

CHAPTER 10

STORM WATER CONSTRUCTION ACTIVITY PERMIT

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7-10-1: **PURPOSE AND INTENT:** The purpose of this Chapter is to prevent the discharge of sediment and other construction-related pollutants from construction sites. Sediment and debris from construction sites are a major source of pollution to waterways and water systems located within the City and surrounding areas. Each year storm water runoff carries tons of sediment from construction sites into local drainage systems, irrigation systems, canals, rivers, and lakes. Sediment from storm water runoff also clogs and obstructs storm drains, culverts, and canals and causes damage to private property, wildlife habitat and water quality.

7-10-2: **STORM WATER CONSTRUCTION ACTIVITY PERMIT – WHEN REQUIRED:**

- A. Permit Required. A Storm Water Construction Activity Permit is required before any person or entity may landscape, excavate, grub and clear, grade, or perform any type of construction activity that will disrupt or cause a change in the natural landscape upon any parcel of property of one (1) acre or more located in Providence City. If one (1) acre or more of land surface area is disturbed, a Notice of Intent (NOI) must be submitted to the State Division of Water Quality. A copy of the NOI shall be submitted to the City.
- B. Exemptions. The following activities are exempt from the permit requirements of this Chapter:

1. Actions by a public utility, the City, or any other governmental entity to remove or alleviate an emergency condition, including the restoration of utility service or the reopening of a public thoroughfare to traffic;
2. Actions by any other person when the City determines, and documents in writing, that the actions are necessary to remove or alleviate an emergency condition;
3. Construction activities disturbing less than one acre of land surface area except when the construction activity is part of a larger common plan of development disturbing more than one acre;
4. Residential landscaping activities disturbing less than one acre of land surface area;
5. Residential gardening;
6. Bona fide agricultural and farming operations, provided that the agricultural and farming operations constitute the principal use of the parcel and provided that such use of the parcel does not conflict with the City's zoning ordinance;
7. Providence City capital improvement projects, provided that storm runoff control measures are included in the bid specifications and plans for the improvement project.

7-10-3: **STORM WATER CONSTRUCTION ACTIVITY PERMIT - APPLICATION:**
 Any person or entity desiring a Storm Water Construction Activity Permit shall file a NOI with the State of Utah. This NOI shall meet the Standards of Providence City BMPs and the applicant shall sign a Providence City "CONTRACTOR CERTIFICATION STATEMENT" of understanding before the start of any project that will be covered under the UPDES and NOI. Contractor Certification Statement will be utilized as a supplement to the state required permit and NOI and it shall serve as the City's required Construction Activity Permit.

- A. Application Form. The application shall be submitted on a form approved by the City. If the applicant proposes to obtain the permit in conjunction with another development activity requiring City approval (e.g. subdivision plat, site plan, or conditional use permit), the application for the Storm Water Construction Activity Permit will be included as part of the application form for the other development activity. If the applicant proposes to obtain the permit independent of any other City approval, the applicant shall apply for the permit on a separate form prepared by the City. Application forms will be available at the City Office.

- B. Storm Water Pollution Prevention Plan. The applicant shall submit a Storm Water Pollution Prevention Plan and pre, during, and post erosion prevention and sediment control plan with the application. The Storm Water Pollution Prevention Plan (the Plan) shall contain the following information:
1. Site Description. A site description (including a map with spot elevations and contour lines) which includes a description of the nature and location of the construction activity, a description of the intended sequence of major activities which will disturb soils for major portions of the site (e.g. grubbing, excavation, grading, utilities, and infrastructure installation, etc.) and estimates of the total area of the site and the total area of the site that is expected to be disturbed by excavation, grading, or other activities;
 2. Control Description. A description of the proposed control measures that will be implemented during construction activity and/or while the site is not stable. The Plan must clearly describe the times during the construction process that the measures will be implemented for each major activity identified pursuant to subsection(1). The Plan shall also state the name, address and phone number of the person or entity responsible for implementation of each control measure.
 3. Control Measures. Control measures meeting the following goals and criteria:
 - a. Prevent or Minimize Discharge. The proposed control measures shall be designed to prevent or minimize, to the maximum extent practicable, the discharge of sediment, debris and other construction-related pollutants from the construction site by storm water runoff into the storm drainage system.
 - b. Prevent or Minimize Construction Debris. The proposed control measures shall be designed to prevent or minimize, to the maximum extent practicable, the deposit, discharge, tracking by construction vehicles, or dropping of mud, sediment, debris or other potential pollutants onto public streets and rights-of-way.
 - c. Use of BMPs. The proposed control measures shall include Providence City's Best Management Practices (BMPs) available at the time that the Plan is submitted.
 - d. Stabilize Site. The proposed control measures shall be designed to preserve existing vegetation, where possible. Disturbed portions of the site shall be stabilized. Stabilization practices may include temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation and other appropriate measures. Use of impervious surfaces for stabilization should be avoided.

Stabilization measures shall be initiated as soon as practicable in disturbed portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site that has temporarily or permanently ceased, except under the following circumstances:

1. If the initiation of stabilization measures by the 14th day after construction activity temporarily or permanently ceases is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable as determined by the City; or
 2. If construction activity on a portion of the site is temporarily ceased, and earth disturbing will resume within 21 days, temporary stabilization measures need not be initiated on that portion of the site.
- e. Minimize Risk of Discharge of Other Materials. The proposed control measures shall be employed to minimize the risk of discharge of construction-related pollutants (such as paint, thinners, solvents and other chemicals) from the construction site. Such measures may include implementation of storage practices to minimize exposure of the material to storm water as well as soil prevention and response.
- C. Timing for Filing Application. The applicant shall file the application on or before the following dates:
1. Subdivision. The date that the applicant submits the preliminary subdivision plat application if the applicant proposed to develop a subdivision.
 2. Site Plan. The date that the applicant submits a site plan application if the applicant proposes to develop a site plan or amended site plan.
 3. Conditional Use Permit. The date that the applicant submits a conditional use permit application if the applicant proposes to develop a conditional use.
 4. Building Permit. The date that the applicant submits a building permit application if the applicant proposes to construct a building on an existing lot or parcel.

5. Other. At least two (2) weeks before the developer intends to perform any type of work not listed above that would require a Storm Water Construction Activity Permit pursuant to this Chapter. If an applicant's development comes under more than one of the categories listed above, then the applicant shall submit the Storm Water Construction Activity Permit Application on the earliest of the listed dates. Failure to comply with the application dates set forth above is not a criminal offense, but may delay the applicant's project. Failure to acquire the required Storm Water Construction Activity Permit is grounds for denying a related subdivision application, site plan application, conditional use permit application, or building permit application. It is unlawful to commence work (move dirt) on a development site before obtaining a required Storm Water Construction Activity Permit.
- D. Fee. The applicant for a Storm Water Construction Activity Permit shall pay a fee in an amount established in the most recently adopted Prevailing Fee Schedule of the City. All fees are non-refundable.
 - E. Application Approval. The City Public Works Director (PWD) or designee shall approve the application and grant the permit if the application is complete and the Storm Water Pollution Prevention Plan meets the requirements of this ordinance. The PWD shall deny the application or approve the application with conditions if he or she determines that the measures proposed in the Plan fail to meet the criteria set forth in section 7-4-3:B. Conditions the PWD may impose in connection with the approval of a permit include, but are not limited to, the establishment of specific measures and controls to prevent erosion and the discharge of sediment, debris and other construction-related pollutants from the site by storm water.
 - F. Term. Unless otherwise revoked or suspended, a Storm Water Construction Activity Permit shall be in effect for the full period of the construction activity. The construction activity will not be considered to be completed until the following events occur:
 1. Subdivisions. For permits associated with a subdivision plat approval:
 - a. The permittee must complete all required subdivision improvements; and
 - b. Individual Storm Water Construction Activity Permits have been issued for each lot in the subdivision not having a final occupancy permit, or the property has been re-vegetated or

landscaped in a manner that eliminates erosion and sediment discharge or that brings the property back to its natural state.

2. Site Plans. For permits associated with a site plan approval, the date that the permittee has completed all required landscaping and all outside construction work associated with the site plan.
3. Building Permits. For permits associated with a building permit application, the date that the City issues a final occupancy permit for the structure covered by the building permit.
4. Other. For permits issued that are not tied to other approvals from the City, the date that the permittee has completed all work associated with the permit and takes steps required by the permit to prevent further erosion and runoff from the site.

No Storm Water Construction Activity Permit shall be considered terminated until the permittee submits a Notice of Termination of Construction Activity Permit ("Notice") to the City PWD. The permittee shall keep and maintain all permit-required improvements on the site until the City accepts the Notice.

- G. The City shall retain an associate portion of the performance bond until the N.O.T. is approved and accepted by the City and the State.
- H. Amendments. In the event that the proposed construction activity for a site to which a permit pertains is materially altered from that described in an original plan in a way that may have a significant impact upon the effectiveness of the measures and controls described in the original plan, the permittee shall file an amended Storm Water Pollution Prevention Plan which meets the criteria set forth in section 7-10-3:B.

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STORM WATER CONSTRUCTION ACTIVITY PERMIT – PROPER OPERATION AND MAINTENANCE: The recipient of a Storm Water Construction Activity Permit (the permittee) shall install the erosion and sediment control measures required by the approved Storm Water Pollution Prevention Plan before commencing any construction activity on the site to which the Plan applies or at such times indicated in the Plan. The erosion and sediment control measures shall be properly installed and maintained in accordance with the permit, the manufacturers' specifications, and good engineering practices. The permittee shall

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maintain such measures on the site until the City accepts the termination of the permit pursuant to Section 7-10-3:F.

7-10-5: **STORM WATER CONSTRUCTION ACTIVITY PERMIT – INSPECTION AND ENTRY:** The permittee shall allow any authorized employees and representatives of the City, representatives of the State of Utah Division of Water Quality, and representatives of the EPA, to enter the site to which a permit applies at any time and to inspect the erosion and sediment control measures maintained by the permittee. The permittee shall also allow inspection of any records pertaining to the conditions of the permit.

7-10-6: **STORM WATER CONSTRUCTION ACTIVITY PERMIT – REVOCATION OR SUSPENSION:**

A. Revocation or Suspension. A Storm Water Construction Activity Permit may be revoked or suspended by a Director upon the occurrence of any one of the following events:

1. Failure of a permittee to comply with the plan or any condition of the permit; or
2. Failure of a permittee to comply with any provision of this chapter or any other applicable law, ordinance, rule or regulation related to storm water; or
3. A determination by the Director that the erosion and sediment control measures implemented by a permittee pursuant to the plan are inadequate to prevent or minimize, to the maximum extent practicable, the discharge of sediment, debris or other pollutants from the construction site by storm water.

B. Notice. The City shall mail the permittee written notice of noncompliance before revoking or suspending a permit. The notice shall state the location and nature of the noncompliance and shall also specify what action is required for the permittee to avoid revocation or suspension of the permit. The notice shall allow the permittee a reasonable period of time to take the necessary corrective action to avoid revocation or suspension of the permit which time, in the absence of exceptional circumstances, shall not be less than ten (10) nor more than thirty (30) days. The notice shall be mailed to the address listed for the permittee in the application. If the permittee fails to correct the problems identified in the notice during the time specified in the notice, the PWD may suspend or revoke the permit by mailing or delivering written notice of the suspension or revocation to the permittee. The permittee may appeal a suspension or revocation of the permit pursuant to the appeal procedure set forth in Section 7-10-7. The permittee shall notify the City within ten (10) days of any address change.

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- C. **Exceptional Circumstances.** For purposes of this Section, exceptional circumstances include, but are not limited to, situations which involve a risk of injury to persons, damage to storm drain facilities, or damage to other property or the environment. The City may take any steps the City deems necessary to alleviate any such exceptional circumstances as defined above, and may bill the owner, developer, or contractor responsible for creating the exceptional circumstances for the cost of alleviating said circumstances.
- D. **Stop Work Order.** A stop work order may be issued upon the revocation or suspension of a permit, upon discovery of work in violation of or not in accordance with a permit, or upon the discovery of work being conducted without a required permit. The stop work order may be issued by designated inspectors of the City. No construction activity may be commenced or continued on any site for which a permit has been revoked or suspended until the permit has been reinstated or reissued.
- E. **Reinstatement.** A Storm Water Construction Activity Permit may be reinstated or reissued upon compliance with all provisions of this chapter and all permit conditions, or in the case of a suspension for reasons provided in subsection 7-4-6, upon the filing of an amended Storm Water Pollution Prevention Plan which is designed to correct the deficiencies of the original Plan.

7-10-7: STORM WATER CONSTRUCTION ACTIVITY PERMIT - APPEALS:

- A. **Notice of Appeal.** An Applicant for a Storm Water Construction Activity Permit or a permittee of a Storm Water Construction Activity Permit may appeal any decisions or directive made by the City or its representatives pursuant to this Chapter. The party desiring to appeal shall file a notice of appeal at the City Administrator's Office within 10 days of the decision or directive being appealed. The notice of appeal shall contain the following information:
 - 1. The appellant's name, address and daytime telephone number;
 - 2. A short statement describing the basis for the appeal; and
 - 3. The relief sought by the appellant.
- B. **Hearing.** Upon receipt of the notice of appeal, the City Administrator shall set a date for an informal hearing to consider the appeal. The informal hearing shall be conducted in accordance with policies established by the City Administrator. The City Administrator shall uphold the decision or directive being appealed unless the City Administrator finds that there has been an error in the interpretation or implementation of this ordinance. The City Administrator shall render a decision on the appeal within 10 days of the informal hearing with the appellant. The City Administrator shall have authority to affirm, reverse or modify any decision or directive appealed pursuant to this Section.

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7-10-8: **VIOLATIONS AND ENFORCEMENT:**

- A. The violation of any of the provisions of this Chapter shall be a Class C misdemeanor. Each day that a violation occurs shall constitute a separate offense.
- B. Violators of this Chapter are also subject to any penalties that may be imposed by the State of Utah, under the authority of the Utah Water Quality Act, Title 19, Chapter 5 of the Utah Code.
- C. In addition to any criminal fines and/or penalties which may be assessed for a violation of this Chapter, the City shall have the right to issue a stop work order or to install and/or maintain appropriate erosion and sediment control measures on any site which is required to have such measures in the event that construction activity is commenced or continued without such measures having been installed as required by this Chapter. The City shall have the right to have such measures installed or maintained by City personnel or to hire a private contractor to perform such work and the contractor and/or the property owner shall be liable for any and all expenses related to performing such work plus a 25% penalty charge. The City may assess said charges against the bond posted by the contractor and/or property owner.
- D. Violators of this Chapter may also be subject to prosecution, fines and penalties from the State of Utah and the United States EPA.

7-10-9: **COMPLIANCE WITH FEDERAL AND STATE LAW:** Nothing contained in this Chapter is intended to relieve any person or entity from any obligation to comply with applicable federal and state laws and regulations pertaining to clean water and/or storm water runoff.