for Construction Activities Permit.

- (3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed as provided for in Section 5.
- (4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least 5 years. These records shall be made available to the Stormwater Superintendent during inspection of the facility and at other reasonable times upon request.
- (5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this ordinance, the Stormwater Superintendent, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the Stormwater Superintendent shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have 15 days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the Stormwater Superintendent may take necessary corrective action. The cost of any

action by the Stormwater Superintendent under this section shall be charged to the responsible party.

Section 7. Waivers.

- (1) General. Every applicant shall provide for post construction stormwater management as required by this ordinance, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the Stormwater Superintendent for approval.
- (2) Conditions for waiver. The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:
 - a. It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.
 - b. Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the Stormwater Superintendent.
 - c. Provisions are made to manage stormwater by an off-site facility. The off-site facility must be in place and designed to provide the level of stormwater control that is equal to or greater than that which would be afforded by on-site practices. Further, the facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility.
- (3) Downstream damage prohibited. In order to receive a waiver, the applicant must demonstrate to the satisfaction of the Stormwater Superintendent that the waiver will not lead to any of the following conditions downstream:

- d. Deterioration of existing culverts, bridges, dams, and other structures;
- e. Degradation of biological functions or habitat;
- f. Accelerated streambank or streambed erosion or siltation;
- g. Increased threat of flood damage to public health, life or property.

(4) Land disturbance permit not to be issued where waiver requested. No land disturbance permit shall be issued where a waiver has been requested until the waiver is granted. If no waiver is granted, the plans must be resubmitted with a stormwater pollution prevention plan.

Section 8. Existing locations and developments.

(1) Requirements for all existing locations and developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:

- a. Denuded areas must be vegetated or covered under the standards and guidelines specified in the BMP manual and on a schedule acceptable to the Stormwater Superintendent.
- b. Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.
- c. Drainage ways shall be properly covered in vegetation or secured with rip-rap or channel lining to prevent erosion.
- d. Trash, junk, rubbish shall be cleared from drainage ways.
- e. Stormwater runoff shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures may include, but are not limited to, the following:

- f. Ponds
 - i. Detention pond
 - ii. Extended detention pond
 - iii. Wet pond
 - iv. Alternative storage measures
- g. Constructed wetlands
- h. Infiltration systems
 - i. Infiltration/percolation trench
 - ii. Infiltration basin
 - iii. Drainage / recharge well
 - iv. Porous pavement
- i. Filtering systems
 - i. Catch basin inserts/media filter
 - ii. Sand filter
 - iii. Filter/absorption bed
 - iv. Filter and buffer strips
- j. Open channel
 - i. swale

(2) Requirements for existing problem locations. The Stormwater Superintendent shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problem affecting such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.

- (3) Inspection of existing facilities. The Stormwater Superintendent may, to the extent authorized by state and federal law, establish inspection programs to verify that all stormwater management facilities, including those built before as well as after the adoption of this ordinance, are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the municipality's NPDES/UPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.
- (4) Corrections of problems subject to appeal. Corrective measures imposed by the Stormwater Superintendent under this section are subject to appeal under Section 10 of this ordinance.

Section 9. Illicit discharges.

- (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system.
- (2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

- a. Uncontaminated discharges from the following sources:
- b. Water line flushing or other potable water sources,
- c. Landscape irrigation or lawn watering with potable water,
- d. Diverted stream flows,
- e. Rising ground water,
- f. Groundwater infiltration to storm drains,
- g. Uncontaminated pumped groundwater,
- h. Discharges from potable water sources
- i. Foundation or footing drains,
- j. Crawl space pumps,
- k. Lawn watering runoff
- l. Individual residential car washing
- m. Air conditioning condensation,
- n. Irrigation water
- o. Springs,
- p. Natural riparian habitat or wet-land flows,
- q. Swimming pools if dechlorinated , typically less than one PPM chlorine.
- r. Water reservoir discharges if dechlorinated, typically less than one PPM chlorine.
- s. Residual street wash water.
- t. Firefighting activities, and
- u. Any other uncontaminated water source.
- v. Discharges specified in writing by the Stormwater Superintendent as being necessary to protect public health and safety.

- w. Dye testing is an allowable discharge if the Stormwater Superintendent has so specified in writing.
- x. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the State of Utah Division of Water 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 has been granted for any discharge to the storm drain system.

(3) Prohibition of illicit connections.

- a. The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.
- b. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of stormwater pollutants by the use of Best Management Practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMP's necessary to prevent the further discharge of pollutants to the Roy City separate stormwater system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

(5) Notification of spills. Notwithstanding other requirements of 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 stormwater, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such 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 Stormwater Superintendent in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Stormwater Superintendent 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.

Section 10. Civil Enforcement

(1) Enforcement authority. The Stormwater Superintendent or his designees shall have the authority to issue notices of violation, stop work orders, and citations, and to impose the civil penalties provided in this Section.

- (a) With the issuance of a Land Disturbance Permit or Stormwater Permit, the Stormwater Superintendent shall be permitted to enter and inspect, including testing and investigation, facilities subject to this ordinance at all reasonable times and as often as necessary to determine compliance. Failure to comply with the terms of this ordinance may result in civil or criminal enforcement by Roy City, The Weber/Morgan Health Department or by other means identified in permits or terms set forth in development

applications.

(2) Notification of violation.

- i. **Written Notice.** Whenever the Stormwater Superintendent finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the Stormwater Superintendent may serve upon such person written notice of the violation and such person shall within ten (10) days of this notice, provide an explanation for the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions which shall be submitted to the Stormwater Superintendent. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.
- ii. **Consent Orders.** The Stormwater Superintendent is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order.
- iii. **Compliance Order.** When the Stormwater Superintendent finds that any person has violated or continues to violate this ordinance or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the

noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

iv. Cease and Desist Orders. When the Stormwater Superintendent finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the Stormwater Superintendent may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

a. Comply with; or

b. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(3) Conflicting standards. Whenever there is a conflict between any standard contained in this ordinance and in the BMP manual adopted by the municipality under this ordinance, the strictest standard shall prevail.

(4) Civil Penalties. Any person violating the provisions of this ordinance may be assessed a civil citation and may be assessed a penalty by the Storm Sewer Superintendent of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(5) Measuring civil penalties. In assessing a civil penalty, the Stormwater Superintendent 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 City;
 - 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.
- (6) Recovery of damages and costs. In addition to civil penalties, the City may recover:
- (a) all damages proximately caused by the violator to the city, 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 City's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this ordinance.
- (7) Other remedies. In addition to the other remedies listed in this ordinance Roy City 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.
- (8) 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.
- (9) Appeals. Any person who disagrees with the issuance of a civil citation, compliance order, cease and desist order, the imposition of a civil penalty or damage assessment, suspension or revocation as provided by this ordinance may appeal to the City Manager or the City Managers designee.

- (10) Appeals to be in writing. The appeal shall be in writing and filed with the city recorder within fifteen (15) days after the issuance of the citation, compliance order, cease and desist order, the imposition of civil penalty and/or damage assessment, suspension or revocation.
- (11) Appealing decisions of the City Manager or the City Managers designee. A decision of the City Manager or the City Managers designee may be appealed by filing an action with the district court within 30 days from the date of the City Manager or the City Managers designees' decision.

Section 11. Criminal Enforcement

- (1) Designated Crime. Any person who shall commit any act declared to be unlawful under this ordinance, who violated any provision of this ordinance, who violated the provisions of any permit issued pursuant to this ordinance, or who fails or refused to comply with any lawful communication or notice to abate or take a corrective action by the Stormwater Superintendent, shall be guilty of a class C misdemeanor.
- (2) Prosecution. Alternatively, or in addition to the issuance of civil citations by the Stormwater Superintendent or his designee, the Roy City Attorney's office may initiate criminal prosecution in the Roy City Justice Court.

Willard Cragun, Mayor

Attest:

Amy Mortenson, Recorder

	AYE	NAY	ABSTAIN	ABSENT
Councilmember Becraft	_____	_____	_____	_____
Councilmember Cordova	_____	_____	_____	_____
Councilmember Hilton	_____	_____	_____	_____
Councilmember Tafoya	_____	_____	_____	_____
Councilmember Yeoman	_____	_____	_____	_____