

ORDINANCE 21-11

AN ORDINANCE AMENDING A PORTION OF TITLE 1, "THE CODE; ORDINANCES; ETHICS" CHAPTER 1-1, "CODE ESTABLISHED; DEFINITIONS AND RULES OF CONSTRUCTION", TITLE 9, "STORMWATER" CHAPTER 9-1, "ILLICIT DISCHARGE AND EROSION CONTROL", TITLE 10, "STREET AND PUBLIC IMPROVEMENTS" CHAPTER 10-1, "EXCAVATION PERMIT" AND CHAPTER 10-8, "STANDARD SPECIFICATIONS" OF THE REVISED ORDINANCES OF SANDY CITY BY ADOPTING REVISIONS THERETO, AND ALSO PROVIDING A SAVING CLAUSE AND AN EFFECTIVE DATE FOR THE ORDINANCE.

WHEREAS, the City Council of Sandy City has determined that it is necessary to amend Chapters 1-1, 9-1, 10-1 and 10-8 of the Revised Ordinances of Sandy City relating to Storm Water and Flood Plains standards; and

WHEREAS, Section 10-8-84, Utah Code Annotated, authorizes such amendment in order to protect the public health, safety and welfare of the City;

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

Section 1. Chapters 1-1, 9-1, 10-1 and 10-8 of the Revised Ordinances of Sandy City are hereby amended as set forth in **Exhibit "C"** which is attached to and incorporated in this ordinance.

Section 2. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance or of the Code hereby adopted are hereby repealed.

Section 3. The provisions of this ordinance shall be severable; and if any provision thereof, or the application of such provision under any circumstances is held invalid, it shall not affect any other provision of this ordinance, or the application in a different circumstance.

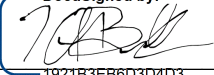
Section 4. This ordinance shall become effective upon the later of publication of a summary thereof or sixty days and the City Recorder is hereby directed to publish such summary as soon as practically possible.

PASSED AND APPROVED by the Sandy City Council this 23 day of March, 2021.


DocuSigned by:
Cyndi Sharkey
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Cyndi Sharkey, Sandy City Council

PRESENTED to the Mayor this 29th day of March, 2021.

APPROVED by the Mayor this 29th day of March, 2021.

DocuSigned by:

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Kurt Bradburn, Mayor

ATTEST:

DocuSigned by:

688E7E8272014B1...
City Recorder



RECORDED this 29 day of March, 2021.

SUMMARY PUBLISHED this 2 day of April, 2021.

Sec. 1-1-1. - How Code Designated and Cited.

The ordinances embraced in this and the following titles shall constitute and be designated as the "Sandy City Code."

(Revised Ords. 1978, § 1-1-1)

State Law reference— Ordinance codification, U.C.A. 1953, § 10-3-706 et seq.

Sec. 1-1-2. - General Definitions and Rules of Construction.

The following definitions and rules of construction shall apply to this Code and to all ordinances and resolutions unless the context requires otherwise:

- (1) *Generally.* When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the City Council may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.
- (2) *Bribe.* The term "bribe" signifies any money, goods, right in action, property, thing of value, or advantage, present or prospective, or any promise or undertaking to give any, asked, given, or accepted, with a corrupt intent to influence unlawfully the person to whom it is given in the person's action, vote, or opinion in any public or official capacity.
- (3) *City.* The term "City" means the Sandy City Corporation.
- (4) *City Council or Council.* The term "City Council" or "Council" means the City Council of the Sandy City Corporation.
- (5) *Code.* The term "Code" means the Sandy City Code, as designated in Section 1-1-1.
- (6) *Computation of time.* In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday or legal holiday. When a person must act within a specified time from service of a notice and service is made only by mail, three days shall be added to the time within which the act must be done.
- (7) *Conjunctions.* In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either...or," the conjunction shall be interpreted as follows, except that, in appropriate cases, the terms "and" and "or" are interchangeable:
 - a. The term "and" indicates that all the connected terms, conditions, provisions or events apply.
 - b. The term "or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.
 - c. The term "either...or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.
- (8) *Corruptly.* The term "corruptly" imports a wrongful design to acquire or cause some pecuniary or other advantage to the person guilty of an act, established either by proof or by presumption of law.
- (9) *County.* The term "County" means Salt Lake County, Utah.
- (10) *Delegation of authority.* A provision that authorizes or requires a City officer or City employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates.

- (11) *Gender*. Words of one gender include all other genders.
- (12) *Highway, roads*. The terms "highway" and "roads" include public bridges, and may be held equivalent to the terms "county way," "county road," "common road," "state road" and "street."
- (13) *Includes and including*. The terms "includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and the use of the terms does not create a presumption that components not expressed are excluded.
- (14) *Joint authority*. A grant of authority to three or more persons as a public body confers the authority to a majority of the number of members, as fixed by statute or ordinance.
- (15) *Knowingly*. The term "knowingly" imports only a knowledge that the facts exist which brings the act or omission within the provisions of these ordinances. It does not require any knowledge of the unlawfulness of such act or omission.
- (16) *May*. The term "may" creates discretionary authority or grants permission or a power.
- (17) *May not*. The term "may not" imposes a prohibition.
- (18) *Month*. The term "month" means a calendar month.
- (19) *Motor vehicle*. Unless specified otherwise, the term "motor vehicle" does not include a "motor assisted scooter" as defined in Title 10, Chapter 9.
- (20) *Must*. The term "must" imposes a duty.
- (21) *Must not*. The term "must not" imposes a prohibition.
- (22) *Neglect, negligent, negligence, and negligently*. The terms "neglect," "negligent," "negligence," and "negligently" import a want of such attention to the nature or probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concern.
- (23) *Number*. The singular includes the plural and the plural includes the singular.
- (24) *Oath*. The term "oath" includes an affirmation.
- (25) *Officers, departments, etc.* References to officers, departments, boards, commissions or employees are to city officers, city departments, city boards, city commissions and city employees.
- (26) *Owner*. The term "owner," as applied to property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or part of such property.
- (27) *Person* includes an individual, firm, partnership, corporation, association, business, trust or other form of business entity or enterprise, including a receiver, trustee and the plural as well as the singular in number, unless the intent gives a more limited meaning that is disclosed by the context.
- (28) *Personal property*. The term "personal property" means any property other than real property.
- (29) *Premises*. The term "premises," as applied to real property, includes lands and structures.
- (30) *Property*. The term "property" means real and personal property.
- (31) *Real property*. The term "real property" includes lands, tenements and hereditaments.
- (32) *Shall*. The term "shall" imposes a duty.
- (33) *Shall not*. The term "shall not" imposes a prohibition.
- (34) *Sidewalk*. The term "sidewalk" means that portion of the street between the curb or lateral line of the roadway, and the adjacent property line, intended for the use of pedestrians.

- (35) *Signature*. The term "signature" includes any name, mark, or sign written with the intent to authenticate any instrument or writing.
- (36) *State*. The term "State" means the State of Utah.
- (37) *State statutes*. The abbreviation "U.C.A. 1953" means the Utah Code Annotated, 1953, as now or hereafter amended, as in effect at any given time. References to state acts are to so such acts as now or hereafter amended.
- (38) *Street*. The term "street" includes alleys, lanes, courts, boulevards, public ways, public squares, public places, and sidewalks.
- (39) *Swear*. The term "swear" includes the term "affirm."
- (40) *Tenant, occupant*. The term "tenant" or "occupant," applied to a building or land, shall include any person who occupies the whole or any part of such building or land, either alone or with others.
- (41) *Tense*. The present tense includes the past and future tenses. The future tense includes the present tense.
- (42) *Vehicle*. Unless specified otherwise, the term "vehicle" does not include a "motor assisted scooter" as defined in Title 10, Chapter 9.
- (43) *Watercourse or waterway*. The terms "watercourse" and "waterway" mean aqueducts, pipes, natural or artificial streams or channels through which water can flow at any time.
- (44) *Week*. The term "week" means a period of seven consecutive days.
- (45) *Willfully*. The term "willfully," when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate the law, to ensure another or to acquire any advantage.
- (46) *Written*. The term "written" includes any form of words, letters, symbols or figures.
- (47) *Year*. The term "year" means 12 consecutive months.

(Revised Ords. 1978, § 1-1-4; Ord. No. [20-02](#), § 2(Exh. B), 7-14-2020)

CHAPTER 9-1. - STORM WATER QUALITY AND ENFORCEMENT

Sec. 9-1-1. - Purpose.

The purpose of this chapter is to protect the health, safety and welfare of Sandy City, its inhabitants, and downstream entities through the improvement of the storm drain portion of the City's stormwater system by managing and controlling stormwater runoff, protecting property, preventing polluted water from entering the City's stormwater system and other receiving waters to the maximum extent practicable as required by Federal and State law. The objectives of this chapter are:

- (1) To minimize entrance of pollutants to the City's storm drain system;
- (2) To prohibit illicit connections and discharges to the City storm drain system;
- (3) To guide, regulate and control the design, construction, use, and maintenance of any development or other activity that results in the movement of earth on land within the City;
- (4) To minimize increases in non-point source pollution caused by stormwater runoff from development, this would otherwise degrade local water quality;
- (5) To reduce the amount of stormwater runoff, soil erosion and non-point source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety;
- (6) To establish a viable and fair method of financing the construction, management, operation and maintenance of the storm drain system;
- (7) To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this chapter;
- (8) To establish a penalty procedure for violations of this chapter; and
- (9) To enable the City to comply with the State and Federal laws and regulations

(Revised Ords. 1978, § 17-1-1)

Sec. 9-1-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Authorized Enforcement Agent* means the City Public Utilities Director ("Director") and/or any individual designated by the Director or the provisions of this chapter, as an Authorized Enforcement Agent designated to enforce this chapter.
- (2) *Best management practices (BMPs)* include schedules of activities, practices, maintenance procedures, design standards, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly into the waters of the United States. BMPs also include treatment requirements, operating procedures, educational activities, and practices to control plant site runoff spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- (3) *City* means Sandy City, Salt Lake County, Utah, with associated jurisdiction.
- (4) *Clean Water Act* means the Federal Water Pollution Control Act enacted by Public Law 92-500, as amended by Public Laws 95-217, 95-576, 96-483, and 97-117, enacted at 33 USC 1251 et seq., and any subsequent amendments thereto.
- (5) *Construction activity* means activities subject to the National Pollutant Discharge Elimination System (NPDES) Construction Permits. Construction activities include construction projects resulting in land disturbance of one acre or more, or will disturb less than one acre but are part

of a larger common plan of development. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

- (6) *Conveyance system* means any channel or pipe for collecting and directing the stormwater.
- (7) *Culvert* means a covered channel or pipe that directs water flow below the ground surface.
- (8) *Degradation* means:
 - a. *Biological or chemical*. The breakdown of chemical compounds into simpler substances, usually less harmful than the original compound, as with the degradation of a persistent pesticide.
 - b. *Geological*. Wearing down by erosion.
 - c. *Water*. The lowering of the water quality of a watercourse by an increase in the amount of pollutants.
- (9) *Detention*. Stormwater detention is temporary storage of a stormwater runoff volume for subsequent release. Examples include detention basins as well as temporary detention in parking lots, depressed grassy areas, etc.
- (10) *Detention basin* means a depression to treat and detain or slow down the flow of stormwater until downstream facilities have sufficient flow capacity to handle the flow. A detention basin consists of an inlet, an outlet, the storage basin itself, and piping between. The intent of the design of the basin and its improvements are that it is to be designed and improved in such a way as to be an asset to the neighborhood and community.
- (11) *Development* means any manmade change to the land, including, but not limited to, site preparation, landscaping, filling, grading, paving, excavation, and construction of buildings or other structures.
- (12) *Discharge* means the release of stormwater or other substance from a conveyance system or storage container.
- (13) *Disturb* means to alter the physical condition, natural terrain, or vegetation of land by clearing, grubbing, excavating, filling, building, or other construction activity.
- (14) *Drainage* means the collection, conveyance, containment, and/or discharge of surface water and stormwater runoff.
- (15) *Equivalent residential unit (ERU)* means a configuration of development, or impervious surfaces on a parcel, contributing runoff to the city's stormwater system or which represents the estimated use of the system that is approximately equal to that contributed by a single-family residential parcel. A single-family residential parcel has been determined to contain an average of 2,816 square feet of impervious surface. One ERU is equal to 2,816 square feet of impervious surface area.
- (16) *Erosion* means the wearing away of land surface by wind, water, ice, gravity, or mechanical processes, including vehicular traffic. Erosion occurs naturally from weather or runoff but can be intensified by land clearing practices related to farming, residential or industrial development, road building, clearing of vegetation, or recreational activities including OHV use, hiking, equestrian, etc.
- (17) *Fill* means a deposit of earth material placed by artificial means.
- (18) *Grading* means the cutting and/or filling of the land surface to a desired slope or elevation.
- (19) *Illicit connection* means any physical connection to a publicly-maintained storm drain system allowing discharge of non-stormwater which has not been permitted by the public entity responsible for the operation and maintenance of the system.

- (20) *Illicit discharge* means any direct or indirect non-stormwater discharge to the storm drain system, except discharges from firefighting activities and other discharges exempted in this chapter.
- (21) *Infiltration* means the downward movement of water from the surface to the subsoil. The infiltration capacity is expressed in terms of inches/hour.
- (22) *Inlet* means an entrance into a ditch, culvert, storm drain, or other waterway.
- (23) *Low Impact Development* means a design methodology that mimics natural hydrology by increasing pervious surfaces and slowing down urban runoff, providing infiltration closer to the source, thus reducing the likelihood of contaminants getting introduced into the runoff.
- (24) *Mulch* means a natural or artificial layer of plant residue or other materials covering the land surface which conserves moisture, holds soil in place, aids in establishing plant cover, and minimizes temperature fluctuations.
- (25) *National Pollutant Discharge Elimination System (NPDES)* means EPA's program to control the discharge of pollutants to waters of the United States.
- (26) *Non-point source* means pollution caused by diffuse sources (not a single location such as a pipe), such as agricultural or urban runoff.
- (27) *NPDES permit* means an authorization, or license, or equivalent control document issued by EPA or an approved state agency to implement the requirements of the NPDES program.
- (28) *On-site* means the entire property that includes the proposed development.
- (29) *Plat* means a map or representation of a subdivision showing the division of a tract or parcel of land into lots, blocks, streets, or other divisions and dedications.
- (30) *Point source* means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, platform, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.
- (31) *Pollutant* means, generally, any substance introduced into the environment that adversely affects the usefulness of a resource. Pollutants may include, but are not limited to, paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coli form and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
- (32) *Post-construction stormwater maintenance agreement* means a recorded document which provides for long-term maintenance of stormwater management practices of private facilities. Agreements for commercial property are to be recorded with the property. Agreements for residential property are to be referenced in and recorded with the restrictive covenants of the Home Owners' Association (HOA).
- (33) *Public Utilities Department* means the Sandy City Public Utilities Department.
- (34) *Receiving waters* means bodies of water or surface water systems that receive water from upstream constructed (or natural) systems.
- (35) *Retention* means the holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.
- (36) *Riparian* means a relatively narrow strip of land that borders a stream or river.
- (37) *Runoff* means that part of precipitation, snowmelt, or irrigation water that runs off the land into streams or other surface water. It can carry pollutants from the air and land into the receiving waters.

- (38) *Sandy City Public Utilities Development Standards and Requirements and Storm Water Design Criteria* means current Sandy City stormwater standards and requirements as adopted by the City.
- (39) *Source control* means a practice or structural measure to prevent pollutants from entering stormwater runoff or other environmental media.
- (40) *Storm drain inlet* means a slotted opening and/or curb opening leading to an underground pipe or open ditch for carrying surface runoff.
- (41) *Storm drain system* means a system of surface and underground conveyance, consisting of curb and gutter, street surface, inlet and clean-out boxes, piping, open channels and detention basins, ditches, channels, storm drains, retention basins, owned and operated by the City or private owners, which is designed and used to convey or collect stormwater.
- (42) *Stormwater* means rainfall runoff, snow melt runoff, and drainage. Stormwater excludes infiltration.
- (43) *Stormwater Pollution Prevention Plan (SWPPP)* means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters. This plan must be prepared prior to obtaining a general state construction stormwater permit.
- (44) *Street* means the entire area of the right-of-way, whether public or private, including curb, gutter, sidewalk, drive approaches, parkstrips, and surface area.
- (45) *Utah Construction General Permit (CGP)* means permit required by the Utah Department of Environmental Quality, Division of Water Quality for construction in Utah.
- (46) *Utah Pollution Discharge Elimination System (UPDES)* means 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 Clean Water Act.
- (47) *Waters of the United States* means surface watercourses and water bodies as defined in 40 CFR 122.2, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry stormwater at and during all times and seasons.
- (48) *Watercourse or Waterway* means aqueducts, pipes, natural or artificial streams or channels through which water can flow at any time.
- (49) *Wetland* means an area that is regularly saturated by surface water or ground water and subsequently characterized by a prevalence of vegetation that is adapted for life in saturated soil conditions. Examples of wetlands include, but are not limited to, swamps, bogs, marshes, and estuaries.

(Revised Ords. 1978, § 17-1-2)

Sec. 9-1-3. - Applicability.

This chapter shall apply to all water entering or having potential to enter the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an Authorized Enforcement Agent.

(Revised Ords. 1978, § 17-1-3)

Sec. 9-1-4. - Responsibility of Administration.

Except as otherwise provided herein, the Public Utilities Department shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the Authorized Enforcement Agent may be delegated by the Director of Public Utilities to persons or entities acting in the beneficial interest of or in the employ of the Department.

(Revised Ords. 1978, § 17-1-4)

Sec. 9-1-5. - Ultimate Responsibility.

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

(Revised Ords. 1978, § 17-1-5)

Sec. 9-1-6. - Development Standards and Requirements.

- (a) Design of stormwater facilities for new development and redevelopment shall be completed in accordance with the following:
 - (1) Stormwater Ordinance.
 - (2) Land Development Code.
 - (3) Sandy City Standard Specifications and Details.
 - (4) Public Utilities Development Standards and Requirements.
 - (5) Storm Water Design Criteria.
 - (6) Jordan Valley Municipalities Permit (Permit UTS000001), where required.
 - (7) Utah Construction General Permit (Permit UTRC00000), where required.
- (b) To the extent there is any conflict, the following shall control in the order set forth:
 - (1) Utah Construction General Permit and Jordan Valley Municipalities Permit.
 - (2) Stormwater Ordinance and Land Development Code.
 - (3) Sandy City Standard Specifications and Details.
 - (4) Storm Water Design Criteria.
 - (5) Public Utilities Development Standards and Requirements.
- (c) The City adopts as its Best Management Practice Manuals the publications identified in the Development Standards and Requirements for Stormwater.
- (d) As part of the Jordan Valley Municipalities Permit, the City must require evaluation and implementation of LID where practicable for developments that warrant compliance with the CGP.
- (e) A Post-Construction Stormwater Maintenance Plan must be prepared and submitted with the plans for approval for all privately-owned or -maintained facilities that warrant compliance with the CGP regulation, according to the Public Utilities Development Standards and Requirements.
- (f) The owner of a development that warrants compliance with the CGP regulation must submit a signed stormwater maintenance agreement using the Sandy City agreement template according to the Public Utilities Development Standards and Requirements. The agreement is to be recorded after completion of the project. For residential development, the agreement may be referenced in and recorded with the restrictive covenants of the HOA.

(Revised Ords. 1978, § 17-1-6)

Sec. 9-1-7. - Illicit Discharges.

No person shall discharge or cause to be discharged into the City storm drain system or watercourses any materials, including, but not limited to, pollutants or waters containing any pollutants, that cause or contribute to a violation of applicable water quality standards other than stormwater.

- (1) The commencement, conduct or continuance of any illicit discharge to the storm drain system is prohibited except as follows:
 - a. Water line flushing or other potable water sources;
 - b. Landscape irrigation or lawn watering;
 - c. Diverted stream flows;
 - d. Rising groundwater;
 - e. Groundwater infiltration to storm drains;
 - f. Uncontaminated pumped groundwater;
 - g. Foundation or footing drains (not connected to floor drains);
 - h. Crawl space sump pumps;
 - i. Air conditioning condensation;
 - j. Springs;
 - k. Individual residential washing of vehicles;
 - l. Natural riparian habitat or wetland flows;
 - m. Swimming pools (if de-chlorinated—typically less than one PPM chlorine);
 - n. Emergency firefighting activities; and
 - o. Discharges specified in writing by the Authorized Enforcement Agent as being necessary to protect public health and safety.
- (2) Dye testing is an allowable discharge, but requires a verbal notification to the Authorized Enforcement Agent prior to the time of the test.
- (3) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.
- (4) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. This prohibition also expressly includes, without limitation, connections of sanitary sewer lines to the City's storm drainage system.
- (5) No vehicle shall be driven or moved on any street, highway or other public place unless such vehicle is so constructed, loaded or covered as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that sand or other substances may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway for the travel of the general public.
- (6) No vehicle loaded with garbage, waste paper, ashes, refuse, trash, rubbish, waste, lawn cuttings, tree limbs, wire, paper, cartons, boxes, glass, solid waste, scrap metal, or any other

material of an unsanitary nature that is susceptible to blowing or bouncing from a moving vehicle shall be driven or moved on any street or other public place unless the load is covered with a sufficient cover to prevent the load or any part of the load from spilling onto the street or other public place.

- (7) No person shall operate any vehicle so as to track or drop mud, stones, dirt, concrete, gravel or other similar material onto public streets. It shall be the duty of the driver of a vehicle who unlawfully drops or deposits mud, stones, concrete, gravel or other similar material or permits the load or any portion thereof to be dropped or deposited upon any street or other public place to immediately remove the same or cause it to be removed. It shall be the duty of the driver of any vehicle to clean the tires and vehicle undercarriage of dirt or debris before the vehicle enters onto a paved surface public right-of-way.
- (8) No person shall discharge waste concrete or concrete truck rinse water except into pre-approved discharge facilities or designated areas. Dumping of excess concrete shall not be allowed.
- (9) No person shall stockpile construction or yard improvement materials or debris in the street or in the gutter unless it is being stored in a self-contained storage unit that has been pre-approved by the Public Utilities Department. This includes, but is not limited to, ramps being constructed for temporary access across the existing curb and gutter; stockpiling of topsoil or other fill material; and stockpiling of sand, gravel, landscape rock, bark, mulch or any other material that may be considered a source of pollution to the stormwater system. An exception to this prohibition must be expressly granted to the applicant in the approved SWPPP. All other persons or entities, where a SWPPP is not required, desiring to create a temporary ramp for construction, landscape, or other purposes, may use a gravel ramp of one inch gravel or larger, in combination with a mechanism approved by the City Engineer for seeing that the gravel does not enter into the City's storm drain system. The ramp shall be removed immediately after the development activity ceases or upon notice from the City to do so, whichever occurs first.

(Revised Ords. 1978, § 17-1-7)

Sec. 9-1-8. - Construction.

(a) *Permits Required.* The following permits shall be required, if applicable:

- (1) *State Construction Stormwater Permit.* Any person or business responsible for disturbing one acre or more of ground, or who will disturb less than one acre but is part of a larger common plan of development, shall obtain a State construction stormwater permit (NOI) from the Utah Division of Water Quality. The appropriate fee must be paid to the state. A Stormwater Pollution Prevention Plan (SWPPP) is required to be prepared and submitted for review and approval by the Public Utilities Department for the cases provided in Chapters 21-15, 21-20, and 21-23 and Title 10 and shall meet the requirements in those sections. The SWPPP shall be managed via an internet-based management system as defined in Chapters 21-15, 21-20, and 21-23 and Title 10. Any appropriate fees must be paid.
- (2) *Stream Alteration Permit.* A Stream Alteration Permit is filed with the State Department of Natural Resources, Division of Water Rights. This permit overlaps the 404 wetlands permit because it is applicable to the area equal to the stream plus two times the bank's full width up to 30 feet. Any modifications to the stream or banks within this area must comply with the Stream Alteration Permit. A copy of the permit must be submitted to the City prior to the pre-construction meeting for the proposed development. Any appropriate fees must be paid.
- (3) *EPA 404 Wetlands Permit.* This permit is filed with the U.S. Army Corps of Engineers. It is applicable for all wetlands within a development. This will apply to all wetlands depending upon the presence of water, soil type, and vegetation as determined in a Wetlands Delineation Report. All waters of the U.S. are affected to the normal high water mark. No fee is typically required for this permit. A letter of non-regulated wetlands may be applicable. Any mitigation

that may be required must be done prior to recording a final plat. A copy of the permit must be submitted to the City prior to the pre-construction meeting for the proposed development. Any appropriate fees must be paid.

- (b) *Exemptions.* A State Construction Stormwater Permit is not required for the following activities:
 - (1) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
 - (2) Existing nursery and agricultural operations conducted as a permitted main or accessory use.
- (c) *Application Review Fees.* The fee for review of the SWPPP shall be established by the Sandy City Council in the City's consolidated fee schedule. The fees shall be paid prior to the issuance of any building permit or construction activity for the development.
- (d) *Waivers for Providing a SWPPP.* Every development shall provide a SWPPP as required by this chapter and State regulation, unless a waiver is obtained following a written request being filed to waive this requirement. Requests to waive the SWPPP requirements shall be submitted to the Public Utilities Department for approval.
 - (1) The minimum requirements for a SWPPP may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:
 - a. It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this chapter.
 - b. Alternative minimum requirements for on-site management of stormwater discharges have been established in a SWPPP that has been approved by the Public Utilities Department and the implementation of the plan is required by local ordinance.
 - c. The Public Utilities Department finds that meeting the minimum on-site pollution prevention plans are not feasible due to the natural or existing physical characteristics of a site.
 - d. Non-structural practices will be used on the site that reduces:
 - 1. The generation of stormwater from the site;
 - 2. The size and cost of stormwater storage; and
 - 3. The pollutants generated at the site.
 - (2) In instances where one of the conditions above applies, the Public Utilities Department may grant a waiver from compliance with these SWPPPs, as long as acceptable mitigation measures are provided. However, to be eligible for a variance, the applicant must demonstrate, to the satisfaction of the Public Utilities Department, that the variance will not result in the following impacts to downstream waterways:
 - a. Deterioration of existing storm drains, culverts, bridges, dams, and other structures;
 - b. Degradation of biological functions or habitat;
 - c. Accelerated stream bank or streambed erosion or siltation;
 - d. Increased threat of flood damage to public health, life, and property.
- (e) *Review and Approval.* The Public Utilities Department will review each SWPPP to determine its conformance with the provisions of this regulation. Within 14 working days after receiving the plans, the Public Utilities Engineering Department shall, in writing:
 - (1) Approve the SWPPP;
 - (2) Approve the SWPPP subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue approval subject to these conditions; or
 - (3) Disapprove the SWPPP, indicating the reasons and procedure for submitting a revised plan and/or submission.

- (f) *Review of Online SWPPP Management System and Inspection.* Regular review of the online SWPPP management system and field inspections will primarily be conducted by the Sandy City Public Utilities Inspectors to confirm that construction work is being performed in accordance with SWPPP, NOI, and CGP requirements. Additional inspections may be conducted by the City Public Works Inspectors, the City Building Inspectors, the City Ordinance Enforcement Officer or other designated agents as appointed by the Public Utilities Department.
- (g) *As-Built Plans.* All applicants are required to submit actual as-built plans for any stormwater management practices facility located on-site after final construction is completed that are not consistent with the original approved plans. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer. A final inspection by the Public Utilities Department is required before the release of any performance securities can occur.
- (h) *SWPPP Compliance.* All stormwater quality practices shall comply with the approved SWPPP, NOI, and CGP requirements to ensure the system functions as required and was designed. If a responsible party fails or refuses to meet the requirements of the SWPPP, the Public Utilities Department, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the Public Utilities Department shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have 30 days to effect maintenance and repair of the facility in an approved manner. After proper notice, the Public Utilities Department may cause the work to be done and assess the owners of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the County Assessor.

(Revised Ords. 1978, § 17-1-8)

Sec. 9-1-9. - Notification of Illicit Discharge.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the storm drain system, or waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Sandy City Public Utilities Department, 10000 Centennial Parkway, Sandy, UT 84070, within three business days of the phone notice.

(Revised Ords. 1978, § 17-1-9)

Sec. 9-1-10. - Enforcement and Penalties.

- (a) *Stop-Work Order.* In the event that any person or any holder of a State-issued Construction Stormwater permit pursuant to this chapter violates the terms of the permit, any provision of this chapter, or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Public Utilities Department may issue a stop-work order, such that no further work

on the development shall be performed or approved, until otherwise authorized by the Public Utilities Department.

- (b) *Violation and Penalties.* In addition to the above, the City may avail itself of any of the following non-exclusive remedies to enforce this chapter:
- (1) *Notice and Order.* Whenever the Public Utilities Department finds that a person or entity has violated a prohibition or failed to meet a requirement of this chapter, the Public Utilities Department may order compliance by written Warning Notice or Notice of Violation to the responsible persons. Such notice may require, without limitation:
 - a. The performance of monitoring, analyses, and reporting;
 - b. The elimination of illicit connections or discharges;
 - c. That violating discharges, practices, or operations shall cease and desist;
 - d. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - e. Payment of a fine to cover administrative and remediation costs;
 - f. The implementation of source control or treatment BMPs; and
 - g. The immediate removal of mud, dirt, or debris left by any vehicle on a street within the City that drains into the City's storm drain system.
 - (2) *Nuisance Abatement.* The violation of Subsection (b)(1)g of this section may also be declared and treated as a nuisance and enforced by one of the City's inspectors or Code Enforcement Officers. Each day of violation shall constitute a separate offense.
 - (3) *Criminal Penalties.* Any person knowingly, recklessly, or intentionally violating the provisions of this chapter shall be deemed guilty of a Class B misdemeanor and each day during which any violation of any of the provisions of this chapter is committed, continued, or permitted, shall constitute a separate offense. City employees in the performance of their assigned duties and responsibilities shall be exempted from any criminal penalty violation.
 - (4) *Responsibility.* For the purpose of this chapter, the following persons or entities shall be considered responsible for leaving mud, dirt, or debris on a street within the City:
 - a. *Driver.* The driver of the vehicle leaving the mud, dirt, or debris; and
 - b. *General Contractor.* The general contractor or owner in charge of the job site from which the mud, dirt, or debris comes.
 - (5) *Other Penalties and Remedies.*
 - a. *State Penalties.* Violators of this chapter may also be subject to prosecution, fines and penalties from the State of Utah and the United States EPA.
 - b. *Other Remedies.* In addition to the remedies listed above for a violation of this chapter, the City shall have the right 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 percent penalty charge. The City may assess said charges against the bond posted by the contractor and/or property owner.
- (c) *Enforcement Authority.* The City Engineer and Public Utilities Director shall have the authority to issue Warning Notices, Notices of Violation, Stop-Work Orders, and to pursue the civil penalties provided in this section. Also, according to the Memorandum of Understanding between Salt Lake County and Sandy City, Salt Lake County Health Department (SLCoHD) has authority to and is

responsible for enforcing state laws, administrative rules, local ordinances, standards and regulations relating to public health, sanitation, safety, and environmental quality.

- (1) With issuance of a grading permit, subdivision plan approval, site plan approval, building permit, or road cut permit, the City Engineer and Public Utilities Department shall be permitted to enter and inspect facilities subject to this chapter at all reasonable times and as often as necessary to determine compliance. Failure to comply with the terms of this chapter may result in punitive actions by Sandy City, SLCoHD, Utah State Division of Water Quality or by other means identified in permits or terms set forth in development applications.
- (d) *Powers, Remedies and Penalties.* The powers, remedies and penalties provided in this section are in addition to any other power, remedy or penalty allowed by law, and are cumulative and concurrent. The exercise of one power, remedy or penalty does not preclude, nor require, the exercise of any other power, remedy or power.

(Revised Ords. 1978, § 17-1-10)

Sec. 9-1-11. - Bond.

Each applicant shall post a bond at the time any permit for development or construction is issued for the purpose of ensuring compliance with the conditions of this chapter. The bonded amount shall be determined by the City department issuing the permit and may be included in the calculation of any payment, improvements, or repair bond already required as a condition of permit approval, or as a separate bond.

(Revised Ords. 1978, § 17-1-11)

Sec. 9-1-12. - Appeals.

Any person or entity that believes that any provision of this chapter was interpreted or applied erroneously may appeal to the Public Utilities Director ("Director"). The appeal shall be in writing, shall state any facts supporting the appeal, and shall be made within ten working days of the decision, action, or bill being appealed. The Director may elect to hold a hearing on the appeal. The Director shall decide the appeal within ten working days of when the appeal is filed. If the person or entity is not satisfied with the Director's decision, a further appeal may be made to the Mayor (or his designee). The appeal to the Mayor shall follow the same procedure as the appeal to the Director. If the person or entity is not satisfied with the Mayor's decision, the person or entity can seek relief from the District Court.

(Revised Ords. 1978, § 17-1-12)

CHAPTER 10-1. - EXCAVATION PERMIT

Sec. 10-1-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Abutting property owner* means the owner of a parcel of property that has a common property line with the property in question. The property is considered abutting regardless of the length of the common property line.
- (2) *Applicant* means any person who makes application for a permit.
- (3) *Business* means any place in the City in which there is conducted or carried on principally or exclusively any pursuit or occupation for profit.
- (4) *City* means Sandy City, a municipal corporation of the State of Utah.
- (5) *Emergency* means any unforeseen circumstances or occurrence, the existence of which constitutes an immediate and substantial danger to persons or property, or which causes interruption of utility or public services.
- (6) *Engineer* means the City Engineer, or his authorized representative.
- (7) *Fee schedule* means the standard fee schedule adopted by the Sandy City Council as a part of its annual budget process.
- (8) *MUTCD* means the most recent edition of the "Manual on Uniform Traffic Control Devices," published by the U.S. Department of Transportation Federal Highway Administration.
- (9) *No-fee permit* means a permit issued which does not require the payment of a fee where the requirements for such a permit are met. When the Engineer determines that work being done in the public way is:
 - a. Being done by the private property owner in the public way adjacent to the owner's property;
 - b. Non-destructive in nature; or
 - c. Being done on a public works-sponsored project.
- (10) *Operator* means any person who provides service over a system, or who otherwise controls or is responsible for the operation of such a system.
- (11) *Permittee* means any person which has been issued a permit to work in the public way.
- (12) *Person* means and includes any natural person, partnership, firm, association, provider, corporation, company, organization, or entity of any kind. "His," "her," "its" and similar possessive pronouns shall refer to a person.
- (13) *Property owner* means persons who have legal title or equitable interest in the property.
- (14) *Provider* means an operator, a reseller of services through a system, a system lessee, or a Public Utility Company.
- (15) *Public Utility Company* means any business organization subject to the jurisdiction of the Utah State Public Service Commission, or any person or entity providing gas, electricity, water, telephone, telecommunications, or other similar utility product or services for use by the general public or businesses.
- (16) *Public way* means and includes all public rights-of-way, public footpaths, walkways and sidewalks, public streets, public roads, public highways, public alleys, and public drainage ways in the City. The term "public way" does not, however, include utility easements not within public ways of the City.

- (17) *Resident* means the person currently making his home or having an office or physical place of business in Sandy City.
- (18) *Road base* means a uniform grade of base material suitable for use in the construction of roadways, sidewalks and other public improvements.
- (19) *Sandy City Standard Specifications* or *Standard Specifications* means the latest published version of the Sandy City Standard Specifications and Details for Municipal Construction.
- (20) *Stop-work order* means a suspension or revocation of a permit, either oral or written, by the Engineer to the person performing the work in the public way.
- (21) *Storm drain* means a dedicated pipe, conduit, waterway, or ditch and related facilities installed in a right-of-way or easement for the transmission of storm and drainage water. The term "storm drain" does not include private drain lines.
- (22) *Subscriber* means a person who has a contract for a service provided by a telecommunications provider.
- (23) *System* means all conduits, manholes, and all other equipment, cable, wire and appurtenances owned, leased, or used by a provider in the construction, ownership, operation, use or maintenance of a telecommunications, cable television, or public utility system.
- (24) *Work*, when used in reference to the public way, means construction, reconstruction, excavation, drilling, trenching, paving, crack sealing, altering the public way, or constructing, installing, reconstructing, repairing, inspecting, removing, any public utility or telecommunications structure, appurtenance or facility, or other part of a system in the public way, or performing any act or service related thereto within the public way. The term "work" shall not include the following when performed in the public way abutting real property of and performed by or at the direction of a property owner with a real or equitable interest in real property: sweeping or blowing leaves, grass, trash, or debris; shoveling, clearing or removing snow or ice; landscaping or landscape maintenance, including, but not limited to, planting, removing, mowing, edging, trimming of grass, bushes, or trees within a parkstrip or other non-traveled parts of the public way; or hand digging excavations for installation or repair of sprinkler systems.
- (25) *Work site restoration* means the restoration of the original ground or paved hard surface, existing facilities or landscaped area to comply with Sandy City Standard Specifications, and includes, but is not limited to, repair, cleanup, backfilling, compaction, stabilization, paving and other work necessary to place the site in acceptable condition following the conclusion of the work, or the expiration or revocation of the permit.

(Revised Ords. 1978, § 13-1-1)

Sec. 10-1-2. - Permit Required, Basis for Issuance.

Any person desiring to perform work in a public way within the City shall make application for a permit. Acceptance of the permit issued by the City and work in the public way constitute an acceptance of the terms of the permit and a promise to comply with the terms of this chapter. The decision by the City to issue a permit shall be based on consideration of the following issues:

- (1) The capacity of the public way to accommodate the facilities or structures proposed to be installed.
- (2) The risk of damage or disruption to public or private facilities, improvements, or landscaping in the public way.
- (3) The public interest in minimizing the cost and disruption of construction from excavations of the public way.

- (4) The public interest in maintaining a reserve capacity in the public way for the installation of public utilities and other facilities which may need to be placed in the public way in the future.
- (5) The extent that the proposed work will interrupt traffic.
- (6) The applicant's record in respect to safety, responsibility, and compliance with this chapter or other municipal ordinances or state statutes respecting work in public rights-of-way during the previous five-year period.
- (7) Other considerations relevant to work in the public way.

(Revised Ords. 1978, § 13-1-2)

Sec. 10-1-3. - Permit Application Requirements.

Application for a permit shall be completed and signed by the applicant and filed with the Engineer on a form furnished by the City. Property owners and/or tenants for whom work is being done shall be responsible for obtaining the permits; provided, however, that a contractor performing the work may obtain the permit in the contractor's name.

- (1) *Allowed Permits.* No person shall be eligible to apply for or receive permits to do work within the public ways of the City, except the following:
 - a. Construction contractors licensed by the State of Utah as general contractors;
 - b. A provider holding a Sandy City franchise to use the public way, or who is either licensed by the State of Utah as a general contractor, or which uses a general contractor licensed by the State of Utah to perform the work;
 - c. A property owner who installs, replaces, or maintains sidewalk or driveway approaches or other similar work approved by the Engineer upon a portion of the public way adjacent to real property in which the property owner has a legal or equitable interest;
 - d. A person offering a construction-related or real property-related service which requires occupation of the public way in a way other than as normal vehicular traffic, such as work requiring the erection of scaffolding, staging of a crane, installation or maintenance of electric signs, glass or awnings, trimming of trees, and painting or cleaning of buildings or sign boards or other structures, or similar work.
- (2) *Plans, Drawings, Specifications.* When necessary, in the judgment of the Engineer, to assess the relationship of the work proposed to existing or proposed facilities within the public way, or to determine whether the work proposed complies with the Specifications, the Engineer may require the filing of engineering plans, specifications and drawings, and may suspend the work in the public way or delay issuance of a permit until such items are received and the work is approved.
- (3) *Approved Application Required.* It shall be unlawful for any person to commence work upon any public way until the Engineer has approved the application and until a permit has been issued for such work, except as specifically approved to the contrary pursuant to this chapter, or the Specifications.
- (4) *Traffic Plan.* Prior to the City issuing a permit, a Traffic Plan must be submitted by the permittee for review and approval by the City Traffic Engineer or his designee. The Traffic Plan shall, at a minimum, conform to the current MUTCD, and must be approved prior to performing work in, or any occupation of, the public way.
- (5) *Appeal.* The disapproval, denial, suspension or revocation of an application or permit, or the imposition of conditions by the Engineer, may be appealed by the applicant to the Public Works Director by filing of a written notice of appeal within ten days of the action of the Engineer setting out the applicant's name, mailing address, daytime telephone number, the decision appealed from, the relief sought, and facts, documents or evidence supporting the appeal, and

a short statement of the reasons and legal authority in support of the appeal. The City shall notify the Applicant of the date and time of the appeal hearing, at which the applicant shall have an opportunity to be heard. The Public Works Director or his designee shall hear such appeal, and shall render his decision promptly, but in any case within ten days of the hearing, or if no hearing is requested, then within ten days of the City's receipt of such written appeal.

- (6) *Protect the Public Health, Safety and Welfare.* In approving or disapproving work within any public way, or permits therefor, in the inspection of such work; in reviewing plans, drawings or Specifications; and generally in the exercise of the authority conferred upon him, the Engineer or his designee shall act in such manner as to preserve and protect the public health, safety and welfare, the public way, and the use thereof.
- (7) *Preconstruction Meeting.* At the discretion of the Engineer, when trench length will equal or exceed 350 linear feet within the public way, the permittee may be required to schedule and attend a meeting with the City Engineer or his designee at the job site prior to construction.
- (8) *Exception for Hand-Digging.* A permit from the Engineer is not required for hand digging excavations for installation or repair of sprinkler systems and landscaping within the non-traveled areas of the public way, as defined in the Sandy City Standard Specifications; however, non-individual business entities must provide prior notification of time and location of work.
- (9) *Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI).* SWPPP and NOI are required according to the requirements identified in Sandy City Standard Specifications.

(Revised Ords. 1978, § 13-1-3)

Sec. 10-1-4. - Emergency Work.

- (a) Any person lawfully maintaining pipes, lines, or facilities in the public way may proceed with work upon existing facilities without a permit when emergency circumstances require the work to be done immediately, provided a permit could not reasonably and practicably have been obtained beforehand.
- (b) In the event that emergency work is commenced on or within any public way during regular business hours, the Engineer shall be notified within one hour from the time the work is commenced. The person commencing and conducting such work shall take all necessary safety precautions for the protection of the public and the direction and control of traffic, and shall be responsible for assuring that work is accomplished according to the City Standard Specifications, the MUTCD, and generally recognized safety practices in the road construction industry.
- (c) Any person commencing emergency work in the public way during any time other than business hours without a permit must immediately notify the City by calling the Valley Emergency Communications Center (VECC) at its telephone number, which is currently (801) 840-4000. The person must thereafter submit an application for a permit during the first hour of the first regular business day on which City offices are open for business after such work is commenced. A permit for such emergency work may be issued and shall be retroactive to the date when the work was begun, at the discretion of the Engineer.

(Revised Ords. 1978, § 13-1-4)

Sec. 10-1-5. - Permit Fees.

- (a) The permittee shall, before issuance of the permit, pay fees for costs associated with the work performed by the City under the permit as outlined in the fee schedule adopted by the City Council. Fees include the cost for reviewing the project and issuing the permit, inspections of the project, deterioration of the public way or diminution of the useful life of the public way, and other costs to the City associated with the work to be done under the permit.

- (b) A no-fee permit may be granted by the Engineer when one or more of the following conditions occurs:
 - (1) When abutting property owners are replacing or repairing any kind of existing public facility, such as drive approaches, sidewalk, or any combination thereof;
 - (2) When the Engineer determines that the work covered by the permit is an obstruction only, and will not have a detrimental effect on the existing street improvements; or
 - (3) When work is being done for a project sponsored by the City Public Works Department.
- (c) Additional charges to cover the reasonable cost and expenses of any required engineering review, inspection, and work site restoration associated with each construction project may be charged by the City to each permittee, in addition to the permit fee, in the City Engineer's reasonable discretion.

(Revised Ords. 1978, § 13-1-5)

Sec. 10-1-6. - Permit, Contents, Duration and Extensions.

- (a) Each permit application shall state the starting date and estimated completion date of the work in the public way, based upon factors reasonably related to the work to be performed under the permit, which may include, in addition to other factors related to the work to be performed, the following factors:
 - (1) The scope of work to be performed under the permit;
 - (2) The need to maintain the safe and effective flow of pedestrian and vehicular traffic on the public way affected by the work in conformity with the MUTCD;
 - (3) Protecting the existing improvements to the public way;
 - (4) The season of the year during which the work is to be performed, as well as the expected weather, its impact on public safety, and the use of the public way by the public;
 - (5) Use of the public way by public travelers, including for extraordinary events anticipated by the City.
- (b) The Engineer shall be notified by the permittee of commencement of the work at least 24 hours prior to commencing work.
- (c) The permit shall be valid for the time period specified in the permit. If the work is not completed during such period, prior to the expiration of the permit, the permittee may apply to the Engineer for an extension.
- (d) If the Engineer determines that the request for extension is reasonable, he may extend the permit for a period of time necessary to complete the project.

(Revised Ords. 1978, § 13-1-6)

Sec. 10-1-7. - Permit, No Transfer or Assignment.

Permits shall not be transferable or assignable except to a parent company or a wholly-owned subsidiary of a permittee, and work shall not be performed under a permit in any place other than that specified in the permit. Nothing herein contained shall prevent a permittee from subcontracting the work to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit, and for all bonding, insurance and other requirements of this chapter and under the permit. The permittee must list all subcontractors as additional insureds on the permittee's certificate of liability insurance, or provide the City with certificates of liability insurance for all of the permittee's subcontractors, in accordance with Section 10-1-14.

(Revised Ords. 1978, § 13-1-7)

Sec. 10-1-8. - Compliance with Specifications, Standards, Traffic Control Regulations; Site Permittee Identification.

- (a) The work performed in the public way shall conform to the requirements of the Standard Specifications and the MUTCD, copies of which shall be available from the Engineer, kept on file in the office of the Engineer and shall be open to public inspection during office hours.
- (b) Where a job site is left unattended, before completion of the work, signs with minimum two-inch-high letters shall be attached to a barricade or otherwise clearly posted at the site, indicating the permittee's name, or company name, telephone number, and after-hours telephone number.
- (c) All excavations shall be conducted in a manner resulting in a minimum amount of interference or interruption of street or pedestrian traffic. Inconvenience to residents and businesses fronting on the public way shall be minimized. Suitable, adequate and sufficient barricades and/or other structures will be available and used where necessary to prevent accidents involving property or persons. Barricades must be in place until all of the permittee's equipment is removed from the site and the excavation has been properly backfilled and a permanent surface or a proper temporary road base surface is in place meeting the Standard Specifications. From sunset to sunrise, all barricades and excavations must be clearly visible by use of adequate signal lights, torches, or other means permitted under the MUTCD. The Police Department and Fire Department shall be notified at least 48 hours in advance of any planned excavation requiring a street closure or traffic detour.
- (d) Construction operations shall be conducted in a manner that a practical minimum amount of interference or interruption of roadway traffic will result, except during emergency conditions or unless authorized by the Engineer. Construction operations such as excavation, backfill and pavement restoration on collector or arterial streets are prohibited during peak traffic hours of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. weekdays and holidays, or other hours set by the Traffic Engineer. Construction operations in the public way scheduled to start before 7:00 a.m. or to finish after 9:00 p.m. require prior approval from the Public Works Director and Salt Lake Valley Health Department. All provisions of the current "Manual on Uniform Traffic Control Devices" (MUTCD) shall be followed.
- (e) Except as otherwise allowed in emergency or road closure situations, the Public Works Department shall be notified by the permittee not less than 48 hours prior to commencing work in the public way. The phone number for such calls is (801) 568-2999. The following information may be provided by phone or in writing: permit number, name, and telephone number of the permittee, date/time work is to commence and cease, and location of work.
- (f) The permittee shall perform work in accordance with the SWPPP and NOI requirements where necessary.
- (g) The permittee shall control mud, dust and debris at the work site according to the Stormwater Ordinance, Development Code and Standard Specifications, and public ways at all times and shall prevent mud, dust and debris from entering roads and neighborhoods near the work site. The permittee or its contractor shall provide containers for and collect and remove debris, and wet down dusty areas with water. The Engineer or Stormwater Inspector may issue a stop-work order if dust and debris is not controlled. A citation may be issued for tracking mud, soil or debris into a public way or for washing any contaminant or debris into any storm drain, ditch, channel, pipe or gutter. To rescind the stop-work order, the Engineer or Stormwater Inspector may require facilities to be installed to prevent further tracking of soil or debris into any public way.
- (h) Any work performed from October 15 until the following April 15 shall be subject to conditions for winter work outlined in the specifications, including the installation of a temporary patch during this period, and removal and replacement with a permanent patch promptly after April 15 as soon as conditions allow permanent patching.

(Revised Ords. 1978, § 13-1-8)

Sec. 10-1-9. - Other Highway Permits.

Holders of permits for work on roads or highways controlled by other government entities, but located within the City limits, shall not be required to obtain permits from the City under the provisions of this chapter, unless the work extends outside of the public way beyond the back side of the curb of such roads, or beyond any other designated jurisdictional boundary. No City permit shall be construed to permit or allow work on another jurisdiction's roadway.

(Revised Ords. 1978, § 13-1-9)

Sec. 10-1-10. - Work by Other Government Entities.

Work performed by another government entity (e.g., sewer districts, water conservancy districts, Salt Lake County, Utah State agencies, such as the Utah Department of Transportation, or other municipalities) shall be required to obtain a permit before performing work in the public way. If the work is being done by a subcontractor, normal bonding and insurance requirements apply, as set out in Sections 10-1-14 and 10-1-15. No permit will be required if working on City-owned facilities or structures (e.g., traffic signals).

(Revised Ords. 1978, § 13-1-10)

Sec. 10-1-11. - Relocation of Structures in Public Ways.

Any relocation of utilities shall be accomplished in accordance with applicable franchise agreements, ordinances, or license agreements with the City, or if no franchise ordinance or license agreement applies to such relocation, then as directed by the City Engineer. If such facilities are not so moved, then the City may, in its discretion, do so by its own forces, or by contract, the cost of which shall be promptly reimbursed by the owner of such facilities.

(Revised Ords. 1978, § 13-1-11)

Sec. 10-1-12. - Disturbance and Repair of Excavation on Existing Improvements.

The following requirements shall be followed in all work affecting existing improvements in the public way:

- (1) If any sidewalk or curb ramp is blocked by excavation work, a temporary sidewalk or curb ramp shall be constructed or provided. Said temporary improvement shall be safe for travel, convenient for users, and constructed according to Standard Specifications. Clearly visible signs shall be placed on-site at appropriate locations consistent with the MUTCD if a public walkway is closed.
- (2) Where excavations are made in paved areas, the surface damaged by the permittee's work shall be replaced with a temporary road base surface as soon as the permanent repairs can be properly completed.
- (3) Any time that a permittee disturbs or damages the yard, residence or the real or personal property of a property owner or of the City, such permittee shall promptly restore the property disturbed or damaged to a condition that is equal to or better than the condition that existed prior to the commencement of the work, at the permittee's expense. If the permittee fails to promptly perform such replacement or repair, then the property owner, or the City in its

discretion, may perform the work itself or by a contractor, for which the permittee shall promptly reimburse the party which paid for the restoration of the property for the costs of such work.

- (4) After having properly notified "Blue Stakes" and having the area marked, nothing herein shall require the permittee to pay a subscriber or property owner when the permittee, in removing, replacing, or relocating any part of its system at the request of the subscriber or private property owner which causes damage to the property owner or subscriber due to incorrect information from the property owner or subscriber. Examples of types of acts specifically included in this subsection are the following:
 - a. Removal of sod, lawn, shrubbery, flowers, trees, driveways, or fence, to install, trench, repair, replace, remove or locate equipment, cable or other appurtenances of the permittee;
 - b. Installation or removal of equipment or other appurtenances of the permittee's system within a private property owner's property or residence which requires drilling, excavating, surface restoration, or the like on the part of the permittee;
 - c. Temporarily relocating or moving a piece of personal property or a fixture of a private property owner (such as a motor vehicle, fence, hard-scape, mail box, tree, or the like) in order to perform some sort of construction, maintenance or repair by the permittee; or
 - d. Permanently removing a permittee's equipment or other appurtenances due to the revocation, termination or non-renewal of the franchise.
- (5) Existing City drainage channels, such as gutters or ditches, shall be kept free of dirt or other debris so that natural flow will not be interrupted. When it is necessary to block or otherwise interrupt flow of the drainage channel, a method of rerouting the flow must be submitted for his approval to the Engineer prior to the blockage of the channel.
- (6) The requirements imposed upon the permittee in this section also extend to any subcontractor or independent contractor that the permittee employs to perform the tasks pursuant to a permit issued or granted by the City to perform work in a public way.
- (7) The requirements of this chapter shall apply to the installation or removal by a permittee of a structure placed by a property owner in a public way.
- (8) All repairs and restoration work by a permittee under this section shall be commenced promptly, and shall be diligently pursued to completion.

(Revised Ords. 1978, § 13-1-12)

Sec. 10-1-13. - Restoration of Public Property.

- (a) The permittee shall, at its own expense, restore any and all improvements in the public way as outlined in the Sandy City Standard Specifications within the time limits set forth in the permit, unless additional time is granted in writing by the Engineer. Once commenced, all work shall be diligently pursued to completion.
- (b) Work shall not proceed until the schedule is approved by the Engineer. The City Engineer may issue a stop-work order to a permittee, or the Engineer may revoke the permittee's permit, or take other action if the permittee fails to follow the schedule. In the event that the construction schedule or resurfacing time limit is exceeded, or if the work site is hazardous to citizens, or impedes traffic, the City may take the necessary steps to make the work site safe and impose penalties as outlined in the fee schedule. In addition, the City may charge the permittee the actual cost to the City to correct the condition.
- (c) Laboratory testing for materials, compliance, densities, and strength are the responsibility of the permittee. Testing must be in accordance with Sandy City Standard Specifications. The Engineer may require additional inspection or material testing as needed. All materials shall be tested for

conformity to the Sandy City Standard Specifications for any trench equal to or longer than 50 linear feet. The City may, in its discretion, choose to require testing to assess compliance with the Standard Specifications, and the City shall charge the permittee the cost of such additional testing performed should the testing reveal noncompliance with City Specifications. The charge shall include the cost of employee's time and equipment to conduct the testing and the cost of hiring contractors or consultants. The Engineer shall not charge the permittee for the testing if the testing confirms that the permittee has complied with the Standard Specifications unless the permittee failed or refused to share test results with the Engineer when requested.

(Revised Ords. 1978, § 13-1-13)

Sec. 10-1-14. - Insurance Requirements.

- (a) Before a permit is issued, the applicant shall furnish to the City evidence that the applicant has a comprehensive general liability and property damage policy that includes contractual and general liability coverage endorsed with the following limits and provisions:
- (1) A minimum of \$1,000,000.00 combined single limit per occurrence for bodily injury, personal injury, and property damage, and not less than \$2,000,000.00 in the aggregate. The coverage shall be in the nature of Broad Form Commercial General Liability coverage. The City may increase or decrease minimum insurance limits, if reasonably required by the City Risk Manager based upon the potential liability of a project.
 - (2) All policies shall include the City, its employees, officers, officials, agents, volunteers and assigns, as additional insureds. Any reference to the City in respect to the indemnification for acts by the applicant in this section shall include the City, its employees, officers, officials, agents, volunteers and assigns.
 - (3) The coverage shall be primary insurance as to any other policy of insurance. Any insurance or self-insurance maintained by the City, its employees, officers, officials, agents, volunteers, and assigns shall be in excess of the applicant's insurance and shall not contribute to it.
 - (4) Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City, its employees, officers, officials, agents, volunteers, and assigns.
 - (5) Coverage shall state that the applicant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - (6) Underwriters shall have no right of recovery or subrogation against the City, it being the intent of the parties that the insurance policy so affected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.
 - (7) The insurance companies issuing the policy shall have no recourse against the City for payment of any premiums due or for any assessments under any form of any policy.
 - (8) Each insurance policy shall be endorsed to state that the coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits, except after 30 days' prior written notice by certified mail, return receipt requested, sent to the City Engineer.
 - (9) Each policy shall be endorsed to indemnify, hold harmless and defend the City and its employees, officers, officials, agents, volunteers, and assigns against any claim or loss, damage or expense sustained on account of damages to persons or property occurring by reason of permit work done by the applicant's subcontractor or agent, whether or not the work has been completed, and whether or not the right-of-way has been opened to public travel.
 - (10) Each policy shall be endorsed to indemnify, hold harmless and defend the City and its employees, officers, officials, agents, volunteers and assigns against any claim or loss, damage or expense sustained by any person occurring by reason of doing any work pursuant to the permit, including, but not limited to, falling objects or failure to maintain proper barricades and/or

lights as required from the time work begins until the work is completed and the right-of-way is opened for public use.

- (b) All insurance shall be placed with insurers with an AM Best rating of not less than B+VIII.
- (c) The applicant shall furnish the City with certificates of insurance and original endorsements affecting coverage required by the permit. The certificates and endorsements for each insurance policy shall be signed by a person authorized by the insurer to bind coverage on its behalf. The City expressly reserves the right to require complete, certified copies of all required insurance policies at any time. Consequently, the applicant shall be prepared to provide such copies prior to the issuance of the permit.
- (d) If any of the required policies are, or at any time become, unsatisfactory to the City because they fail to meet the requirements of this section, or if a company issuing any such policy is, or at any time becomes, insolvent or is otherwise unable to meet its obligations, or if there is an order for relief in respect to the insured in a bankruptcy proceeding, the applicant shall promptly obtain a new policy, submit the same to the City for approval, and thereafter submit verification of coverage as required by the City. Upon failure to furnish, deliver and maintain such insurance as provided herein, the City may declare the permit to be in default and the City may pursue any and all remedies the City may have at law or in equity, including those actions outlined in this chapter.
- (e) The applicant shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
- (f) Any deductibles or self-insured retentions shall be clearly specified on the certificates of insurance and shall be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its employees, officers, officials, agents, volunteers or assigns, or the applicant shall procure a bond, in a form acceptable to the City, guaranteeing payment of self-insured retention losses and related investigations, claim administration, and defense expenses.
- (g) A property owner performing work in the public way adjacent to his residence may submit proof of a homeowner's insurance policy with the coverage limits specified above in lieu of the insurance requirements of this section.
- (h) An applicant may be relieved of the obligation of submitting certificates of insurance under the following circumstances:
 - (1) If such company shall submit satisfactory evidence in advance that:
 - a. It is insured in the amounts set forth herein, or has complied with State requirements to become self-insured. Public utilities may submit annually evidence of insurance coverage in lieu of individual submissions for each permit; and
 - b. Said coverage provides to the City the same scope of coverage that would otherwise be provided by a separate policy as required by this section; or
 - (2) The work to be performed under the permit issued to the applicant is to be performed by the City, in which case insurance or other risk transfer issues shall be negotiated between the City and the applicant by separate agreement.

(Revised Ords. 1978, § 13-1-14)

Sec. 10-1-15. - Bond, When Required, Conditions, Warranty.

- (a) Except as noted in this chapter, each applicant, before being issued a permit, shall provide the City with an acceptable excavation bond in the minimum amount of \$10,000.00 to guarantee faithful performance of the work authorized by a permit granted pursuant to this chapter. The amount of the bond required may be increased or decreased at the discretion of the Engineer whenever it appears

that the amount and cost of the work to be performed, and not satisfactorily completed, may vary from the amount of \$10,000.00. The form of the bond and the company issuing the bond shall be subject to the approval of the City. Homeowners performing concrete work in the right-of-way are exempt from the bond requirement.

- (b) Public utilities franchised by the City shall not be required to file a corporate surety bond if such requirement is expressly waived or is otherwise provided for in the Franchise Ordinance or agreement currently in force.
- (c) The bond required by this section shall meet the following conditions:
 - (1) The applicant shall fully comply with the requirements of the Specifications relative to work in the public way, and shall respond to the City in damages for failure to conform therewith;
 - (2) After work is commenced, the permittee shall proceed with diligence and expedition and shall promptly complete such work and restore the public way in accordance with the Specifications, so as not to obstruct the public place or travel thereon more than is reasonably necessary;
 - (3) The permittee shall guarantee the materials and workmanship for a period of one year from completion of such work, reasonable wear and tear excepted; and
 - (4) Unless otherwise authorized by the Engineer on the permit, all paving, resurfacing or replacement of street facilities on all City streets shall be done in conformity to the Sandy City Standard Specifications.

(Revised Ords. 1978, § 13-1-15)

Sec. 10-1-16. - Indemnity; Limitations on City Liability.

- (a) Each excavation permit application shall contain substantially the following language, to which each applicant shall agree in writing prior to issuance of a permit:

"The Permittee agrees to indemnify defend and hold the City, its officers, employees and agents harmless from any and all costs, expenses, including attorneys' fees, damages and liabilities which may accrue or be claimed to accrue by reason of any negligence or other wrongful act or omission of Permittee, its officers, agent, employees or subcontractors performing work under any permit issued to Permittee pursuant to this Ordinance."
- (b) This chapter shall neither be construed as imposing upon the City, its officers, employees and agents, any liability or responsibility for damages to any person injured by or by reason of the performance of any work within the public way, or under a permit issued pursuant to this chapter; nor shall the City, its officers, officials, employees, agents, volunteers or assigns be deemed to have assumed any such liability or responsibility by reason of inspection authorized hereunder, the issuance of any permit, or the approval of any work.

(Revised Ords. 1978, § 13-1-16)

Sec. 10-1-17. - Work without Permit; Penalty.

- (a) A stop-work order may be issued by the Engineer directed to persons doing or causing any work to be done in the public way without a permit.
- (b) Any person found to be doing work in the public way without having obtained a permit, as provided in this chapter, shall be required to pay a permit fee, as well as penalties outlined in the fee schedule adopted by the City Council.

(Revised Ords. 1978, § 13-1-17)

Sec. 10-1-18. - Failure to Comply; Default in Performance.

- (a) Any permit may be revoked or suspended and a stop-work order issued by the Engineer, after notice to the permittee for:
 - (1) Violation of any condition of the permit, the bond, or of any provision of this chapter;
 - (2) Violation of any provision of any other ordinance of the City or law relating to the work; or
 - (3) Existence of any condition or the doing of any act which constitutes or causes a condition endangering life or property.
- (b) A suspension or revocation by the Engineer, and a stop-work order, shall take effect immediately upon entry thereof by the Engineer and notice to the person performing the work in the public way.
- (c) Whenever the Engineer finds that a default has occurred in the performance of any term or condition of the permit, or that the permittee has materially violated any provision of this chapter, written notice thereof may be given to the principal and to the surety on the bond. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the Engineer to be reasonably necessary for the completion of the work. The permittee shall complete the work within the time set by the Engineer unless the permittee appeals that decision according to the terms of this chapter.
- (d) In the event that the surety (or principal), within a reasonable time following the giving of such notice (taking into consideration the exigencies of the situation, the nature of the work, the requirements of public safety and for the protection of persons and property), fails either to commence or cause the required work to be performed with due diligence, the City may perform the work, at the discretion of the Engineer, with City forces or contract forces, or both. The permittee shall promptly pay the City for the cost of the work upon presentation of a statement for it. The City may pursue such remedies against the defaulting party as allowed by law, including suit against the contractor and bonding company, and such other persons as may be liable to recover the entire amount due to the City, including attorneys' fees, on account thereof. In the event that cash has been paid or deposited to cover any liability under this section, the cost of performing the work may be charged against the amount deposited, and suit may be brought for the balance due, if any.
- (e) Stop-work orders take effect immediately upon issuance by the Engineer.
 - (1) The City Transportation Engineer and City Traffic Control Supervisor have the authority to issue a stop-work order on behalf of the City Engineer for any violations of the MUTCD.
 - (2) The Public Works Inspectors and Public Works Engineering Technician have the authority to issue a stop-work order on behalf of the City Engineer for any violations of the MUTCD or OSHA Safety Regulations.

(Revised Ords. 1978, § 13-1-18)

Sec. 10-1-19. - Failure to Conform to Sandy City Standard Specifications.

Should the permittee fail to conform to the Standard Specifications, the Engineer may take one or more of the following actions:

- (1) Suspend or revoke the permit;
- (2) Issue a stop-work order;
- (3) Order removal and replacement of faulty work;
- (4) Require an extended warranty period; and/or
- (5) Negotiate a cash settlement to be applied toward future maintenance costs.

(Revised Ords. 1978, § 13-1-19)

Sec. 10-1-20. - Appeal of Suspension, Revocation, or Stop-Work Order.

Any suspension, revocation or stop-work order by the Engineer may be appealed by the permittee to the City Public Works Director by filing a written notice of appeal within five days of the action of the Engineer. The Public Works Director shall hear such appeal, if written request therefor is timely filed, as soon as practicable, and shall render his decision and shall give notice thereof to the appellant promptly, but no later than three business days following filing of the notice of appeal.

(Revised Ords. 1978, § 13-1-20)

Sec. 10-1-21. - Tampering with Traffic Control Devices.

It shall be unlawful for any person to maliciously or wantonly or without authorization from the Sandy Public Works Department extinguish, remove or diminish any light-illuminating device, any barricade or excavation, or tear down, remove or in any manner alter any rail, fence, barricade or other traffic control device protecting any excavation or other construction site in the public way.

(Revised Ords. 1978, § 13-1-21)

Sec. 10-1-22. - Conflict with Governing Provisions.

Should there be a conflict between the provisions of this chapter and the provisions of any other ordinance, agreement, franchise, or other document governing the excavation of a public way, the more restrictive provisions of the aforesaid documents shall apply unless the result is clearly unreasonable.

(Revised Ords. 1978, § 13-1-22)

Sec. 10-1-23. - Violation, Penalty.

Unless otherwise specified in this chapter, a violation of any provision of this chapter, or failure to comply with an order of suspension, revocation, stop-work order, or failure to move or remove facilities in a public way as required by Section 10-1-11, shall be a Class B misdemeanor. Each day any permit violation exists shall be a separate offense. No criminal conviction shall excuse the person from otherwise complying with the provisions of this chapter. Penalties will be assessed against the permittee according to the fee schedule for each day the violation exists.

(Revised Ords. 1978, § 13-1-23)