

Mapleton City Planning Commission Staff Report

Meeting Date: January 9, 2014

Item: 4

Applicant: Mapleton City

Location: N/A

Prepared by: Scott Bird, Public Works Operations Director

Public Hearing Item: Yes

Zone: N/A

REQUEST

Consideration of recommendations to the City Council on amendments to Mapleton City Code Chapter 21.04, STORMWATER PROVISIONS.

BACKGROUND AND PROJECT DESCRIPTION

Mapleton City is an MS4 (Small Municipal Separate Storm Sewer System) permitted municipality with the Utah Department of Environment Quality, Division of Water Quality. Mapleton City is required to comply with all the conditions of the Small MS4 General UPDES Permit regarding stormwater runoff. When an applicant applies for a building permit or development permit that will disturb one acre or more, a Storm Water Pollution Prevention Plan (SWPPP) is required from the state and a Land Disturbance Permit is required from the City. These permits ensure that certain Best Management Practices (BMP's) related to storm water management are carried out.

The proposed ordinance would make amendments to MCC Chapter 21.04 as redlined in the attachment. The major change is the requirement for applicants to establish a bond to ensure compliance with their SWPPP and Land Disturbance permits. If an applicant is found to be out of compliance, the City can charge a penalty from the bond. The City typically achieves compliance with the use of warnings, however, in the rare cases that warnings are not sufficient, a penalty can be assessed.

By these amendments the city can accomplish the following:

- Make changes to ordinance as required and recommended by the Division of Water Quality; and
- Provide incentive for holders of Land Disturbance Permits to comply with the ordinance.

EVALUATION

Staff is recommending the proposed amendments for the following reasons:

- It will allow the City to be in compliance with the MS4 General UPDES Permit.
- Insure that holders of Land Disturbance Permits are complying with MCC 21.04.
- It will help reduce the burden on staff enforcing compliance with holders of Land Disturbance Permits.

STAFF RECCOMENDATION

Recommend that the City Council adopt the attached ordinance.

ATTACHMENTS

1. Draft Ordinance.

Attachment “1”
Chapter 21.04
STORMWATER PROVISIONS

(Changes shown in strikeout and underline. Only those sections that are being amended have been included)

21.04.020: DEFINITIONS:

For the purpose of this chapter, the following definitions shall apply. Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of "Webster's Dictionary".

STORMWATER ~~MANAGEMENT~~ POLLUTION PREVENTION PLAN (SWPPP):

The set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to predevelopment levels during and after construction.

21.04.030: LAND DISTURBANCE PERMITS:

E. Application For A Land Disturbance Permit:

1. Each application shall include the following:
 - a. Name of applicant;
 - b. Business or residence address of applicant;
 - c. Name, address and telephone number of the owner of the property of record in the office of the assessor of property;
 - d. Address and legal description of subject property including the tax reference number and parcel number of the subject property;
 - e. Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;

- f. A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity.
2. The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property, such as the UPDES Storm Water General Permit for Construction Activities Permit No. UTR300000. However, the inclusion of those permits in the application shall not foreclose the city engineer from imposing additional development requirements and conditions, commensurate with this chapter, on the development of property covered by those permits.
3. Each application shall be accompanied by:
 - a. A sediment and erosion control plan.
 - b. A stormwater ~~management~~ pollution prevention plan (SWPPP) providing for stormwater management during the land disturbing activity and after the activity has been completed meeting the requirements of the Stormwater General Permit for Construction Activities Permit.

F. Review And Approval Of Application:

1. The city engineer or designee will review each application for a land disturbance permit to determine its conformance with the provisions of this chapter. Within fifteen (15) days after receiving an application, the city engineer or designee shall provide one of the following responses in writing:
 - a. Approval of the permit application;
 - b. Prior to the issuance and part of a Land Disturbance Permit, the applicant and responsible parties shall enter in to a bond agreement with the City to insure completion of, compliance with, under the terms and conditions of this Title regarding storm water pollution prevention, including, but not limited to, compliance with the terms and conditions of this Chapter, Storm Water Pollution Prevention Plan (SWPPP), and any additional conditions required by the City Engineer or designee as provided herein. The bond agreement shall be in a form and contain such provisions as approved by the City. Such provisions may be included in and combined with any other additional bonds required for a Building Permit, for the project, development or construction activity.

bc. Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this chapter, and issue the permit subject to these conditions; or

ed. Denial of the permit application, indicating the reason(s) for the denial.

I. Performance Bonds:

1. The city engineer or designee may, at his discretion:

a. Require the submittal of a performance security or performance bond prior to issuance of a permit in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater ~~management~~ pollution prevention plan (SWPPP).

(1) The amount of the installation performance security or performance bond shall

be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement.

(2) The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater ~~management~~ pollution prevention plan (SWPPP).

(3) The applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment or rejection by the city engineer or designee.

(4) Alternatively, the city engineer or designee shall have the right to calculate the cost of construction cost estimates.

21.04.080: ILLICIT DISCHARGES:

A Scope: This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system.

B. Prohibition Of Illicit Discharges: No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater. The commencement, conduct or continuance of any nonstormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

1. Uncontaminated discharges from the following sources:

a. Water line flushing or other potable water sources,

- b. Landscape irrigation or lawn watering with potable water,
- c. Diverted stream flows,
- d. Rising groundwater,
- e. Groundwater infiltration to storm drains,
- f. Uncontaminated pumped groundwater,
- g. Foundation or footing drains,
- h. Crawl space pumps,
- i. Air conditioning condensation,
- j. Springs,
- k. Natural riparian habitat or wetland flows,
- l. Swimming pools (if dechlorinated -typically less than 1 ppm chlorine),
- m. Firefighting activities,
- ~~n. Any other uncontaminated water source.~~

21.04.090: ENFORCEMENT:

- A. Enforcement Authority: The city engineer or his designees shall have the authority to issue notices of violation, stop work orders, and citations, and to impose the civil penalties provided in this section.
 - 1. With the issuance of a city ~~stormwater~~ Land Disturbance Permit, the city engineer or designee shall be permitted to enter and inspect facilities subject to this chapter at all reasonable times and as often as necessary to determine compliance. Failure to comply with the terms of this chapter may result in punitive actions by Mapleton City Corporation ordinance enforcement, by Utah County health department, or by other means identified in permits or terms set forth in development applications.
- B. Immediate Enforcement In the case of violation involving continuing construction or development, storm drainage, an emergency situation, multiple or repeated violations, or for any other reason as reasonably determined by the city engineer or designee, the same may use the enforcement powers and remedies

available to it under this chapter, including issuance of a civil citation, without prior notice or notice of violation.

B. Notification Of Violation:

1. **Written Notice:** Whenever the city engineer or designee finds that any permittee or any other person discharging stormwater has violated or is violating this chapter or a permit or order issued hereunder, the city engineer or designee may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the city engineer or designee. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.
2. **Consent Orders:** The city engineer or designee is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsections 84 and 85 of this section.
3. **Show Cause Hearing:** The city engineer or designee may order any person who violates this chapter or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.
4. **Compliance Order:** When the city engineer or designee finds that any person has violated or continues to violate this chapter or a permit or order issued hereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

5. Cease And Desist Orders: When the city engineer or designee finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the director may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

a. Comply forthwith; or

b. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

GD. Conflicting Standards: Whenever there is a conflict between any standard contained in this chapter and in the BMP manual adopted by the municipality under this chapter, the strictest standard shall prevail.

DE. Violations: Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the city engineer or designee; shall be guilty of an infraction. (Ord. 2012-02, 2-21-2012, eff. 3-18-2012)