

Title 22 - FLOOD DAMAGE PREVENTION

FOOTNOTE(S):

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State Law reference— County legislative body may provide by ordinance for the protection and use of flood channels and present flood plains on rivers, streams, and canals located within the county and the incorporated municipalities in the county and may establish the boundaries of these flood channels and present floodplains, U.C.A. 1953, § 17-8-5.5. [\(Back\)](#)

CHAPTER 1. - GENERAL PROVISIONS

Sec. 22-1-1. - Statement of purpose.

It is the purpose of this title to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazards;
- (6) To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazards; and
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(Code 1985, § 12-1-1; Ord. No. 2005-18, 12-13-2005)

Sec. 22-1-2. - Methods of reducing flood losses.

In order to accomplish its purposes, this title includes methods and provision for:

- (1) Restricting for prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;

- (4) Controlling filling, grading, dredging and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

(Code 1985, § 12-1-2; Ord. No. 2005-18, 12-13-2005)

Sec. 22-1-3. - Definitions.

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

Appeal means a request for a review of the county planning director's interpretation of any provision of this title or a request for a variance.

Areas of shallow flooding means a designated AO or VO zone on the flood insurance rate map (FIRM); the base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

Area of special flood hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazards.

Existing manufactured home park or manufactured home subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of the ordinance from which this title is derived.

Expansion to an existing manufactured home park or manufactured home subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood insurance rate map (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary-floodway map and the water surface elevation of the base flood.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is

not built so as to render the structure in violation of the applicable non-elevation design requirements of this title.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers or other similar vehicles.

New construction means structures for which the start of construction commenced on or after the effective date of the ordinance from which this title is derived and includes any subsequent improvements to such structures.

New manufactured home park or manufactured home subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of the ordinance from which this title is derived.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Start of construction.

- (1) The term "start of construction" includes:
 - a. Substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date;
 - b. The first placement of permanent construction of a structure (other than a manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation.
- (2) Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure.
- (3) For a structure (other than a manufactured home) without a basement or poured footings, the term "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.
- (4) For manufactured homes not within a manufactured home park or manufactured home subdivision, the term "start of construction" means the affixing of the manufactured home to its permanent site.
- (5) For manufactured homes within manufactured home parks or manufactured home subdivisions, the term "start of construction" is the date on which the construction of facilities for servicing the site on which the manufactured home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

- (6) For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building or manufactured home that is principally above ground.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition should equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement.

- (1) The term "substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:
 - a. Before the improvement or repair is started; or
 - b. If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition the term "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

- (2) The term "substantial improvement" does not, however, include either:
 - a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions; or
 - b. Any alteration of structure listed on the National Register of Historic Places or a state inventory of historic places.

Variance means a grant of relief from the requirements of this title which permits construction in a manner that would otherwise be prohibited by this title.

(Code 1985, § 12-1-3; Ord. No. 6-87, 5-16-1987; Ord. No. 2005-18, 12-13-2005)

Sec. 22-1-4. - General provisions.

- (a) This section shall apply to all areas of special flood hazards within the jurisdiction of the county.
- (b) The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for Weber County," dated September 6, 1995, with an accompanying flood insurance rate map is hereby adopted by reference and declared to be a part of this title. The Flood Insurance study is on file at the office of the Weber County Planning Commission, 2510 Washington Blvd., Radisson Plaza, Ogden, Utah 84401.
- (c) No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this title and other applicable regulations.
- (d) This title is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this title and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restriction shall prevail.
- (e) In the interpretation and application of this title, all provisions shall be:
 - (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the board of county commissioners; and
 - (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

- (f) The degree of flood protection required by this title is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This title does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This title shall not create liability on the part of the county, any officer or employee thereof, or Federal Emergency Management Agency for any flood damages that result from reliance on this title or any administrative decision lawfully made thereunder.

(Code 1985, § 12-1-4; Ord. of 7-19-1995; Ord. No. 2005-18, 12-13-2005)

Sec. 22-1-5. - Administration.

- (a) A development permit shall be obtained before construction or development begins within any area of special flood hazard established in section 22-1-4(b). Application for a development permit shall be made on forms furnished by the county planning director and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following is required:
- (1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
 - (2) Elevation in relation to mean sea level to which any structure has been floodproofed;
 - (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in section 22-1-6(b); and
 - (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (b) The county planning director is hereby appointed to administer and implement this title by granting or denying development permit applications in accordance with its provisions.
- (c) Duties of the county planning director shall include, but not be limited to:
- (1) *Permit review.*
 - a. Review all applications for development permits to determine that the permit requirements of this title have been satisfied.
 - b. Review all applications for development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 - c. Review all development permits to determine if the proposed development is located in the floodway, and ensure that the encroachment provisions of section 22-1-6(b)(4)a are met.
 - (2) *Use of other base flood data.* When base flood elevation data has not been provided in accordance with section 22-1-4(b), the county planning director shall obtain, review, and reasonable utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer section 22-1-6(b)(1) and (2).
 - (3) *Information to be obtained and maintained.*
 - a. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
 - b. For all new or substantially improved floodproofed structures:
 1. Verify and record the actual elevation (in relation to mean sea level, and
 2. Maintain the floodproofing certifications required in section 22-1-5(a)(3).
 - c. Maintain for public inspection all records pertaining to the provisions of this title.
 - (4) *Alteration of watercourses.*

- a. Notify adjacent communities and the state office of emergency management prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) *Interpretation of FIRM boundaries.* Make interpretations where needed, as to the exact location of the boundaries of the area of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in subsection (d) of this section.
- (d) Appeal and variance procedure.
- (1) *Appeal board.*
- a. The county planning commission, as established by the county, shall hear and decide appeals and requests for variances from the requirements of this title.
 - b. The county planning commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the county planning director in the enforcement or administration of this title.
 - c. Any applicant or other interested person, firm, or corporation shall have the right to appeal to the board of county commissioners from, or object to, the decision of the county planning commission within 30 days after a permit is granted or refused. The applicant or any other interested person shall have the right to a full hearing before the board of the county commissioners on the question of whether or not a permit should be granted or refused. Upon conclusion of such hearing, the board of county commissioners shall render a decision either upholding or revoking the decision of the county planning commission or upholding the same subject to specified conditions.
 - d. Any applicant or other interested person, firm or corporation shall have the right to appeal to the district court of the county, from the decision rendered by the board of county commissioners within 30 days after their decision is rendered.
 - e. In passing upon such applications, the county planning commission and board of county commissioners shall consider all technical evaluations, all relevant factors, standards specified in other sections of this title, and:
 - 1. The danger that materials may be swept onto other lands to the injury of others;
 - 2. The danger to life and property due to flooding or erosion damage;
 - 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - 4. The importance of the services provided by the proposed facility to the community;
 - 5. The necessity to the facility of a waterfront location, where applicable;
 - 6. The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;
 - 7. The compatibility of the proposed use with existing and anticipated development;
 - 8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - 9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - 10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
 - f. Generally, variances may be used for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in subsection (d)(1)e of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
 - g. Upon consideration of the factors of subsection (d)(1)e of this section and the purposes of this title, the county planning commission may attached such conditions to the granting of variances as it deems necessary to further the purposes of this title.
 - h. The county planning director shall maintain the records of all appeal actions, and report any variances to the Federal Emergency Management Agency upon request.
- (2) *Conditions for variances.*
- a. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this subsection.
 - b. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - d. Variances shall only be issued upon:
 1. A showing of good and sufficient cause;
 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection (d)(1)e of this section, or conflict with existing local laws or titles.
 - e. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting with the reduced lowest floor elevation.

(Code 1985, § 12-1-5; Ord. No. 2005-18, 12-13-2005)

Sec. 22-1-6. - Provision for flood hazard reduction.

- (a) *General standards.* In all areas of special flood hazards, the following standards are required:

(1) *Anchoring.*

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- b. All manufactured homes shall be anchored to resist flotation collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

1. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;
 2. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;
 3. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 4. Any additions to the manufactured home be similarly anchored.
- c. All manufactured homes to be placed or substantially improved within zones A1—30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is a minimum of one foot above the base flood elevation and be securely anchored to an adequately anchored foundation.
- (2) *Construction materials and methods.*
- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - c. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other serviced facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (3) *Utilities.*
- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
 - b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and
 - c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (4) *Subdivision proposals.*
- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
 - b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
 - d. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain two or more lots or five acres, whichever is greater.
- (b) *Specific standards.* In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 22-1-4(b) or section 22-1-5(c)(2), the following provisions are required:
- (1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

- (2) *Non-residential construction.* New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to at least one foot above the level of the base flood elevation; or:
- a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic hydrodynamic loads and effects of buoyancy; and
 - c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in section 22-1-5(c)(3)b.
- (3) *Openings in enclosures below the lowest floor.* For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - b. The bottom of all openings shall be no higher than one foot above grade;
 - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) *Manufactured homes.*
- a. Manufactured homes shall be anchored in accordance with subsection (a)(1)b of this section.
 - b. All manufactured homes to be placed or substantially improved within zones A1—30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is a minimum of one foot above the base flood elevation and be securely anchored to an adequately anchored foundation.
- (5) *Recreational vehicles.*
- a. Require that recreational vehicles either:
 1. Be on the site for fewer than 180 consecutive days;
 2. Be fully licensed and ready for highway use; or
 3. Meet the permit requirements and elevation and anchoring requirements for resisting wind forces.
- (6) *Floodways.* Located within areas of special flood hazard established in section 22-1-5 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
- a. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
 - b. If subsection (b)(3) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions in this section.

- c. Upon the approval and recording of any subdivision, the subdivider of any property containing a floodway as defined in this title shall convey to the county either an easement or dedication of right-of-way of the area so designated as the floodway. Such easement shall grant to the county the right of entry by its agents, employees and contractors to survey, plan, construct and maintain such improvements as may be necessary to ensure adequate flood control. Said easement or dedication, where appropriate, may include right of entry by the general public for the purposes of recreation.

(Code 1985, § 12-1-6; Ord. No. 6-87, 5-16-1987; Ord. No. 2005-18, 12-13-2005)

Sec. 22-1-7. - Penalty for violation of title.

Any person, firm, corporation, whether as principal, agent, employee or otherwise, violating or causing or permitting the violation of any of the provisions of this title shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than \$1,000.00 or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment. Such person, firm, or corporation shall be deemed to be guilty of a separate offense for each day during which any portion of any violation of this title is committed, continued or permitted by such person, firm, or corporation, and shall be punishable as herein provided.

(Code 1985, § 12-1-7; Ord. No. 2005-18, 12-13-2005)

CHAPTER 2. - ADMINISTRATION

Sec. 22-2-1. - Development permits.

A development permit shall be obtained before construction or development begins within any areas of special flood hazard established in section 22-1-5. Application for a development permit shall be made on forms furnished by the county planning director and may include, but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage or materials, drainage facilities and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in section 22-3-2
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(Code 1985, § 12-2-1)

Sec. 22-2-2. - Implementation.

The county planning director is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(Code 1985, § 12-2-2)

Sec. 22-2-3. - Duties of planning director.

Duties of the county planning director shall include, but not be limited to:

- (1) *Permit review.*

- a. Review all applications for development permits to determine that the permit requirements of this title have been satisfied.
 - b. Review all applications for development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
 - c. Review all development permits to determine if the proposed development is located in the floodway, and ensure that the encroachment provisions of section 22-3-2(4)a are met.
- (2) *Use of other base flood data.* When base flood elevation data has not been provided in accordance with section 22-1-5, the county planning director shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state, or other source, in order to administer section 22-3-2(1) and (2).
- (3) *Information to be obtained and maintained.*
- a. Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures.
 - b. For all new or substantially improved floodproofed structures.
 - 1. Verify and record the actual elevation (in relation to mean sea level); and
 - 2. Maintain the floodproofing certifications required in section 22-2-1(3).
- (4) *Alteration of watercourses.*
- a. Notify adjacent communities and the state office of emergency management prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
 - b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) *Interpretation of FIRM boundaries.* Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 22-2-3

(Code 1985, § 12-2-3)

Sec. 22-2-4. - Appeal and variance procedure.

(a) *Appeal board.*

- (1) The county planning commission as established by the county shall hear and decide appeals and requests for variances from the requirements of this title.
- (2) The county planning commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the county planning director in the enforcement or administration of this title.
- (3) Any applicant or other interested person, firm or corporation shall have the right to appeal to the board of county commissioners, from, or object to, the decision of the county planning commission within 30 days after a permit is granted or refused. The applicant or any other interested person shall have the right to a full hearing before the board of county commissioners on the question of whether or not a permit should be granted or refused. Upon conclusion of such hearing, the board of county commissioners shall render a decision either upholding or revoking the decision of the county planning commission or upholding the same subject to specified condition.

- (4) Any applicant or other interested person, firm or corporation shall have the right to appeal to the district court of the county from the decision rendered by the board of county commissioners within 30 days from the date their decision is rendered.
 - (5) In passing upon such applications, the county planning commission and board of county commissioners shall consider all technical evaluations, all relevant factors, standards specified in other sections of this title, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as a sewer, gas, electrical, and water systems, and streets and bridges.
 - (6) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in subsection (a)(5) of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
 - (7) Upon consideration of the factors of subsection (a)(5) of this section and the purposes of this title, the county planning commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this title.
 - (8) The county planning director shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.
- (b) *Conditions for variances.*
- (1) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this section.
 - (2) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (4) Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;

- b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection (a)(5) of this section, or conflict with existing local laws or ordinances.
- (5) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Code 1985, § 12-2-4)

CHAPTER 3. - FLOOD HAZARD REDUCTION

Sec. 22-3-1. - General standards.

In all areas of special flood hazards the following standards are required:

(1) *Anchoring.*

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse of lateral movement of structure.
- b. All manufactured homes shall be anchored to resist flotation collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
 - 1. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;
 - 2. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;
 - 3. Any additions to the manufactured home be similarly anchored;
 - 4. All manufactured homes to be placed or substantially improved within zones A1—3, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is a minimum of one foot above the base flood elevation and be securely anchored to an adequately anchored foundation.

(2) *Construction materials and methods.*

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) *Utilities.*

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and
- c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) *Subdivision proposals.*

- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- d. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain two or more lots.

(Code 1985, § 12-3-1; Ord. No. 6-87, 4-13-1987)

Sec. 22-3-2. - Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 22-1-5 or section 22-2-2(2), the following provisions are required:

- (1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the flood elevation.
- (2) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or:
 - a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyance; and
 - c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in section 22-2-2(3)b.
- (3) *Manufactured homes.*
 - a. Manufactured homes shall be anchored in accordance with section 22-3-1(1)b.
 - b. For new manufactured home parks and manufactured home subdivisions or expansions to existing manufactured home parks and manufactured home subdivisions; for existing manufactured home parks and manufactured home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for manufactured homes not placed in a manufactured home park or manufactured home subdivision, require that:
 - 1. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be at or above the base flood level;
 - 2. Adequate surface drainage and access for a hauler are provided; and
 - 3. In the instance of elevation on pilings, that: lots are large enough to permit steps, piling foundations are placed in stable soil no more than ten feet apart, and reinforcement is provided for pilings more than six feet above the ground level.

- c. No manufactured home shall be placed in floodway, except in an existing manufactured home park or existing manufactured home subdivision.
- (4) *Floodways*. Located within areas of special flood hazard established in section 22-1-5 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
- a. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
 - b. If section 22-1-6 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions in this chapter.
 - c. Prohibit the placement of any manufactured homes, except in an existing manufactured home park or existing manufactured home subdivision.
 - d. Upon the approval and recording of any subdivision, the subdivider of any property containing a floodway as defined in this title shall convey to the county with an easement or dedication of right-of-way of the area so designated as the floodway. Such easement shall grant to the county the of entry by its agents, employees and contractors to survey, plan, construct and maintain such improvements as may be necessary to ensure adequate flood control. Said easement or dedication, where appropriate, may include right of entry by the general public for the purposes of recreation.

(Code 1985, § 12-3-2)

Title 40 - STORM DRAINAGE⁽¹⁾

Footnotes:

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State Law reference— County legislative body may promulgate and enforce regulations to prevent the destruction or obstruction of storm sewers and drains, U.C.A. 1953, § 17-8-5.

CHAPTER 1. - STORM SEWER SERVICE

Sec. 40-1-1. - Findings.

The county commission makes the following findings regarding stormwater runoff and the county's storm sewer system:

- (1) The county's existing storm sewer system consists of a network of manmade and natural facilities, structures and conduits that collect and route stormwater runoff.
- (2) The county's existing storm sewer system may not adequately handle the stormwater runoff generated in the unincorporated county.
- (3) The county's anticipated growth will place increased demands on the already stressed storm sewer system.
- (4) Uncontrolled stormwater runoff causes erosion and property damage.
- (5) Uncontrolled stormwater runoff hinders the county's ability to provide emergency services to its residents.
- (6) Uncontrolled stormwater runoff impedes the regular flow of traffic in the county.
- (7) Uncontrolled stormwater runoff poses health hazards to the citizens of the community.
- (8) Stormwater runoff carries concentrations of oil, grease, nutrients, chemicals, heavy metals, toxic materials and other undesirable materials that may jeopardize the integrity of receiving waters.
- (9) All developed properties in the unincorporated county contribute to the need for the storm sewer system by converting natural ground cover into impervious surfaces.
- (10) All developed properties in the unincorporated county make use of or benefit from the county's operation and maintenance of the storm sewer system.
- (11) The EPA and the DEQ are developing additional stormwater permitting requirements that will apply to counties of Weber County's size.
- (12) Absent effective maintenance, operation, regulation and control, existing stormwater drainage conditions in the unincorporated county constitute a potential hazard to the health, safety and general welfare of the county, its residents, and its businesses.
- (13) A storm sewer service fee and maintenance program is the most equitable and efficient method of managing stormwater in the unincorporated county and ensuring that each property in the county pays its fair share of the amount that the property contributes to, benefits from, and otherwise uses the storm sewer system.

(Code 1985, § 33-1-1; Ord. No. 2005-17, 12-13-2005)

Sec. 40-1-2. - Purpose.

The purpose of this title is to protect the health, safety and welfare of the county and its inhabitants, pursuant to the county's general welfare powers under U.C.A. 1953, § 17-53-223, by improving the county's storm sewer system, managing and controlling stormwater runoff, protecting property, preventing polluted waters from entering the county's water supply and other receiving waters, and establishing a viable and fair method of financing the construction, operation and maintenance of the storm sewer system.

(Code 1985, § 33-1-2; Ord. No. 2005-17, 12-13-2005)

Sec. 40-1-3. - Definitions.

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

Best management practices (BMPs) means a wide range of management procedures, schedules of activities, prohibitions of practices, maintenance procedures, and other management practices which have been demonstrated to effectively control the quality and/or quantity of stormwater runoff and which are compatible with the planned land use. The term "BMPs" also includes treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw material storage. A list of sample BMPs and their effectiveness ratings can be found in the county stormwater management plan dated March 2003 (available at the county stormwater management department.)

Catchbasin means a drain inlet designed to keep out large or obstructive matter.

Debris means any dirt, rock, sand, vegetation, rubbish or litter.

Detention basin means a depression designed to detain stormwater runoff until downstream storm sewer resources are less heavily taxed. A detention basin contains an inlet and an outlet, allows debris to settle out, and regulates water flow.

Developed parcel means any parcel that has been altered from its natural condition by grading, filling, or the construction of improvements or other impervious surfaces.

Development means any manmade change to improved or unimproved real estate, including but not limited to site preparation, filling, grading, paving, excavation, and construction of buildings or other structures.

Director means the director of stormwater management of the county or his duly appointed deputy, agent, or representative.

Disturb means to alter the physical condition, natural terrain or vegetation of land by clearing, grubbing, grading, excavating, filling, building or other construction activity.

Drain inlet means a point of entry into a sump, detention basin, or storm drain system.

Equivalent service unit (ESU) means the average amount of impervious surface, expressed in square feet, on developed single-family residential parcels in the county.

Hazardous material means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial presence or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. The term "hazardous material" includes, but is not limited to, any hazardous substance designated under 40 CFR part 116 pursuant to Section 311 of the Clean Water Act.

Illicit discharge.

(1) The term "illicit discharge" means any of the following:

- a. Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system. Examples include, but are not limited to, any conveyances which allow non-stormwater discharge such as sewage, process wastewater, or washwater to enter the storm drain system, and any discharges to the storm drain system from indoor drains or sinks, regardless of whether said drain or discharge had been previously allowed, permitted, or approved by a government agency; or
 - b. Any drain or conveyance connected to or discharging to the storm drain system, which has not been:
 - 1. Documented in plans, maps, or equivalent records submitted to the county; and
 - 2. Approved in writing by the county;
 - c. Any non-stormwater discharge to the storm sewer system.
- (2) The term "illicit discharge" includes both direct discharges (e.g., wastewater piping either mistakenly or deliberately connected to the storm sewer system) and indirect discharges (e.g., infiltration into the storm sewer system or spills collected by drain inlets).

Impervious surface means any hard surface, other than the natural surface, that prevents or retards the absorption of water into the soil, or that causes water to run off the surface in greater quantities or at a greater rates of flow than the natural surface.

Land development means any development of a parcel, lot, subdivision plat or site plan. If there is more than one lot in the subdivision plat or site plan, all lots in the subdivision plat or site plan shall jointly be considered to be part of the land development.

Nonstormwater runoff means any runoff other than stormwater.

Person means any individual, corporation, partnership, association, company or body politic, including any agency of the State of Utah and the United States government.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal and agricultural waste, 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 that may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete resins); and noxious or offensive matter of any kind.

Redevelopment means alterations of a property that change the footprint of a site or building in such a way that disturbs one-tenth acre of land or more.

Retention basin means a depression designed to retain stormwater runoff until downstream storm sewer resources are less heavily taxed. A retention basin contains an inlet and may contain an outlet, allows debris to settle out, regulates water flow, and generally contains running or standing water over extended periods of time.

Storm drain means a closed conduit for conducting collected stormwater.

Storm sewer system means the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catchbasins, detention basins, curbs, gutters, ditches, manmade channels, sumps, storm drains, and groundwater) owned and operated by the county, which is designed and used for collecting or conveying stormwater. The storm sewer system is also referred to as a "municipal separate storm sewer system" or "MS4."

Stormwater means any flow that occurs during or following any form of natural precipitation. The term "stormwater" includes only the portion of such flow that is composed of precipitation.

Stormwater runoff means water that is generated by stormwater flows over land.

Sump means a formalized underground structure, surrounded by drain rock, that acts as a detention basin to allow the slow release of water into the surrounding subsoil. Sumps usually receive stormwater runoff from paved areas such as streets, parking lots, building roofs, etc.

(Code 1985, § 33-1-3; Ord. No. 2005-17, 12-13-2005)

Sec. 40-1-4. - Storm sewer service.

- (a) Creation. The county commission hereby creates and establishes a storm sewer service dept. as part of the county's overall sewer system. The storm sewer service department shall plan, design, construct, maintain, administer and operate the county's storm sewer system.
- (b) Enterprise fund. The county commission hereby establishes a storm sewer service fee enterprise fund to handle all income, expenses and other financial transactions related to the operation of the storm sewer service. All storm sewer service charges shall be deposited in the enterprise fund. Money in the storm sewer service enterprise fund shall not be commingled with or transferred to other county funds. However, the storm sewer service program may pay other county funds for services and expenses directly attributable to the storm sewer service program. The enterprise fund shall be operated according to state law and county policy.
- (c) Administration. The storm sewer utility shall be administered by the county's director of stormwater management.

(Code 1985, § 33-1-4; Ord. No. 2005-17, 12-13-2005)

Sec. 40-1-5. - Storm sewer service fee.

- (a) Imposed. Each developed parcel of real property in the unincorporated county shall be charged a storm sewer service fee.
- (b) ESU. The fee shall be based on the number of equivalent service units (ESUs) contained in the parcel. The county commission finds that the ESU is the most accurate measurement for determining the amount that each parcel contributes to, benefits from, and otherwise uses the storm sewer service. Based on a study to be completed by an independent engineer, the county commission will establish the area of an ESU.
- (c) Calculation. The county commission finds that each single-family residential parcel contributes approximately the same amount of stormwater runoff; therefore, each developed single-family residential parcel shall pay a base rate of one ESU. All non-single-family residential parcels shall pay a multiple of this base rate, expressed in ESUs, according to the measured impervious area on the parcel. The county commission may adopt separate rates for planned residential unit developments (PRUD), condominiums and other uses that are not easily handled under the standard rate schedule.
- (d) Charge per ESU. The amount charged for each ESU shall be established by resolution of the county commission.
- (e) Exemptions and credits. The county commission may establish exemptions and credits to the storm sewer service fee by resolution.
- (f) Policies. The director of stormwater management may adopt policies, consistent with this ordinance and any resolutions passed by the county commission, to assist in the application, administration and interpretation of this title and any resolutions related to the storm sewer utility.
- (g) Appeals. Any person or entity that believes that this title, or any storm sewer utility rate resolution, was interpreted or applied erroneously may appeal to the director of stormwater management ("director"). The appeal shall be in writing, shall state any facts supporting the appeal, and shall be made within ten 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 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 county commission. The appeal to the county commission shall follow the same procedure as the appeal to the director. The county commission's decision shall be final and binding on all parties.

(Code 1985, § 33-1-5; Ord. No. 2005-17, 12-13-2005)

Sec. 40-1-6. - Billing.

The county commission finds that the unincorporated county's storm sewer system, is part of a unified county plan to provide for the health, safety and welfare of the county and its residents in an environmentally responsible manner. Therefore, the storm sewer service fee shall be included on the unincorporated county's regular bill for any given property. If there is no regular bill for the property, the storm sewer service fee shall be charged to the owner of the property. The fee shall be deemed a civil debt owed to the county by the person or entity paying for the county utility services provided to the property. All properties shall be charged the fee, regardless of whether or not the owner or occupant of the property requests the storm sewer utility service. Failure to pay any portion of the utility bill may result in a civil suit.

(Code 1985, § 33-1-6; Ord. No. 2005-17, 12-13-2005)

CHAPTER 2. - STORM SEWER SYSTEM

Sec. 40-2-1. - Prohibited obstructions.

- (a) It is unlawful for any person to:
 - (1) Obstruct the flow of water in the storm sewer system.
 - (2) Contribute to the obstruction of the flow of water in the storm sewer system.
 - (3) Cover or obstruct any drain inlet.
- (b) The following obstructions are exempt from the prohibitions of this section:
 - (1) Street and/or storm sewer improvement projects authorized by the county.
 - (2) Flood control and prevention activities performed by the county.
 - (3) Obstructions approved by the county as part of a site's stormwater drainage plan.
 - (4) Obstructions occurring during clean-up periods established by the county, provided that the materials are placed according to county directions and do not obstruct drain inlets.

(Code 1985, § 33-2-1; Ord. No. 2005-17, 12-13-2005)

Sec. 40-2-2. - Prohibited discharges.

- (a) It is unlawful for any person to cause or allow an illicit discharge to the storm sewer system.
- (b) The following discharges to the storm sewer system are exempt from the prohibitions of this section:
 - (1) Discharges regulated under a valid national pollutant discharge elimination system (NPDES) storm discharge permit, provided that the discharge complies with the terms of the permit.
 - (2) Discharges from water line flushing performed by a city or the county or service provider.

- (3) Discharges from sprinkled landscape irrigation or sprinkled lawn watering.
- (4) Discharges from individual residential car washing, provided that a biodegradable detergent is used.
- (5) Discharges from natural riparian habitat or wetland flows.
- (6) Discharges from natural groundwater flows.
- (7) Discharges from air conditioning condensation when approved by the county engineer.
- (8) Discharges from firefighting or emergency management activities.
- (9) Discharges from foundation drains, footing drains, or crawl space or basement pumps if the discharges have been approved in writing by the county engineer.
- (10) Discharges allowed by a county storm sewer discharge permit.

(Code 1985, § 33-2-2; Ord. No. 2005-17, 12-13-2005)

Sec. 40-2-3. - Prohibited storage and littering.

It is unlawful for any person to maintain, store, keep, deposit or leave any pollutant or hazardous material, or any item containing a pollutant or hazardous material, in a manner that is likely to result in the discharge of the pollutant or hazardous material to the storm sewer system.

(Code 1985, § 33-2-3; Ord. No. 2005-17, 12-13-2005)

Sec. 40-2-4. - Storm sewer discharge permit.

- (a) Permit required. No person shall connect to the county's storm sewer system, either directly or indirectly, without first obtaining a storm sewer discharge permit from the county.
- (b) When permit required. Any person beginning new construction (development of an undeveloped parcel) or redevelopment (as defined in this chapter) in the unincorporated county shall obtain a storm sewer discharge permit before commencing construction.
- (c) Application. The applicant for a storm sewer discharge permit shall submit the following to the county:
 - (1) Application form. A completed application form. Application forms will be available at the county engineer.
 - (2) BMP plan. A plan incorporating stormwater BMPs that meet the requirements of section 40-2-5.
 - (3) Maintenance plan. A plan outlining how the applicant will maintain the stormwater improvements listed in the application.
- (d) Review. The storm sewer discharge permit application shall be reviewed by the stormwater manager and either approved, approved with conditions, or denied. Either the permit applicant or the county may appeal the stormwater manager's decision to the director of stormwater management. The appeal shall be made according to procedures established by the stormwater management department.
- (e) Factors. When deciding whether to approve, conditionally approve, or deny a storm sewer discharge permit application, the following factors shall be considered:
 - (1) Whether the application complies with applicable county ordinances and policies.
 - (2) Whether the application complies with the county storm drainage master plan.
 - (3) Whether the proposed discharge incorporates effective (BMPs) best management practices.

- (4) Whether the proposed discharge introduces pollutants into the storm drain system.
- (5) Whether the proposed discharge creates a safety hazard.
- (6) Whether the proposed discharge affects the integrity of the storm sewer system infrastructure.
- (7) Whether the proposed discharge endangers the county's drinking water.
- (8) Whether the proposed discharge endangers adjacent property.
- (9) Whether the applicant has submitted a maintenance plan ensuring the proper maintenance and upkeep of the applicant's discharge and on-site stormwater improvements.

Failure to construct or maintain stormwater improvements in accordance with an approved storm sewer discharge permit shall be a violation of this title.

- (f) As-builts. Any person discharging to the storm sewer system shall provide the county as-built plans showing the details and the location of the discharge. The plans shall be in a format that is acceptable to the county.
- (g) Rate. Discharges to the storm sewer system shall be designed so that the discharge to the storm sewer system does not exceed 0.1 cubic feet per second per acre.
- (h) Exempt discharges. The following discharges to the storm sewer system are exempt from the permitting requirements of this section: Discharges made by the county.

(Code 1985, § 33-2-4; Ord. No. 2005-17, 12-13-2005)

Sec. 40-2-5. - Best management practices.

Any person connecting to the storm sewer system or developing a commercial or industrial site shall employ best management practices (BMPs) approved by the county. The county shall adopt a policy establishing a menu of BMPs that may be used to satisfy this requirement. The BMPs may be structural and/or nonstructural, depending on the needs of the site. The BMPs shall be designed to ensure that the quality and quantity of stormwater released to the unincorporated county's storm sewer system meets the requirements of federal, state and local laws and regulations and the county's NPDES permit, and will not exceed the designed capacity of the storm sewer system or jeopardize the integrity of the storm sewer system.

(Code 1985, § 33-2-5; Ord. No. 2005-17, 12-13-2005)

Sec. 40-2-6. - Easements.

The county may enter all private properties through which the county holds an easement for the purposes of inspecting, observing, measuring, sampling, repairing or maintaining any portion of the storm sewer facilities lying within the easement, or the performance of any other duties pertinent to the operation of the storm sewer system. All entry and subsequent work, if any, on an easement, shall be completed according to any special terms of the easement.

(Code 1985, § 33-2-6; Ord. No. 2005-17, 12-13-2005)

Sec. 40-2-7. - Authority to inspect.

Whenever necessary to make an inspection to enforce any provision of this chapter, or whenever the county has cause to believe that there exists, or potentially exists, a condition which constitutes a violation of this chapter, the county may enter the premises at all reasonable times to inspect the same and to inspect and copy records related to stormwater compliance. In the event the owner or occupant

refuses entry after a request to enter and inspect has been made, the county is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

(Code 1985, § 33-2-7; Ord. No. 2005-17, 12-13-2005)

Sec. 40-2-8. - Requirement to monitor and analyze.

If county tests or inspections indicate that a site is causing or contributing to stormwater pollution, illegal discharges, and/or non-stormwater discharges to the storm sewer system or waters of the United States, and if the violations continue after notice from the county, the county may require any person engaged in the illicit activity and/or the owner/operator of the site to provide, at their own expense, monitoring and analyses required by the county to determine compliance with this chapter.

(Code 1985, § 33-2-8; Ord. No. 2005-17, 12-13-2005)

Sec. 40-2-9. - Notice of violation.

- (a) Whenever the county finds that a person has violated a prohibition or failed to comply with a requirement of this chapter, the county will order compliance by written notice of violation to the responsible person. Such notice may require without limitation:
 - (1) The performance of monitoring, analyses, and reporting;
 - (2) The elimination of illicit discharges or discharges;
 - (3) That violating discharges, practices, or operations shall cease and desist;
 - (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - (5) Payment to cover administrative, remediation, monitoring, analyses, and reporting costs; and
 - (6) The implementation of source control or treatment BMPs.
- (b) The county may skip the notice requirements set forth in this section and immediately proceed with criminal and/or civil action against the violator if:
 - (1) The violator has committed the same violation in the past;
 - (2) The violation, in the opinion of the county, creates a serious risk to persons, the environment or property; or
 - (3) The county deems the violation to constitute an emergency.

(Code 1985, § 33-2-9; Ord. No. 2005-17, 12-13-2005)

Sec. 40-2-10. - Damage to storm sewer system or irrigation lines.

Any person who damages any portion of the storm sewer system, a county-owned irrigation line, or a county-maintained irrigation line shall be responsible for repairing the damages. The damages shall be repaired by a licensed contractor bonded to do work in the county and shall be repaired in accordance with the county's construction standards and specifications. It is unlawful to remove or alter any portion of the storm sewer system without permission from the director.

(Code 1985, § 33-2-10; Ord. No. 2005-17, 12-13-2005)

Sec. 40-2-11. - Manhole covers.

It shall be unlawful to open any storm sewer manhole or other storm sewer fixture (such as grates, lids or inlets) without permission from the county.

(Code 1985, § 33-2-11; Ord. No. 2005-17, 12-13-2005)

Sec. 40-2-12. - Drinking water protection.

All stormwater and non-stormwater discharges shall comply with the Weber/Morgan Health Department's drinking water source protection ordinance.

(Code 1985, § 33-2-12; Ord. No. 2005-17, 12-13-2005)

Sec. 40-2-13. - Violation and penalty.

- (a) The violation of any provision of this chapter is a class C misdemeanor. Each day that a violation occurs shall constitute a separate offense.
- (b) If, as the result of the violation of any provision of this chapter, the county or any other party suffers damages and is required to make repairs and/or replace any materials, the cost of repair and/or replacement shall be borne by the violating party and shall be in addition to any criminal or civil fines and/or penalties.
- (c) Violators of this chapter may also be subject to prosecution, fines and penalties from the State of Utah and the United States' EPA.

(Code 1985, § 33-2-13; Ord. No. 2005-17, 12-13-2005)

Sec. 40-2-14. - Compliance with federal and state law.

Nothing in this chapter shall be interpreted to relieve any person from an obligation to comply with an applicable federal, state or local law relating to stormwater discharges or drinking water protection.

(Code 1985, § 33-2-14; Ord. No. 2005-17, 12-13-2005)

CHAPTER 3. - STORMWATER CONSTRUCTION ACTIVITY PERMIT

Sec. 40-3-1. - Purpose and intent.

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

(Code 1985, § 33-3-1; Ord. No. 2005-17, 12-13-2005)

Sec. 40-3-2. - Stormwater construction activity permit—When required.

A county stormwater construction activity permit is required before any person or entity may excavate, grub and clear, grade, or perform any type of construction activity that will disrupt or cause a change in the natural landscape upon any of the following types of property located within the unincorporated county:

- (1) Regardless of size. Any parcel, lot or land development qualifies under this subsection with construction activities which:
 - a. Disturbs more than 5,000 square feet of land surface area;
 - b. Consists of the excavation and/or fill of more than 200 cubic yards of material; or
 - c. Requires a building permit for which excavation or fill is a part of the construction, and less than five acres;shall apply for a county permit. Activities involving five acres or more must get a permit from the state division of water quality.
- (2) Special concern areas. Any parcel, lot or land development for which the county determines that because of the nature or type of the parcel, lot or development, disturbance of the land is likely to result in erosion or the transport of sediment off of the site by stormwater to a degree substantially greater than that which would occur under natural landscape conditions.

(Code 1985, § 33-3-2; Ord. No. 2005-17, 12-13-2005)

Sec. 40-3-3. - Same—Application.

Any person or entity desiring a stormwater construction activity permit must first file an application with the county engineering department. The application may be submitted independently, or as part of an application for a site plan, subdivision plan, or building permit approval.

- (1) Content. The application shall include a stormwater pollution prevention plan which meets the criteria set forth in section 40-3-4.
- (2) Timing. The applicant shall file the application on or before the following dates:
 - a. Subdivision. The date that the applicant submits the preliminary subdivision development plat application.
 - b. Site plan. The date that the applicant submits a site plan application or amended site plan.
 - c. Building permit. The date that the applicant submits a building permit application if the applicant proposes to construct a building on an existing lot or parcel.
 - d. Land use permit. The date that the applicant submits a land use permit application.
 - e. Other. At least two weeks before the developer intends to perform any type of work not listed in this subsection that would require a stormwater construction activity permit pursuant to this chapter.

If an applicant's development comes under more than one of the categories listed in subsection (2) of this section, then the applicant shall submit the stormwater construction activity permit application on the earliest of the listed dates. Failure to comply with the application dates set forth in this subsection is not a criminal offense, but may delay the applicant's project. Failure to acquire a required stormwater construction activity permit is grounds for tabling a related subdivision application, site plan application, conditional use permit application, or building permit application. It is unlawful to commence work (move dirt) on a development site before obtaining a required stormwater construction activity permit.

- (3) Fee. The applicant for a stormwater construction activity permit shall pay a fee in an amount set by resolution of the county commission.

- (4) Application approval. The storm sewer utility manager or designee shall approve the application and grant the permit if the application is complete and meets the criteria set forth in section 40-3-4. The storm sewer utility manager shall deny the application or approve the application with conditions if he or she determines that the measures proposed in the plan fail to meet the criteria set forth in section 40-3-4. Conditions the stormwater manager may impose in connection with the approval of a permit include, but are not limited to, the establishment of specific measures and controls to prevent erosion and the discharge of sediment, debris and other construction-related pollutants from the site by stormwater.
- (5) Term. Unless otherwise revoked or suspended, a stormwater construction activity permit shall be in effect for the full period of the construction activity. The construction activity will not be considered to be completed until the following events occur:
 - a. Subdivisions. For permits associated with a subdivision plat approval:
 - 1. The permittee must complete all required subdivision improvements; and
 - 2. One of the following three events must occur:
 - (i) The county issues a final certificate of occupancy for each lot in the subdivision;
 - (ii) Individual stormwater construction activity permits have been issued for each lot in the subdivision not having a final occupancy permit; or
 - (iii) The property has been re-vegetated or landscaped in a manner that eliminates erosion and sediment discharge or that brings the property back to its natural state;
 - b. Site plans. For permits associated with a site plan approval, the date that the permittee has completed all required landscaping and all outside construction work associated with the site plan.
 - c. Building permits. For permits associated with a building permit application, the date that the county issues a final occupancy permit for the structure covered by the building permit.
 - d. Other. For permits issued that are not tied to other approvals from the county, the date that the permittee has completed all work associated with the permit and takes steps required by the permit to prevent further erosion and runoff from the site.

the plan must include provision for on-site detention or coordination with regional detention.

No stormwater construction activity permit shall be considered terminated until the permittee submits a notice of termination of construction activity permit ("notice") to the county and the notice is accepted by the county. The county shall accept the notice if the permittee has met the requirements of the permit and this chapter.

- (6) Amendments. In the event that the proposed construction activity for a site to which a permit pertains is materially altered from that described in an original plan in a way that may have a significant impact upon the effectiveness of the measures and controls described in the original plan, the permittee shall file an amended stormwater pollution prevention plan which meets the criteria set forth in section 40-3-4.

(Code 1985, § 33-3-3; Ord. No. 2005-17, 12-13-2005)

Sec. 40-3-4. - Stormwater pollution prevention plan.

- (a) Required information. The stormwater pollution prevention plan (the "plan") shall contain the following information:
 - (1) Site description. A site description (including a map with spot elevations and contour lines) which includes a description of the nature and location of the construction activity, a description

of the intended sequence of major activities which will disturb soils for major portions of the site (e.g., grubbing, excavation, grading, utilities, and infrastructure installation, etc.), and estimates of the total area of the site and the total area of the site that is expected to be disturbed by excavation, grading, or other activities;

- (2) Control description. A description of the proposed measures and controls that will be implemented during construction activity and/or while the site is not stable. The plan must clearly describe the times during the construction process that the measures will be implemented for each major activity identified pursuant to subsection (a)(1) of this section. The plan shall also state the name and phone number of the person or entity responsible for implementation of each control measure.
- (b) Goals and criteria. The proposed measures and controls described in the plan shall be designed to meet the following goals and criteria:
- (1) Prevent or minimize discharge. The proposed measures and controls shall be designed to prevent or minimize, to the maximum extent practicable, the discharge of sediment, debris and other construction-related pollutants from the construction site by stormwater runoff into the storm drainage system.
 - (2) Prevent or minimize construction debris. The proposed measures and controls shall be designed to prevent or minimize, to the maximum extent practicable, the deposit, discharge, tracking by construction vehicles, or dropping of mud, sediment, debris or other potential pollutants onto public streets and rights-of-way. Any such discharge shall be cleaned up and removed immediately upon notification to the permittee or when it otherwise comes to the attention of the permittee. At a minimum, the deposit or discharge shall be cleaned and removed at the end of the work shift in which the deposit occurred, or at the end of the work day, whichever comes first.
 - (3) BMPs. The proposed measures and controls shall consist of best management practices (BMPs) available at the time that the plan is submitted. BMPs may include, but shall not be limited to, temporary silt or sediment fences, sediment traps and detention ponds, gravel construction entrances and wash down pads to reduce or eliminate off-site tracking, straw bale sediment barriers, establishment of temporary grasses and permanent vegetative cover, use of straw mulch as a temporary ground cover, erosion control blankets, temporary interceptor dikes and swales, storm drain inlet protection, check dams, subsurface drains, pipe slope drains, level spreaders, rock outlet protection, reinforced soil retaining systems, and gabions.
 - (4) Stabilization. The proposed measures and controls shall be designed to preserve existing vegetation, where possible. Disturbed portions of the site shall be stabilized. Stabilization practices may include temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures. Use of impervious surfaces for stabilization should be avoided. Stabilization measures shall be initiated as soon as practicable in disturbed portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased, except under the following circumstances:
 - a. If the initiation of stabilization measures by the 14th day after construction activity temporarily or permanently ceases is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable; or
 - b. If construction activity on a portion of the site is temporarily ceased, and earth disturbing will resume within 21 days, temporary stabilization measures need not be initiated on that portion of the site.
 - (5) Minimize risk of discharge of other materials. The proposed measures and controls shall be employed to minimize the risk of discharge of construction-related pollutants (such as paint, thinners, solvents and other chemicals) from the construction site. Such measures may include

implementation of storage practices to minimize exposure of the material to stormwater as well as spill prevention and response.

(Code 1985, § 33-3-4; Ord. No. 2005-17, 12-13-2005)

Sec. 40-3-5. - Proper operation and maintenance.

The recipient of a stormwater construction activity permit (the permittee) shall install the erosion and sediment control measures required by the approved stormwater pollution prevention plan before commencing any construction activity on the site to which the plan applies or at such times indicated in the plan. The erosion and sediment control measures shall be properly installed and maintained in accordance with the permit, the manufacturers' specifications, and good engineering practices. The permittee shall maintain such measures on the site until the county accepts the termination of the permit pursuant to section 40-3-4(5).

(Code 1985, § 33-3-5; Ord. No. 2005-17, 12-13-2005)

Sec. 40-3-6. - Inspection and entry.

The permittee shall allow any authorized employees and representatives of the county, representatives of the state division of water quality, and representatives of the EPA, to enter the site to which a permit applies at any time and to inspect the erosion and sediment control measures maintained by the permittee. The permittee shall also allow inspection of any records pertaining to the conditions of the permit.

(Code 1985, § 33-3-6; Ord. No. 2005-17, 12-13-2005)

Sec. 40-3-7. - Revocation or suspension of stormwater construction activity permit.

- (a) Revocation or suspension. A stormwater construction activity permit may be revoked or suspended by the director upon the occurrence of any one of the following events:
- (1) Failure of a permittee to comply with the plan or any condition of the permit; or
 - (2) Failure of a permittee to comply with any provision of this chapter or any other applicable law, ordinance, rule or regulation related to stormwater; or
 - (3) A determination by the director that the erosion and sediment control measures implemented by a permittee pursuant to the plan are inadequate to prevent or minimize, to the maximum extent practicable, the discharge of sediment, debris or other pollutants from the construction site by stormwater.
- (b) Notice. The county shall mail a permittee written notice of noncompliance before revoking or suspending a permit. The notice shall state the location and nature of the noncompliance and shall also specify what action is required for the permittee to avoid revocation or suspension of the permit. The notice shall allow the permittee a reasonable time to take the necessary corrective action to avoid revocation or suspension of the permit which time, in the absence of exceptional circumstances, shall not be less than ten nor more than 30 days. The notice shall be mailed to the address listed for the permittee in the application. If the permittee fails to correct the problems identified in the notice during the time specified in the notice, the director may suspend or revoke the permit by mailing or delivering written notice of the suspension or revocation to the permittee. The permittee may appeal a suspension or revocation of the permit pursuant to the appeal procedure set forth in section 40-3-10.

- (c) Exceptional circumstances. For purposes of this section, exceptional circumstances include, but are not limited to, situations which involve a risk of injury to persons, damage to storm drain facilities, or damage to other property or the environment. The county may take any steps the county deems necessary to alleviate any such exceptional circumstances as defined above, and may bill the owner, developer, or contractor responsible for creating the exceptional circumstances for the cost of alleviating said circumstances.
- (d) Stop work order. A stop work order may be issued upon the revocation or suspension of a permit, or upon the discovery of work being conducted without a required permit. The stop work order may be issued by inspectors in the engineering, stormwater management building inspection, or the planning departments. No construction activity may be commenced or continued on any site for which a permit has been revoked or suspended until the permit has been reinstated or reissued.
- (e) Reinstatement. A stormwater construction activity permit may be reinstated or reissued upon compliance with all provisions of this chapter and all permit conditions, or in the case of a suspension for reasons provided in subsection (a)(3) of this section, upon the filing of an amended stormwater pollution prevention plan which is designed to correct the deficiencies of the original plan.

(Code 1985, § 33-3-7; Ord. No. 2005-17, 12-13-2005)

Sec. 40-3-8. - Violations and enforcement.

- (a) The violation of any of the provisions of this chapter shall be a Class C misdemeanor. Each day that a violation occurs shall constitute a separate offense.
- (b) Violators of this chapter are also subject to any penalties that may be imposed by the State, under the authority of the Utah Water Quality Act, Title 19, Chapter 5 of the Utah Code.
- (c) In addition to any criminal fines and/or penalties which may be assessed for a violation of this chapter, the county shall have the right to issue a stop work order or to install and/or maintain appropriate erosion and sediment control measures on any site which is required to have such measures in the event that construction activity is commenced or continued without such measures having been installed as required by this chapter. The county shall have the right to have such measures installed or maintained by county 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. The county may assess said charges against the financial guarantee posted by the contractor and/or property owner.
- (d) Violators of this chapter may also be subject to prosecution, fines and penalties from the State of Utah and the United States' EPA.

(Code 1985, § 33-3-8; Ord. No. 2005-17, 12-13-2005)

Sec. 40-3-9. - Exemptions.

The following activities are exempt from the requirements of this chapter:

- (1) Actions by a public utility, the county, or any other governmental entity to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic;
- (2) Actions by any other person when the county determines, and documents in writing, that the actions are necessary to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic;
- (3) Construction activities which disturb less than 500 square feet of land surface area, or which consist of the excavation and/or fill of less than 20 cubic yards of material;

- (4) Landscape maintenance activities on fully developed properties, necessary to maintain the existing developed landscape;
- (5) Bona fide agricultural and farming operations which constitute the principal use of any lot or tract of ground located within the unincorporated county and which meet the requirements of Part II, Land Use Code.

(Code 1985, § 33-3-9; Ord. No. 2005-17, 12-13-2005)

Sec. 40-3-10. - Appeal.

- (a) An applicant for a stormwater construction activity permit or a permittee of a stormwater construction activity permit may appeal any decision or directive made by the county or its representatives pursuant to this chapter. The party desiring to appeal shall file a notice of appeal at the county commission office within ten days of the decision or directive being appealed. The notice of appeal shall contain the following information:
 - (1) The appellant's name, address and daytime telephone number;
 - (2) A short statement describing the basis for the appeal; and
 - (3) The relief sought by the appellant.
- (b) Upon receipt of the notice of appeal, the county commission chair shall set a date for an informal hearing to consider the appeal. The county commission shall uphold the decision or directive being appealed unless the county commission finds that there has been an error in the interpretation or implementation of this title. The county commission shall render a decision on the appeal within ten days of the informal hearing with the appellant. The county commission shall have authority to affirm, reverse or modify any decision or directive appealed pursuant to this section.

(Code 1985, § 33-3-10; Ord. No. 2005-17, 12-13-2005)

Sec. 40-3-11. - Compliance with federal and state law.

Nothing contained in this chapter is intended to relieve any person or entity from any obligation to comply with applicable federal and state laws and regulations pertaining to clean water and/or stormwater runoff.

(Code 1985, § 33-3-11; Ord. No. 2005-17, 12-13-2005)