

Ordinance 2021-17

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF PARK CITY, UTAH, CHAPTER 13 WATER AND STORMWATER CODE BY ADDING SECTION 13-5 REGULATION AND ENFORCEMENT OF STORMWATER DISCHARGES ASSOCIATED WITH POST CONSTRUCTION ACTIVITIES

WHEREAS, the Municipal Code was adopted by the City Council of Park City, Utah to promote the health, safety and welfare of the residents, visitors, and property owners of Park City; and

WHEREAS, the Municipal Code implements the goals, objectives and policies of the Park City General Plan to maintain the quality of life and experiences for its residents and visitors; and to preserve the community's unique character and values; and

WHEREAS, the City owns and operates a stormwater-collection system which has been developed over many years and consists of a network of natural conveyances, manmade structures, and conduits that collect, control, and route stormwater runoff; and

WHEREAS, pursuant to the Federal Clean Water Act, 33 U.S.C. Chapter 26, the U.S. Environmental Protection Agency (EPA) has established rules and regulations setting for the National Pollutant Discharge Elimination System permit requirements for municipal stormwater discharges (Phase II Permit Program);

WHEREAS, the State of Utah, through its Department of Environmental Quality, has been delegated by EPA to administer the Phase II Permit Program and has adopted state rules and regulation implementing the Phase II Permit Program; and

WHEREAS, the City is required, among other things, to implement a stormwater-management program and associated ordinance to (1) control the contribution of pollutants to the stormwater system associated with industrial sites, construction sites, and other activities within the City; (2) prohibit illicit discharges of pollutants into the stormwater-collection system, including spills, dumping, or disposal of materials other than stormwater; (3) promote implementation and maintenance of long-term stormwater controls on development sites; (4) educate City residents and businesses about the stormwater program; and (5) enforce compliance with the program and ordinance; and

WHEREAS, the Council finds that inadequate management of the quantity and quality of stormwater runoff causes flooding and property damage; carries concentrations of heavy metals, oils, and toxic materials into receiving and ground waters; and degrades the integrity of the integrity of City neighborhoods and infrastructure; and

WHEREAS, the Council finds that such are hazards and pose a significant risk to public health, safety, and welfare; and

WHEREAS, the City Council conducted a public hearing at its regularly scheduled meeting on April 15, 2021; and

WHEREAS, it is in the best interest of the residents of Park City, Utah to the amend the Municipal Code to be consistent with the Federal and State law and to be consistent with the values and identified goals of the Park City community and City Council to protect health and safety, maintain the quality of life for its residents, preserve and protect the residential neighborhoods, and preserve the community's unique character.

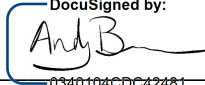
NOW, THEREFORE, BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. AMENDMENTS TO TITLE 13 – Water and Stormwater Code. The recitals above are incorporated herein as findings of fact. Chapter 13-5 of the Water and Stormwater Code of Park City is hereby amended as attached (see Attachment A).

SECTION 2. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

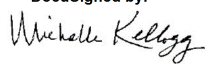
PASSED AND ADOPTED this 15th day of April, 2021.

PARK CITY MUNICIPAL CORPORATION


DocuSigned by:

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Andy Beerman, Mayor

Attest:



DocuSigned by:

E5F905BB533F431...
Michelle Kellogg, City Recorder

Approved as to form:

DocuSigned by:

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City Attorney's Office

13-5. Regulation and Enforcement of Storm Water Discharges Associated with Post-Construction Activities

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|----------------|---|
| 13-5-1 | Purpose |
| 13-5-2 | Definitions |
| 13-5-3 | Long-Term Storm Water Management |
| 13-5-4 | Maintenance Agreement |
| 13-5-5 | Compatibility with Other Permit and Ordinance Requirements |
| 13-5-6 | Proper Operation and Maintenance |
| 13-5-7 | Inspection and Monitoring |
| 13-5-8 | Penalties and Enforcement Authority |
| 13-5-9 | Severability |
| 13-5-10 | Effective Date |

13-5-1. Purpose

The purpose of this Section is to establish minimum Storm Water Management (as defined herein) requirements and controls for Post-Construction activities. This Section outlines requirements to protect and safeguard the Long-Term general health, safety, and welfare of the public residing within the City (as defined herein) and surrounding Watersheds (as defined herein), and to control the adverse effects of Post-Construction Runoff and Nonpoint (as defined herein) and Point Source pollution associated with Development (as defined herein) and Redevelopment projects. This Chapter seeks to meet that purpose through the following objectives:

- A. Minimize the impact of Runoff from any Development or Redevelopment activities in order to reduce flooding, siltation, and pollution of Waters of the State of Utah.
- B. Minimize increases in Nonpoint Source pollution caused by Runoff from Development and Redevelopment projects which could otherwise degrade water quality.
- C. Minimize the total annual volume of Runoff which flows from any specific Site, during and following Development or Redevelopment, to not exceed the pre-Development hydrologic regime to the maximum extent practical.
- D. Reduce 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.
- E. Provide Long-Term responsibility for and Maintenance (as defined herein) of Storm Water Management Facilities System (as defined herein).
- F. Establish legal authority to carry out all the Inspection (as defined herein) and monitoring procedures necessary to ensure compliance with this Chapter.
- G. Regulate the contribution of Pollutants to the City's MS4 by Storm Water Discharges from Development and Redevelopment activities.
- H. Enable the City to comply with the Utah Pollution Discharge Elimination System Permit (UPDES) (as defined herein) and applicable federal regulations.
- I. Facilitate compliance with state and federal standards and Permits by landowners, owners of construction Sites, Developments, and permanent Storm Water Management Facilities within the City.

This Chapter shall be applicable to:

- A. All subdivision or Development applications greater than 1 acre in size;
- B. Any new Development or Redevelopment that changes ten percent (10%) or more of the impervious area located on the Property;
- C. Any new Development or Redevelopment regardless of size that is identified by the City to be in an area where the land use has the potential to generate highly contaminated Runoff; or
- D. Any land Development activities that are smaller than the minimum applicability criteria if such activities are part of a Master Planned Development (as defined in MCPC § 15-15-1) or annexation.

13-5-2. Definitions

For the purpose of this Chapter, the definitions listed hereunder shall be construed as specified in this Section. Additionally, definitions set out in MCPC § 13-4-2 shall apply to this Chapter 5. In the event a definition in Chapter 4 is different than a definition in this Chapter 5, the definition in this Chapter 5 shall control.

- A. APPLICANT. Person applying for a Permit with the City.
- B. CHANNEL. A natural or constructed-watercourse with a definite bottom surface or bed and sides or banks that conducts flowing water continuously or periodically.
- C. CITY. Park City Municipal Corporation, a municipality incorporated in the state of Utah, and its governing body, employees, and authorized representatives.
- D. CITY ENGINEER. The City Engineer of Park City, or authorized designee.
- E. DEVELOPMENT. Any manmade change in real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- F. DEVELOPER. A Person, contractor, or entity that is physically doing the Development or Redevelopment.
- G. DISCHARGE. Refers to discharges from the Municipal Separate Storm Sewer System (MS4).
- H. 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.
- I. FACILITY. A place, amenity, or piece of equipment provided for a particular purpose.
- J. INSPECTION. The act of visiting an On-Site or Off-Site Facility or Property by authorized officials or individuals for the purpose of observing and documenting activities, operations or conditions pertaining to a City issued Permit or such activities requiring said Permit. All Facilities shall be subject to Inspection by any law enforcement agency or by any designated agent of the City as well as by the Summit County Health Department or State board of health, or State Department of Environmental Services. It shall be unlawful for any permittee to refuse access to a Facility.
- K. LOW IMPACT DEVELOPMENT (LID). An approach to land Development (or Redevelopment) that works with nature to more closely mimic pre-Development hydrologic functions. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat storm water as a resource rather than a waste product. Examples of LID include bio-retention facilities, rain gardens, vegetated rooftops, rain barrels, and permeable pavements.
- L. MAINTENANCE. Any activity that is necessary to keep a Storm Water Facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a Storm Water 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 that may directly impair the functions of the Storm Water Facility.

- M. MAINTENANCE AGREEMENT. A deed restriction recorded in the office of the Summit County Recorder which provides for Long-Term Maintenance of Storm Water Management practices.
- N. MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). Means the conveyances owned or operated by the City for the collection and transportation of stormwater, including roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, Channels, stormwater ponds, basins, wetlands and storm drains.
- O. NONPOINT SOURCE. Any source of water pollution that is not a Point Source.
- P. NOTICE OF VIOLATION (NOV). Written notice issued by the City Engineer whenever the City Engineer finds that a Person or entity is in noncompliance with this Chapter; the City Engineer shall order compliance by written notice of Violation to the Responsible Party or registered agent or entity. Requirements in this notice are at the discretion of the City Engineer, and may include monitoring, payment to cover costs relating to the noncompliance, and the implementation of BMP's or ABMP's.
- Q. OFF-SITE FACILITY. Structural BMP or a System located outside the subject Property boundary described in the Permit application for land Development activity.
- R. ON-SITE FACILITY. Structural BMP or a System located within the subject Property boundary described in the Permit application for Development activity.
- S. PERMIT. An official document giving a Person or Developer authorization to do something.
- T. POINT SOURCE. Any discernible, confined, and discrete conveyance from which Pollutants are or may be discharged. This includes but is not limited to any pipe, ditch, Channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.
- U. POST-CONSTRUCTION. Time Period for which the "completion" date has already passed and the structure, Facility, or equipment is in use by the City, Developer, Property owner or other Persons.
- V. PROPERTY. Both real and personal property.
- W. REDEVELOPMENT. Any new construction on a Site that has pre-existing uses or Developments.
- X. RESPONSIBLE PARTY. Responsible Party means any entity holding fee title to the Property, contracted to manage the Property, or in actual or apparent control of the Property.
- Y. RUNOFF. Water that travels across the land surface, or laterally through the ground near the land surface, and discharges to water bodies either directly or through a collection and conveyance system. Runoff includes storm water and water from other sources that travels across the land surface.
- Z. STORM WATER DRAINAGE DESIGN MANUAL. Current Park City Storm Water standards and regulations as adopted by the City.
- AA. LONG-TERM STORM WATER MANAGEMENT PLAN (SWMP). The programs to maintain quality and quantity of Storm Water Runoff to pre-Development levels indefinitely.
- BB. STORM WATER MANAGEMENT FACILITIES SYSTEM (System). The drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which Runoff is collected, transported, pumped, treated or disposed of.

- CC. STORM WATER MANAGEMENT PLAN (SWMP). 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 control quantity of Runoff to pre-Development levels.
- DD. STRUCTURAL BMPs. Devices that are constructed to provide control of Runoff.
- EE. UNTREATED STORM WATER. Water that leaves the Site or Property prior to going through a Water Quality Device.
- FF. UTAH POLLUTION DISCHARGE ELIMINATION SYSTEM (UPDES). The state/national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing Permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of the federal Clean Water Act, as amended.
- GG. VIOLATION. Means the failure of a structure, Person, or other Development to be fully compliant with this Chapter 5; the community's standards and rules; and the City's MS4's regulations pertaining to the UTAH POLLUTION DISCHARGE ELIMINATION SYSTEM (UPDES).
- HH. WATERSHED. All the land area that contributes Runoff to a particular point along a waterway.
- II. WATER QUALITY DEVICE. Any BMP, activity, or other method used to prevent or reduce the Discharge of Pollutants.

13-5-3. Long-Term Storm Water Management

- A. No Development or Redevelopment activity will commence on a Site subject to this Chapter until a Long-Term SWMP detailing in concept how Storm Water Runoff and associated water quality impacts resulting from the Development or Redevelopment will be controlled or managed. The Long-Term SWMP shall be prepared by a licensed engineer and must indicate whether Storm Water will be managed On-Site or Off-Site and, if On-Site, the general location and type of practices, structures, devices or activities that will be employed. The Long-Term SWMP shall provide specifications, Maintenance frequencies, and Inspection criteria for all facilities constructed on the Site along with procedural practices that will be used to minimize the presence of Pollutants in Runoff.
- B. Maintenance Agreements. All Storm Water practices shall be maintained in accordance with the approved and recorded Storm Water Maintenance Agreement and Long-Term SWMP.
- C. General Performance and Site Design Criteria
1. Performance Criteria. The following performance criteria shall be addressed for Storm Water Management at all Sites governed by this Chapter:
 - a. For the Development or Redevelopment Site, all Storm Water Management practices will be designed to accommodate a minimum of a twenty-five (25) year storm event with a maximum release rate equal to the existing undeveloped Site conditions. In cases when the existing Site conditions have been disturbed or improved from native vegetation the Site shall use a reasonable release rate similar to that of a neighboring undisturbed land. All Sites must retain the first .50 inches of precipitation by incorporating LID into the design. All water storage and water quality standards must convey and or detain the twenty-five (25) year storm event, unless approved by the City Engineer.
 - b. These practices should seek to utilize LID for Storm Water treatment and to infiltrate Storm Water Runoff from driveways, sidewalks, parking lots, and other impervious areas to the maximum extent practical to provide treatment for both water quality and quantity. The process shall include evaluations of BMPs considered and the reasons they have or have not been selected. All rooftop drainage is required to drain to landscaped areas unless otherwise approved by the City Engineer. Infiltration shall not be permitted within the soil ordinance boundaries (<https://www.parkcity.org/departments/building-and-fire-safety/soil-ordinance>), alternative practices

shall be required to maintain water quantity and quality.

- c. All Storm Water Runoff generated from new Development or Redevelopment Sites shall not Discharge Untreated Storm Water directly into a naturally occurring wetland or waters of the State of Utah including the Storm Water system without treatment to the maximum extent practical as determined by the City Engineer. In no case shall the impact on wetlands be any more than allowed by the United States Army Corps of Engineers (USACE) mitigation rule (33 CFR Part 332).
 - d. Each SWMP shall include an assessment of Post-Construction Storm Water impacts upon downstream and upstream properties. The assessment of Storm Water quality and quantity impacts shall be based on the standards contained within this Chapter, at a minimum. The assessment of upstream impacts must be provided, at a minimum, for Property or properties located immediately upstream and/or adjacent to the proposed Development or Redevelopment. The assessment of downstream impacts shall be made by evaluating a Site's contribution to Storm Water Runoff to a suitable downstream point.
 - e. If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements established in the Storm Water Drainage Design Manual, the City reserves the right to impose any and all additional requirements deemed necessary to control the volume, timing, rate of Runoff and Pollutant loading.
2. Site Design Feasibility. Storm Water Management practices for a Site shall be chosen based on the physical conditions of the Site. Among the factors that should be considered:
- a. Topography
 - b. Drainage Area(s)
 - c. Soils
 - d. Slopes
 - e. Terrain
 - f. Location in relation to environmentally sensitive features
 - g. Receiving waters
3. Conveyance Issues. All Storm Water Management practices shall be designed to convey Storm Water to allow for the maximum removal of Pollutants and reduction in flow velocities.
4. Pretreatment Requirements. Every Storm Water treatment practice shall have an acceptable form of water quality pretreatment. The proposed pretreatment shall address the anticipated Pollutants that would normally be expected from the proposed Development. Approval by City of pretreatment devices is required before work can begin. The use of LIDs is encouraged, and evaluation documentation is required.
5. Protection of Point of Discharge. Discharge from any on-site System into any Channel or feature, shall be designed and constructed so that the Discharge does not cause damage to Off-Site Facilities, Properties, Wetlands, or Sites.
6. Protection of Receiving Channels and Waters. Receiving Channels and water bodies (On-Site and/or Off-Site) shall be evaluated to ensure that downstream Channels are not eroded and/or degraded by altered Storm Water flows from Development or Redevelopment. Acceptable mitigation alternatives include on-Site detention to reduce Post-Construction Runoff rates and volumes and Channel Stabilization measures to control Channel degradation.
7. Design of Water Impounding Structures (Dams). Any proposed water impounding structure (dam) shall be designed in accordance with Utah Dam Safety standards R655-11, as amended, and if required, shall be reviewed and approved by the Utah Dam Safety Engineer. Proof of compliance with this requirement shall be provided by the Applicant for any Permit issued by the City.

D. Storm Water Drainage Design Manual

1. The City reserves the right to furnish additional policy, criteria and information including specifications and standards in the form of a revised Storm Water Drainage Design Manual. The adopted Design Manual is applied to a project when a formal application for a Permit is made.

13-5-4. Maintenance Agreement

- A. Maintenance Agreements. Maintenance of all Systems shall be ensured through the creation of a formal Maintenance Agreement. All applicants shall sign the standard Maintenance Agreement established by the City Engineers Office unless approved otherwise by the City Engineer.

13-5-5. Compatibility with Other Permit and Code Requirements

This Chapter is not intended to interfere with, abrogate, or annul any other ordinance, code, rule or regulation, statute, or other provision of law. The requirements of this Chapter should be considered minimum requirements, and where any provision of this Chapter imposes restrictions different from those imposed by any other ordinance, code, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

13-5-6. Proper Operation and Maintenance

A. Maintenance Easement. Prior to commencing Development or Redevelopment activities on a Site, the Applicant or Responsible Party of the Site must record in the office of the Summit County Recorder a Maintenance Agreement that shall be binding on all subsequent owners of land served by a System. The Maintenance Agreement shall provide for access to the subject Property at reasonable times for periodic Inspection by the City, or its contractor or agent, to ensure that the Storm Water controls are maintained in proper working condition to meet design, water quality standards and any other provisions established by this Chapter.

B. Records of Installation and Maintenance Activities. Parties responsible for the operation and Maintenance of a Long-Term System shall make records of the installation and of all Maintenance and repairs, and shall retain the records for at least five (5) years. These records shall be made available to the City during Inspection of the Facility and at other reasonable times upon request. These records shall contain all of the following:

1. The name and address of the landowner;
2. A statement that an Inspection was made of all Structural BMPs;
3. The date the Inspection was made; and
4. A statement that all inspected Structural BMPs are performing properly and are in compliance with the terms and conditions of the approved Maintenance Agreement required by this Chapter. Treatment requirements, operating procedures, and practices to control Runoff from a Site will be monitored and corrective actions will be taken if installed BMPs are not operating as expected.

C. Failure to Maintain Practices. If a Responsible Party fails or refuses to meet the requirements of the Maintenance Agreement, the City, after reasonable notice, may correct a Violation of the design standards or Maintenance needs by performing all necessary work to restore the System in compliance with this Chapter. In the event that the System becomes a danger to public safety or public health, the City shall notify the Responsible Party for Maintenance of the System in writing. Upon receipt of that notice, the Person responsible shall have five (5) calendar days to complete Maintenance and repair of the Facility as approved by the City. The City may assess the Responsible Party of the System for the cost of repair work and any penalties. If the Responsible Party does not reimburse the City for all work performed within 60 days, the City may place a lien on the Property and/or pursue all remedies available at law or in equity.

13-5-7. Inspection and Monitoring

- A. Inspections: Whenever necessary to make an Inspection to enforce any provision of this Chapter, or whenever the City has cause to believe that there exists, or potentially exists, a condition which constitutes a Violation of this Chapter, the City may enter the Property/Site on which the System is located. Failure to comply with the terms of this Chapter may result in punitive actions by the City, Summit County Health Department, UDEQ, the U.S. Environmental Protection Agency, or by other means identified in Permits or terms set forth in Development applications.

1. Permanent Structural Systems. These facilities must be inspected by the City at least once during installation.

13-5-8. Penalties and Enforcement Authority

Refer to MCPC § 13-3-2 and 13-3-3 for penalties applicable to this Chapter.

13-5-9. Severability

- A. Should any Section, paragraph, sentence, clause, or phrase of this Chapter be declared unconstitutional or invalid for any reason, the remainder of the Chapter shall not be affected thereby.

13-5-10. Effective Date

- A. This Chapter shall become effective after publication of such in accordance with applicable state law.