SALT LAKE CITY ORDINANCE
No. 53 of 2007.
(Amending Title 2 and Title 17 of the Salt Lake City Code, relating to the Storm Water Sewer System)

* * *

AN ORDINANCE AMENDING TITLE 2 AND TITLE 17 OF THE SALT LAKE CITY CODE, RELATING TO THE STORM WATER SEWER SYSTEM; REQUIRING A CITY DISCHARGE PERMIT FOR CERTAIN ACTIVITIES RESULTING IN DISCHARGE TO THE STORM WATER SEWER SYSTEM; AUTHORIZING ENFORCEMENT ACTION, FINES AND PENALTIES FOR PROHIBITED DISCHARGES AND OTHER PROHIBITED CONDUCT; AND RELATED MATTERS.

* * *

Be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Section 2.08.100 of the Salt Lake City Code is hereby amended to read as follows:

2.08.100 Department of Public Utilities:

A. Functions: The department of public utilities shall have charge of and be responsible for:

1. The acquisition, transportation, storage, treatment and distribution of all irrigation, raw and potable water for the city and its designated service areas, including, but not limited to:

   a. All farms and watershed lands, so far as the same affect the water supply of the city;

   b. All water sources from which the domestic supply is or may be taken;

   c. All reservoirs, conduits, tanks, and water mains, city fire hydrants located within the city, and appurtenant equipment and properties;

   d. All irrigation gates, dams, flumes, ditches, canals, reservoirs and related facilities necessary for the proper control and distribution of irrigation water for which the city is acting as distributing agent, or in connection with any water exchange agreements to which the city is a party; and

2. Keeping records of the location of all principal gates, dams, flumes, ditches, canals and reservoirs and water rights owned by the city, which
records shall show the nature of construction, the length and capacity of the principal canals and ditches, and such other information as may be necessary to enable a proper understanding of the city’s rights from an examination thereof; and

3. The ownership, operation and maintenance of a sanitary sewer utility system for the collection, treatment, and disposal of wastewater generated within the city, including the facilities necessary therefor; and

4. The ownership, operation and maintenance of a storm water sewer utility system for the collection and disposal of storm water and floodwaters generated or collected within the city.

B. Water Boards, Miscellaneous: The director of the department of public utilities shall represent the city, if consistent with law, on the various water or sewer boards, commissions and similar administering bodies on which the city is entitled to sit by virtue of state law, contractual agreement or bylaws of such bodies.

C. Enterprise Funds: The water, sanitary sewer and storm water sewer divisions of the department of public utilities shall be operated as separate enterprise funds. The collection, accounting and expenditure of each shall be in accordance with existing fiscal policies of the city.

SECTION 2. Title 17 of the Salt Lake City Code is hereby reorganized to include, and there is hereby created within such Title 17, a new Division III entitled “Storm Water Sewer System.” Division III of Title 17 shall generally include all Salt Lake City Code provisions relating to the City’s storm water sewer utility system, including Chapters 75 through 91 of Title 17.

SECTION 3. Division III of Title 17 of the Salt Lake City Code is hereby subdivided to include, and there are hereby created within such Division III, the following Chapters:

17.75 General Provisions
17.78 Definitions
17.81 Storm Water Sewer Utility; Establishment and Funding
17.84 Discharges Into City Storm Water Sewer System
17.87 Enforcement

17.91 Miscellaneous

SECTION 4. There is hereby enacted a new Section 17.75.100, to read as follows:

17.75.100 Short Title.

The ordinance codified in this Division III shall be known collectively as the Salt Lake City Storm Water Control Ordinance. References to “this ordinance” shall be deemed to refer to and include all sections contained in Chapters 17.75 through 17.91, inclusive.

SECTION 5. Existing Section 17.75.010 is hereby repealed in its entirety and reenacted as Section 17.75.200, to read as follows:

17.75.200 Findings and Purposes.

A. Findings on Storm Water Runoff Harm. The city council finds that storm water runoff has the potential for causing property damage and erosion; carrying concentrations of nutrients, chemicals, heavy metals, oil and toxic materials into receiving waters and groundwater; degrading the integrity of city streets, curbs, gutters and other infrastructure; reducing residents’ access to emergency services; and imposing other hazards to both life and property. For these and other reasons, storm water runoff has the potential for adversely impacting the health, safety, property, recreational opportunities and general welfare of the community. The city council has determined that the potential for such negative impacts will increase as the amount of storm water runoff increases due to the city’s physical growth and urban development.

B. State and Federal Regulation. The federal government has established, through the Clean Water Act, regulations regarding storm water runoff for the protection of receiving waters. The State of Utah has also enacted the Water Quality Act, together with related regulations. These federal and state laws and regulations are administered through the Utah Department of Environmental Quality and include requirements that the city obtain, and abide by the provisions of, a UPDES permit for the city’s discharge of storm water runoff into receiving waters.

C. Purposes and Objectives. In view of the foregoing, the purposes and objectives of this ordinance are to:

1. Provide for and maintain a storm water sewer system for collecting and disposing of storm water runoff;
2. Establish the inspection, surveillance and monitoring procedures, and all related rules and regulations, necessary to regulate discharges into the storm water sewer system, and to establish the legal authority to enforce compliance with such rules and regulations; and

3. Provide fair, equitable and nondiscriminatory rates and charges which will generate sufficient revenues to construct, operate, improve and maintain the storm water sewer system at a level commensurate with storm water sewer management needs. It shall be the policy of the city that present and future costs of operating the storm water sewer system shall be fairly allocated among the various users of the storm water sewer system through the establishment of rates and charges based upon such factors as the intensity of development of the parcel; the types of development on the parcel; the amount of impervious surface on the parcel; the cost of maintenance, operation, repair and improvements of the various parts of the system; the quantity and quality of the runoff generated; and other factors which present a reasonable basis for distinction, and which will allow for management of the storm water sewer system in a manner that protects the public health, safety and welfare.

SECTION 6. Section 17.75.300 is hereby enacted to read as follows:

17.75.300 Authority.

This ordinance is adopted under the authority of the Utah Water Quality Act, the federal Clean Water Act and the rules and regulations promulgated thereunder relating to storm water discharges, as well as certain requirements set forth in the city's UPDES permit for storm water discharges, issued by the Utah Department of Environmental Quality. Specifically, Section 19-5-115(10), Utah Code Annotated, authorizes the city to enact and enforce rules and ordinances for the implementation of the Water Quality Act, including storm water discharges.

SECTION 7. Section 17.75.400 is hereby enacted to read as follows:

17.75.400 Responsibility for Administration.

The director shall be responsible for administering, implementing, and enforcing the provisions of this ordinance. Any powers granted or duties imposed upon the director may be delegated by the director to persons in the employ of the city and under the supervision of the director.

SECTION 8. Section 17.75.020 is renumbered as Section 17.78.100, and is amended to read as follows:

17.78.100 Definitions:
For purposes of this ordinance, the following words, terms and phrases shall have the following meanings:

“Best management practices” or “BMPs” means schedules of activities, prohibitions of practices, maintenance procedures, treatment requirements, operating practices, techniques, methodologies or other management practices that, through experience and research, have proven reliable to prevent or reduce pollutants from entering the storm water sewer system, and that are recognized, required, or accepted as BMPs under the Clean Water Act, the Water Quality Act, and related rules, regulations, guidance documents and storm water permits issued thereunder. BMPs shall be an integral part of a SWPPP as necessary for compliance with an NPDES or a UPDES permit, or a city discharge permit under this ordinance.

“City” means Salt Lake City Corporation, a municipal corporation of the State.

“City discharge permit” means a permit to discharge storm water into the city’s storm water sewer system, issued pursuant to Section 17.84.400 of this ordinance.

“Clean Water Act” means the federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., as amended, including all related rules and regulations.

“Construction activity” means activities for which a UPDES General Construction Storm Water Permit, as defined in the rules promulgated under the Clean Water Act, must be obtained. These include construction activities such as clearing and grubbing, grading, excavating and demolition, that disturb one acre of land or more.

“Council” means the Salt Lake City Council.

“County” means the Salt Lake County, Utah.

“Department” means the city’s department of public utilities.

“Developed parcel” means any parcel which has been altered by grading or filling of the ground surface, or by construction of any improvements or other impervious surface area that affects the hydraulic properties of the parcel.

“Director” means the director of the department, or the director’s duly authorized designee.

“Discharge” means any addition or introduction of any pollutant into the storm water sewer system or any watercourse. Discharge includes any storm water runoff.
“Discharge permit” means and includes any permit regulating discharges into the storm water sewer system, including a UPDES permit, an NPDES permit and a city discharge permit.

“EPA” means the U.S. Environment Protection Agency.

“Equivalent residential unit” or “ERU” means the unit of measurement of the magnitude of use of the storm water sewer system attributable to a developed parcel. One ERU is equal to the storm water runoff from a developed parcel containing two thousand five-hundred square feet of combined impervious surface area, in any configuration, which is the estimated contribution of storm water runoff from the average single-family residential dwelling unit and accompanying parcel of land.

“Impervious surface” means that hard surface area of a developed parcel that either prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that which would be present under natural conditions. Impervious surfaces may include, but are not limited to, rooftops, concrete or asphalt paving, walkways, patios, driveways, parking lots or storage areas, trafficked gravel, or other surfaces which similarly impede the natural infiltration into the ground of runoff of storm and surface water.

“Illicit connection” means any drain, pipe, connection or conveyance, whether on, above or below the surface, which is connected from a commercial or industrial land use to the storm water sewer system and which does not meet the requirements of the city, including without limitation the requirement that such connection or conveyance be documented in plans, maps or equivalent records and approved by the director.

“Industrial activity” means, generally, activity for which an NPDES permit or UPDES permit is required. Industrial activity is more particularly defined in 40 C.F.R. § 122.26(b)(14) and Utah Administrative Rule R.317-8-2.5, which definitions are incorporated herein by reference. Such activities include, by way of example, manufacturing, processing or raw materials storage at an industrial plant, and most construction activity on parcels of one acre and greater.

“National Pollutant Discharge Elimination System” or “NPDES” means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing discharge permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318 and 405 of the Clean Water Act.

“NPDES permit” means a permit issued by the EPA that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.
“On-parcel mitigation” or “mitigation” means storm water control facilities designed to city standards located on the parcel, which either hold runoff for a short period of time and release it to the storm water sewer system, or hold water for a considerable length of time and disperses it by evaporation or infiltration into the ground.

“Operator” means, with respect to any industrial activity, the person or persons who either individually or taken together meet the following two criteria: (1) they have operational control over the site specifications (including the ability to make modifications in specifications); and (2) they have the day-to-day operational control of those activities at the site necessary to ensure compliance with SWPPP requirements and any permit conditions.

“Parcel” means the smallest separately segregated unit or plot of land which is documented and given a property serial number by the county.

“Person” means any individual, partnership, co-partnership, firm, limited liability company, corporation, association, joint stock company, trust, estate, government entity or any other entity recognized by law, and any offices, departments, institutions, bureaus or agencies thereof.

“Pollutant” means anything that causes or contributes to pollution. Pollutant includes, without limitation: dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, filter backwash, munitions, chemical wastes, biological materials, toxic materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, recreational and agricultural waste discharged into water or into the storm water sewer system.

“Pollution” means the alteration, through the introduction of a pollutant, of the physical, thermal, chemical, or biological quality of, or the contamination of, any waters of the State or waters of the United States, that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

“Premises” means any building lot, parcel, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

“Prohibited discharge” means any discharge prohibited by Section 17.84.100 of this ordinance.

“Responsible party” means (1) an operator; (2) a person who uses the storm water sewer system or discharges to the storm water sewer system, whether or not pursuant to a discharge permit; or (3) a person responsible for emergency response for a facility or operation.
“Single-family residential parcel” means any parcel of land which is improved with a dwelling unit as defined by Section 17.72.030(2)(b) of the Salt Lake City Code.

“Small construction activities” means construction activities, including clearing, grading and excavating land, that result in the disturbance of equal to or greater than one acre and less than five acres of land, including projects of less than one acre that are part of a larger common plan of development or sale.

“State” means the State of Utah.

“Storm water” means (i) storm water runoff, (ii) snow melt runoff, and (iii) surface runoff and drainage from other sources which contains no pollutants.

“Storm Water Pollution Prevention Plan” or “SWPPP” means a plan required by a discharge permit which describes and ensures the implementation of the best management practices and activities to be implemented by a person or operator to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, the storm water sewer system and/or receiving waters to the maximum extent practicable.

“Storm water rules” means the rules promulgated by the State relating to storm water discharges, and set forth in Utah Administrative Rule R.317-8-3.9.

“Storm water sewer facilities” means any facilities comprising part of the storm water sewer system.

“Storm water sewer system” means the city-owned and operated system of conveyances designed or used for collecting, storing, controlling, treating and/or conveying storm water. This system includes, but is not limited to, sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made or altered channels, reservoirs or piped storm drains. This system does not include any part of the sanitary sewer system.

“Storm water sewer utility” means the utility created through this chapter in Section 2.08.100 of the Salt Lake City Code, which operates, maintains, regulates and improves storm water facilities and programs within the city.

“Undeveloped parcel” means any parcel which is not a developed parcel.

“UPDES permit” means a permit issued by the Utah Department of Environmental Quality that authorizes the discharge of pollutants to waters of the State, whether the permit is applicable on an individual, group or general area-wide basis.

“Utah Pollutant Discharge Elimination System” or “UPDES” means the program delegated to the State by the EPA pursuant to 33 U.S.C. § 1342(b) and Sections 19-5-101 to 123 of the Utah Code.
“Violation” means a violation of any provision of any storm water discharge permit, this ordinance or any order, rule or regulation issued or promulgated hereunder.

“Water Quality Act” means the statute codified at Section 19-5-101 et seq., Utah Code Annotated, as amended, including all related rules and regulations.

“Watercourse” means aqueducts, pipelines, natural or artificial streams or channels through or in which water at any time flows.

SECTION 9 Section 17.75.030 is hereby repealed.

SECTION 10. Section 17.75.040 is hereby repealed.

SECTION 11. Section 17.75.050 is hereby renumbered as Section 17.81.100, and is amended in its entirety to read as follows:

17.81.100 Establishment of Storm Water Sewer Utility; Administration of Storm Water Sewer Facilities.

The storm water sewer utility has been established pursuant to Section 2.08.100, and is operated as a separate enterprise fund within the department of public utilities. All portions of the storm water sewer system (other than streets, curbs, gutters and sidewalks), shall be operated, managed and administered by the director within the storm water sewer utility.

SECTION 12. Section 17.75.060 is hereby repealed.

SECTION 13. Section 17.75.070 is hereby renumbered as Section 17.81.200, and is amended to read as follows:

17.81.200 System of Rates and Charges.

A. There are hereby imposed storm water sewer service fees, rates and charges on the owner of each developed parcel within the city, except (i) governmentally owned streets, and (ii) parcels on which are located storm water sewer facilities operated and maintained by, or for, the county. The charges shall fund the administration, planning, design, construction, water quality programming, operation, maintenance and repair of existing and future storm water sewer facilities.

B. Residential service charges for use of the storm water sewer system shall be as follows:
1. Single-family residential and duplex parcels, less than or equal to .25 acres, shall constitute one ERU and are charged three dollars per month.

2. Single-family or duplex parcels greater than .25 acres shall constitute 1.4 ERUs and are charged four dollars and twenty cents per month (tier two).

3. All triplex and fourplex residential parcels shall constitute two ERUs and are charged six dollars per month (tier three).

C. Undeveloped Parcels. Undeveloped parcels shall not be assessed a storm water service charge.

D. Other Parcels. The charge for all other parcels shall be based upon the total square footage of measured impervious surface, divided by two thousand five hundred square feet, or one ERU, and rounded to the nearest whole number. The actual total monthly service charge shall be computed by multiplying the total ERUs for a parcel by the monthly rate of three dollars.

E. Credit for On-Parcel Mitigation. Nonresidential parcels with on-site storm water detention or retention facilities are eligible for a service charge credit upon application to the director by the person owning the parcel, or such person’s agent. The amount of credit, if any, for on-site detention or retention facilities is based on the following formula:

\[ P = 0.25 + 0.70 \text{ (factor)} + 0.05 \text{ (Permit)} \]

The foregoing symbols have the following meanings:

- **P**: Percentage of total service charge to be applied to each parcel.
- **0.25**: Represents ten percent for department administration cost plus fifteen percent for utility operation and maintenance costs (half of the estimated total cost for utility operation and maintenance).
- **0.70**: Represents fifteen percent for utility operation and maintenance (half of the estimated total cost for utility operation and maintenance) plus fifty-five percent for a utility capital improvement program.
- **Factor**: Restricted discharge (Qf) from a developed parcel divided by the peak discharge (Qp) from the same developed parcel which would result if
the flow restriction facilities were not in place.

0.05 Represents five percent for NPDES storm water permit for the parcel.

Permit The rate adjustment which applies when the parcel has an NPDES discharge permit from the State, will be equal to zero. When the parcel is included in the city NPDES permit, this rate adjustment is equal to one.

1. Mitigation credit is available only for those nonresidential parcels whose storm water facilities meet the city’s design and maintenance standards.

2. The director shall provide a complete on-site mitigation evaluation at the request and expense of the person owning the parcel, or the owner’s duly authorized agent.

F. Low-income Abatement. A person who owns a single-family residential parcel and is qualified for an abatement of the minimum monthly water charge pursuant to Section 17.16.670 of the Salt Lake City Code shall be eligible for a fifty-percent reduction of the service charge for such parcel.

G. Non-service Abatement. A parcel which is not directly or indirectly benefited by the storm water sewer utility shall be entitled to an abatement of the service charge for said parcel. In order to receive such abatement, the owner, or the owner's agent, shall apply, in writing, to the director pursuant to Section 17.81.400.

SECTION 14. Section 17.75.080 is hereby renumbered as Section 17.81.300, and is amended to read as follows:

17.81.300 Billing and collection.

A. Billing. In the case of developed parcels, the department shall cause billings for storm water sewer utility services to be mailed periodically to the person who has signed for water and sanitary sewer service to the parcel. The amounts to be billed shall be included on the existing department bill as a separate line item. In the case of undeveloped parcels, a storm water-only billing will be sent to the owner of the parcel, as shown on the records of the county recorder.
B. Collection.

1. In the event partial payment is made on a combined bill, the payment shall be applied first to franchise fees due, and then to each service on a pro rata basis.

2. In the event of delinquency, fees and charges levied in accordance herewith shall be a debt due the city. If this debt is not paid within thirty days after billing, it shall be deemed delinquent. The department shall have the right to terminate water, sewer and other city services to the premises to enforce payment. Any uncollected amount due from the person or persons who own the parcel on any inactive, terminated or discontinued account may be transferred to any active account under the same person or persons' name(s) and, upon failure to pay such bill after at least five days' prior written notice, water and other city services to that account and parcel may be discontinued.

3. Water, sewer, garbage and storm sewer service shall not be restored until all charges have been paid in full.

C. Storm Water Sewer Utility Enterprise Fund. All funds received from storm sewer service charges shall be placed in the storm water sewer enterprise fund and kept separate and apart from all other city funds. The collection, accounting and expenditure of all storm water sewer utility funds shall be in accordance with existing fiscal policy of the city.

SECTION 15. Section 17.16.040(B) is hereby renumbered as Section 17.81.400(A), and new Sections 17.81.400 (B), (C) and (D) are adopted, to read as follows:

17.81.400 Storm Water Impact Fee.

A. A fee equal to three hundred seventy four dollars ($374.00) for each one-fourth (1/4) acre or portion thereof shall be imposed on all new development within city boundaries for storm water improvements.

B. Such fee shall be paid prior to city issuance of a building permit.

C. All storm water improvements to be maintained by the city shall be installed in the public right of way, or on other property owned by the city or with respect to which the city has all necessary easements, shall be subject to approved by the director as to materials, design and construction, and shall be under the
director's exclusive control. All excavation and other permits necessary shall be obtained at the expense of the applicant. All facilities not accepted by the city as part of the storm water sewer system shall be maintained by the property owners.

D. All storm water sewer facilities shall be constructed at the expense of the person, persons or corporation seeking the building permit, without special taxes being levied to pay for the same. All storm water sewer facilities shall be extended, at minimum, to the far end of the lot being serviced. All roads shall be subgraded prior to installation of the storm water sewer facilities.

SECTION 16. Section 17.16.040 is hereby amended to read as follows:

17.16.040 Water Connection Fees and Certain Connection Requirements.

A. * * *

B. When a residential building is demolished and the existing service is reused for a replacement structure within five (5) years after demolition, no new connection fees will be charged. If the meter size is increased, a credit shall be given in the amount of the previously paid connection fee. After five (5) years from date of demolition, the property owner will be required to pay a new meter connection fee.

C. When a commercial building, such as a hotel, motel, industrial building, etc., is demolished the water connection fee shall be based and charged on the new additional use pursuant to subsection A of this section. After five (5) years from the date of demolition, the property owner will be required to pay a new water connection fee.

D. All connection fees shall be paid prior to city issuance of a building permit, except connection fees for water main extensions covered in section 17.16.300 of this chapter, which shall be paid pursuant to such section.

E. In all cases, the pipe and type of materials to be furnished and installed in the public right of way, or per written agreement are to be maintained by the city, shall be approved by the public utilities director and shall be under the director's exclusive control. All excavation and other permits necessary shall be obtained at the expense of the applicant. Pipe and material outside the public way and pipe and materials installed as private pipelines or services shall be maintained by the property owners.

F. All water main extensions shall be made at the expense of the person, persons or corporation petitioning for the extension, and shall be
made without special taxes being levied to pay for the same. All water mains shall be extended, at minimum, to the far end of the lot being serviced. All roads shall be subgraded prior to installation of the public utilities facilities.

G. Additional charges will be imposed for the cost, installation, and inspection of meters. Said fees will be fixed and charged as determined by the director of the department of public utilities on a cost basis.

SECTION 17. Section 17.75.090 is hereby renumbered as Section 17.81.400, and is amended to read as follows:

17.81.500 Appeal of charges.

A. Those single-family and duplex parcels larger than .25 gross acres, but having less than three thousand square feet of impervious surface, may request a reduction of the charge to the tier-one level of three dollars per month.

B. Any owner or person who considers the city's storm water charge as applied to a parcel owned by such person to be inaccurate, or who otherwise disagrees with the utility rate determination, may apply to the director for a service charge adjustment. Such a request shall be in writing and state the grounds for such an appeal. The director shall review the case file and determine whether an error was made in the calculation or application of the charge and make an adjustment to the charge, if necessary, to provide for proper application of the city's rates and charges pursuant hereto. In all cases, the decision of the director shall be final unless appealed.

C. Any appeal of the amount billed under this ordinance shall be filed in writing with the director no later than twenty days after the billing. Any subsequent appeal shall be brought within twenty days after the date of the appealed decision.

D. Appeal of decisions made by the director may be brought before the public utilities advisory committee (PUAC), which may reevaluate the issue raised in the appeal. Decisions of the PUAC shall be final and conclusive.

E. Nothing in this ordinance shall be construed to grant a right to judicial review which does not otherwise exist at law.

SECTION 18. There are hereby enacted new Sections 17.84.100 through 17.84.800, to read as follows:

17.84.100 Prohibited Discharges and Connections.
Except as authorized by this ordinance, or by applicable federal or State law, it shall be unlawful to:

(i) make any discharge for which a discharge permit is required, without first obtaining a discharge permit;

(ii) make any discharge under a discharge permit in violation of the terms and conditions of such discharge permit, or otherwise violate the terms and conditions of a discharge permit; or

(iii) construct, use, maintain or allow to remain in place an illicit connection, whether or not the connection was permissible under law or practices applicable or prevailing at the time of connection.

17.84.200 Preventing Accidental Discharge. Any person conducting an activity which can reasonably be anticipated to create the risk of a prohibited discharge shall provide adequate protection against accidental discharge through the use of structural and non-structural BMPs. Such BMPs include, but are not limited to (i) implementing procedures or practices which tend to reduce the likelihood of an accidental discharge, and (ii) installing structures or facilities designed to prevent such accidental discharge. BMPs to prevent an accidental discharge shall be provided and maintained at the person’s own cost and expense. Failure to provide or maintain such BMPs, or any discharge resulting from such failure, shall be considered a violation of this ordinance.

17.84.300 City Discharge Permit.

A. Any person required to obtain an NPDES or UPDES permit in connection with storm water discharges associated with industrial activity, including small construction activity, or to operate under authority of such a permit, as required by the applicable provisions of the Clean Water Act and/or the Water Quality Act shall (i) obtain such permit as required and comply with all provisions of such permit and, in addition (ii) obtain a city discharge permit from the department and comply with the provisions thereof.

B. The term of the city’s discharge permit shall be concurrent with the applicable NPDES or UPDES permit.

C. Persons required to obtain a city discharge permit pursuant to this section must file an application for a first-time city discharge permit within 60 days after the effective date of this ordinance.

D. No person may commence industrial activity, including small construction activity, until a city discharge permit required by subsection (A) above has been issued by the department. The city shall not issue a building permit for any project constituting industrial activity, including small construction activity, until a city discharge permit has been issued.
E. The director may include in a city discharge permit any and all reasonable requirements necessary to prevent a prohibited discharge to the storm water sewer system, including requirements to control erosion and sediment, waste such as discarded building materials, concrete truck wash out, chemicals, litter and sanitary waste, or any other pollutant, that may cause adverse impacts to water quality.

17.84.400 City Discharge Permit Application Process.

A. An application for a city discharge permit shall be submitted in writing to the director, and shall include, at a minimum, the following information: (i) the name and mailing address of the applicant, (ii) the location of discharge, (iii) the nature and general description of the activity giving rise to the discharge or potential discharge, (iv) A copy of the applicant’s application for an NPDES permit, and (v) any other information reasonably requested by the director. The city anticipates that a full and complete application for an NPDES or UPDES permit, including all attachments, may be sufficient to satisfy these requirements.

B. The director may charge an application fee in an amount reasonably determined by the director to be sufficient to recoup the costs of the application process, but not to exceed $125.

C. Within five (5) business days after submission of a completed application to the director, the director shall evaluate the application and either approve or deny the application. If approved, the city discharge permit issued by the director shall be accepted in writing by the applicant.

17.84.500 Inspection Right of Entry.

A. As a condition to the issuance of a city discharge permit, all applicants shall grant the director reasonable access to all relevant parts of the premises for the purposes of inspection, sampling, examination, copying of records that must be kept under the conditions of any discharge permit, monitoring compliance with all discharge permits, and performing any additional duties as defined by State and federal law. Reasonable access means, at a minimum, access during normal business hours, without prior notice, to all portions of a parcel and the improvements thereon which may contribute to a storm water discharge, subject only to bona fide safety or security precautions. Each city discharge permit shall contain provisions granting the city appropriate inspection rights. If the applicant has bona fide safety or security measures in force, the applicant shall make the necessary arrangements to allow prompt access by personnel from the city or its designated enforcement agent.

B. The director shall have the right to set up on any operator’s property or any other representative location such devices as are deemed
necessary to conduct sampling, inspection, compliance monitoring and/or metering of the facility’s discharges.

C. The director may require the operator to install sampling and monitoring equipment at the operator’s expense. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the operator, at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure accuracy.

D. Any temporary or permanent obstruction to safe and easy access to the area or facility to be inspected or sampled shall, unless part of a BMP, be promptly removed by the operator at the written or verbal request of the director. The costs of providing such safe and easy access shall be borne by the operator.

E. The director’s request for reasonable access to a facility for the purposes of conducting any activity authorized or required by this ordinance shall not be unreasonably delayed by an operator.

17.84.600 Requirement for Use of Best Management Practices.

A. The director may adopt policies and procedures requiring BMPs for any activity, operation, or facility which may cause or contribute to a prohibited discharge.

B. Any person responsible for a parcel which is, or may become, the source of a prohibited discharge shall be required to implement, at said person’s expense, additional structural and non-structural BMP’s to prevent a prohibited discharge.

C. Compliance with all terms and conditions of a valid NPDES or UPDES permit shall be deemed compliance with all similar requirements of this Section.

17.84.700 Watercourse Protection.

Every person owning or occupying a parcel through which a watercourse passes shall keep and maintain that portion of the watercourse within such parcel free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, such person shall maintain existing privately-owned structures within or adjacent to the watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

17.84.800 Accidental Discharges.

A. This Section shall apply to any person responsible for a facility, operation or parcel, or responsible for emergency response for a facility, operation
or parcel, whether or not a discharge permit is required to be obtained in connection with such facility, operation or parcel.

B. Notwithstanding other provisions of law, as soon as a person described in (A) above has information of any known or suspected release of materials which are resulting, or may result, in a prohibited discharge, such person shall take the following actions:

1. Such person shall take all necessary steps to ensure the recovery, containment and cleanup of such release.

2. Such person shall immediately notify the director of the incident by telephone. This notification shall be in addition to, and not in lieu of, any other notifications required under applicable law. The notification shall include location of the release, the type, concentration and volume of the material, and any corrective actions taken or planned.

3. Such person shall, within five (5) days following the incident, submit to the director a detailed written report describing the cause of the release and the measures to be taken to prevent similar future occurrences. Such notification shall not relieve the person of any expense, loss, damage or other liability which may be incurred as a result of the release, nor shall such notification relieve the person of any fines, civil penalties or other liability which may be imposed by this ordinance or other applicable law.

4. A notice shall be posted on the person’s bulletin board or other prominent place advising employees of the incident, and of any possible dangers and safety precautions to be taken. Such notice shall also include recommended measures to prevent future releases.

C. Each person subject to this Section shall ensure that all employees are familiar with the requirements of this Section.

17.84.900 Release of Storm Water or Discharge Onto Other Property Prohibited.

It shall be unlawful to knowingly, intentionally or recklessly (i) release or direct the flow of storm water into any conveyance facilities, or onto any property, or (ii) make any discharge into any conveyance facilities or onto any property, without the legal right to do so. Violation of this Section shall constitute a class B misdemeanor.

SECTION 19. There are hereby enacted new Sections 17.87.100 through 17.87.950, to read as follows:

17.87.100 Notification of Violation.
Whenever the director finds a violation of this ordinance, the director may
serve upon the responsible party a written notice of violation. Such written notice
shall be served in person or by certified mail, return receipt requested. Within
five (5) days after the receipt of such notice, an explanation for the violation and a
plan for the satisfactory correction and prevention thereof, which shall include
specific required actions, shall be submitted by the responsible party to the
director. Submission of this plan in no way relieves the responsible party of
liability for any violations occurring before or after receipt of the notice of
violation. Nothing in this Section shall limit the authority of the director to take
any action, including emergency actions or any other enforcement action, without
first issuing a notice of violation.

17.87.150 Consent Orders.

The director is hereby empowered to enter into consent orders, assurances
of voluntary compliance, or other similar documents establishing an agreement
with any responsible party who is responsible for noncompliance. Such orders
will include specific action to be taken by the responsible party. Consent orders
shall have the same force and effect as administrative orders issued pursuant to
Sections 17.87.250 and 17.87.300, and shall be judicially enforceable.

17.87.200 Show Cause Hearing.

The director may order any responsible party suspected of causing or
contributing to violations(s), to appear before the director and show cause why a
proposed enforcement action should not be taken. Written notice shall be served
on the responsible party, and shall specify the time and place for the hearing, the
proposed enforcement action, the reasons for such action, and a request that the
responsible party show cause why this enforcement action should not be taken.
The notice shall be served in person on any authorized representative of the
responsible party, or by certified mail, return receipt requested, at least seven (7)
days prior to the hearing. Whether or not the responsible party appears as
ordered, immediate enforcement action may be pursued following the hearing
date. A show cause hearing shall not be a prerequisite for taking any other actions
against the responsible party.

17.87.250 Compliance Orders.

When the director finds a violation or continuing violation, he may issue
an order to the responsible party directing that the responsible party come into
compliance within thirty (30) days, or such shorter period as the director may
determine. If the responsible party does not come into compliance within the time
specified, the director may take any remedial action authorized by this ordinance.
The issuance of an order pursuant to this Section shall not be a prerequisite to
emergency remedial action deemed necessary by the director. Compliance orders
may also contain other requirements to address noncompliance, including
additional self-monitoring, and BMPs designed to minimize the amount of
pollutants discharged to the storm water sewer system. A compliance order may not extend a federal standard or requirement, nor does a compliance order release the responsible party from State or federal liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the responsible party.

17.87.300 Cease and Desist Orders.

When the director finds a violation, or finds that the responsible party’s past violations are likely to recur, the director may issue an order to the responsible party directing it to cease and desist all such violations and directing the responsible party to:

A. Immediately comply with all requirements; and

B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations, implementing additional BMPs, and/or terminating the discharge. Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the responsible party.

17.87.350 Administrative Fines; Costs of Remediation.

A. Notwithstanding any other Section of this ordinance, any responsible party determined to be in violation of this ordinance may be fined in an amount not greater than ten thousand dollars ($10,000) per violation, per day, as determined by the director in his reasonable discretion; provided, however, that a any fine based on a violation of Section 17.84.900 shall not exceed the fine imposed for a class B misdemeanor.

B. The director may charge a responsible party for the costs of preparing administrative enforcement actions, such as notices and orders, which charge may be assessed whether or not a fine under subsection (A) of this Section is also imposed.

C. The director may also charge a responsible party for the actual costs and expenses incurred by the city to respond to any discharge, regardless of whether such discharge occurs prior to or after the effective date of this ordinance and all remedial action taken. Such charges may include all labor, equipment and materials used by the city.

D. Assessments for fines and/or costs may be added to the responsible party’s next scheduled storm water utility service charge, and the director shall have such other collection remedies as may be available for other service charges and fees.

E. Unpaid charges, fines, assessments and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of ten percent (10%) of the
unpaid balance. Thereafter, interest on any unpaid balances, including penalties, shall accrue at a rate of one percent (1%) per month. A lien against the responsible party’s property may be sought for unpaid charges, fines, and penalties.

F. Responsible parties desiring to dispute such fines or assessments must file a written request for the director to reconsider the fine or assessment, along with full payment thereof, within thirty (30) days after being notified of the fine or assessment. The director shall convene a hearing on the matter within fourteen (14) days after receiving the request from the responsible party. In the event the director determines that all or any portion of the fines, assessments or charges were improper, such amounts paid by the responsible party to the director shall be returned to the responsible party, without interest.

G. The imposition of fines, assessments or other charges shall not be a prerequisite for taking any other action against the responsible party.

17.87.400  Emergency Suspensions.

The director may order the immediate suspension or shutoff of a responsible party’s discharge or storm water sewer system access (after informal notice to the responsible party), whenever such suspension or shutoff is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause a risk of an imminent or substantial:

a. damage to the storm water sewer system or harm to the receiving waters,

b. endangerment to the health, safety or welfare of any residents served by the storm water sewer system,

c. interference with the operation of the storm water sewer system,

d. violation of the City’s UPDES permit, or

e. endangerment to the environment.

Any responsible party notified of a suspension of its discharge shall immediately stop or eliminate its contribution or discharge. In the event of a responsible party’s failure to immediately comply voluntarily with the suspension order, the director may take such steps as deemed necessary, including immediate severance of the storm water sewer system connection, to enforce such order. The director shall allow the responsible party to recommence its discharge when the responsible party has demonstrated to the satisfaction of the director that the period of endangerment has passed, unless the termination proceedings set forth in Section 17.87.450 are initiated against the responsible party. A responsible party that is responsible in whole or in part, for any discharge presenting imminent endangerment, shall submit to the director a detailed written statement
describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, prior to the date of any show cause or termination of discharge hearing under Sections 17.87.200 and 17.87.450. Nothing in the Section shall be interpreted as requiring a hearing prior to any emergency suspension under this Section.

17.87.450 Termination of City Discharge Permit.

Violation by the holder of a city discharge permit of any of the provisions thereof, or of any of the provisions of this ordinance, shall be grounds for termination and revocation of such permit by the director. The permit holder shall be notified of the proposed termination of a discharge permit and be offered an opportunity to show cause under Section 17.87.200 hereof why the proposed action should not be taken.

17.87.500 Injunctive Relief.

Whenever the director finds a violation or continuing violation, the director may petition any court of competent jurisdiction for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the discharge permit, order, rule, regulation or other requirement. In addition, the director may recover reasonable attorney fees, court costs, and other expenses of litigation by appropriate legal action against the responsible party for any violation. Such other action as appropriate for legal and/or equitable relief may also be sought by the director. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a responsible party.

17.87.550 Civil Fine and Cost Pass Through Recovery.

In the event that a responsible party discharges pollutants which causes the city to violate any conditions of its UPDES permit or otherwise violate any applicable law, rule or regulation, and the city is found to be liable for such discharges of pollutants (including civil or administrative fines, penalties or other charges), then the responsible party shall be fully liable to the total amount of such liability (including civil or administrative fines and penalties) incurred by or otherwise assessed against the City, including the administrative costs incurred.

17.87.600 Referral to State of Utah For Action.

The director may refer to the State criminal violations of any discharge permit conditions. The Utah Attorney General’s office may offer the county the option of prosecuting the violator. Should the county decline, the State, in its discretion, may initiate appropriate criminal action. The director may assist the Utah Attorney General’s office or the county with appropriate support for the action taken.

17.87.650 Performance Bonds.
The director may decline to reissue a city discharge permit to any responsible party which has caused a violation, unless such responsible party first files a satisfactory bond, payable to the director, in a sum not to exceed a value determined by the director to be necessary to achieve consistent compliance.

17.87.700 Liability Insurance.

The director may decline to reissue a city discharge permit to any responsible party which has caused a violation, unless the responsible party first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the storm water sewer system, and indemnify and hold the city harmless from any future violation.

17.87.750 Water Supply Severance.

Whenever the director finds that a person has violated or continues to violate the provisions of this ordinance, or of any discharge permit, or order, rule or regulation issued or promulgated hereunder, water service to the person may be discontinued. Service will only recommence, at the person’s expense, after it has satisfactorily demonstrated its ability to comply.

17.87.800 Public Nuisances.

Any violation of this ordinance is hereby declared a public nuisance and shall be corrected or abated as directed by the director. In addition to any other powers granted the director under this ordinance, the director shall be entitled to exercise all of the powers and remedies set forth in the provisions of the Salt Lake City Code governing nuisances, and shall be entitled to reimbursement for any costs incurred in removing, abating or remediing such nuisance.

17.87.850 Contractor Listing.

Responsible parties who have caused or significantly contributed to a violation:

A. Are not eligible to receive a contractual award for the sale of goods or services to the city as long as such violation is continuing and/or any fines hereunder remain unpaid, or remedial action required hereunder remains unperformed; and

B. Existing contracts for the sale of goods or services to the city may be terminated at the discretion of the mayor.

17.87.900 Nonexclusive Remedies.

The provisions of this ordinance are not exclusive remedies. The director reserves the right to take any, all, or any combination of these actions against a noncompliant responsible party. Enforcement of violations will generally be in
accordance with the department’s enforcement plan. However, the director reserves the right to take other action against any responsible party when the circumstances warrant. Further, the director is empowered to take more than one enforcement action against any noncompliant responsible party. These actions may be taken concurrently.

17.87.950 Compensatory Actions.

In lieu of enforcement proceedings, penalties and remedies authorized by this ordinance for a violation of a storm water sewer discharge permit or requirement, the director may impose alternative compensatory actions such as storm drain stenciling, watercourse cleanup, and similar community service; or may impose education at the responsible party’s expense.

SECTION 20. There are hereby enacted new Section 17.91.100 through 17.91.200, to read as follows:

17.91.100 Severability.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance, or the application thereof to any person, establishment or circumstance shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

17.91.200 Ultimate Responsibility.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor prohibited discharge. Review and approval of structures, facilities, and operating procedures shall not relieve a person from the responsibility of modifying a facility or process as necessary to meet the requirements hereof.

SECTION 21. This ordinance shall take effect immediately upon the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this 14 day of August, 2007.

[Signature]

CHAIRPERSON
ATTEST:

Christine Neek
CHIEF DEPUTY CITY RECORDER