

Ordinance 2018-07

AN ORDINANCE ADOPTING CHAPTER 3, STORMWATER, OF TITLE 13, WATER AND STORMWATER CODE, OF PARK CITY MUNICIPAL CODE

WHEREAS, the Federal Clean Water Act requires that stormwater discharges from certain types of facilities be authorized under Stormwater Discharge Permits; and

WHEREAS, the State of Utah was granted primacy in the National Pollutant Discharge Elimination System (NPDES) program by the United States Environmental Protection Agency in 1987; and

WHEREAS, the State of Utah has instructed the City to secure coverage under the Clean Water Act for the City's stormwater system; and

WHEREAS, the City has secured coverage under the Utah Pollutant Discharge Eliminate System (UPDES) program, specifically under the General Permit for Discharges from Small Municipal Separate Storm Sewer Systems (MS4), Permit No. UTR090000; and

WHEREAS, Permit No. UTR090000 requires the City to prohibit most non-stormwater discharges to its stormwater system and thereby support the City's goal of Environmental Health and Conservation of Natural Resources; and

WHEREAS, adoption of this ordinance will meet the requirements of Permit No. UTR090000 and further Council Goals.

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

**Chapter 13-3
STORMWATER**

Sections:

13-3-1 Illicit discharges.

13-3-2 Enforcement.

13-3-3 Penalties.

13-3-1 Illicit discharges.

(1) 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 non-stormwater discharge to the municipal separate storm sewer system is prohibited except where permitted by Utah General Permit for Discharges from Small MS4s. At the time of this sections adoption, the Utah General Permit for Small MS4s allowed for the discharges listed below so long as said

discharge had not been identified as a significant source of pollutants to waters of the state or as causing or contributing to a violation of water quality standards; any discrepancy between the sources listed below and those provided for by the Utah General Permit for Discharges from Small MS4s shall be resolved in favor of the most recently adopted Utah General Permit for Discharges from Small MS4s.

(a) Allowable discharges:

- (i) Water line flushing;
- (ii) Landscape irrigation;
- (iii) Diverted stream flows;
- (iv) Rising ground water;
- (v) Uncontaminated ground water infiltration;
- (vi) Uncontaminated pumped ground water;
- (vii) Discharges from potable water sources;
- (viii) Foundation drains;
- (ix) Air conditioning condensate;
- (x) Irrigation Water;
- (xi) Springs;
- (xii) Water from crawl space pumps;
- (xiii) Footing Drains;
- (xiv) Lawn watering runoff;
- (xv) Individual residential car washing;
- (xvi) Flows from riparian habitats and wetlands;
- (xvii) Dechlorinated swimming pool discharges;
- (xviii) Residual street wash water;
- (xix) Dechlorinated water reservoir discharges;
- (xx) Discharges or flows from emergency firefighting activity.

(c) Dye testing is an allowable discharge if the City Engineering has so specified in writing.

(d) The prohibition shall not apply to any non-stormwater discharges permitted under a Utah Pollutant Discharge Elimination System (UPDES) permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the State of Utah Division of Water Quality; provided, that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations; and provided, that Engineering has provided written approval granting any discharge to the storm drain system.

(3) Prohibition of Illicit Connections.

(a) The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of Stormwater Pollutants by the use of Best Management Practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid UPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section.

(5) Notification of Spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater, and the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, the person shall notify Code Enforcement by telephone, email or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Code Enforcement within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for a minimum of three years.

13-3-2 Enforcement.

(1) Enforcement Authority. The Chief Building Official or his/her designee shall have the authority to issue notices of violation, stop work orders, and citations, and to pursue the civil penalties provided in this section.

(a) With the issuance of a city land disturbance permit, building permit, conditional use permit or other permits issued by the city, the city 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 the City, Summit County Health Department, Utah State Division of Water Quality or by other means identified in permits or terms set forth in development applications.

(2) Notification of Violation (N.O.V.).

(a) Written Notice. Whenever the Chief Building Official or his/her 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 Chief Building Official or his/her designee may serve upon such person written notice of the violation. Within seven (7) days of this notice or the time frame specified in N.O.V., 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 Chief Building Official or his/her 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.

(i) Consent Orders. The Chief Building Official or his/her 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 subsection (2)(a)(iv) of this section.

(ii) Show Cause Hearing. The Chief Building Official or his/her 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.

(iii) Compliance Order. When the Chief Building Official or his/her 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 or 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.

(iv) Cease and Desist Orders. When the Chief Building Official or his/her designee finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the city engineer 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 into the city storm drain system. In the event the owner refuses to or is unable to provide measures to bring the site into compliance, the city engineer will, at the owner's expense, take necessary remedial or preventative actions.

(3) 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.

13-3-3 Penalties.

(1) Consistent with the provisions of Sections 4-2-15 and 19-15-115, Utah Code Annotated 1953, the municipality declares that any person, or the officers or employees of any person, who violates stormwater ordinances found in Title 13 Chapter 3 or any lawful notice or order issued pursuant to the aforementioned ordinances is guilty of an infraction.

(2) Any person, or the officers or employees of any person, shall be liable for any expenses incurred by the city in abating any violation of this chapter.

(3) A penalty assessment or criminal conviction under this chapter shall not relieve the person assessed or convicted from civil liability for claims arising out of any act which was also a violation.

(4) In assessing either a civil or a criminal penalty, the judge may consider:

(a) The harm done to the public health or the environment;

(b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(c) The economic benefit gained by the violator;

(d) The amount of effort put forth by the violator to remedy this violation;

- (e) Any unusual or extraordinary enforcement costs incurred by the municipality;
- (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
- (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(5) Recovery of Damages and Costs. In addition to the civil penalty in subsection (4) of this section, the municipality may recover: all damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.

(a) The costs of the municipality's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.

(6) Other Remedies. The municipality may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(7) Remedies Cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one or more of the remedies set forth herein has been sought or granted.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 1st day of February, 2018.

PARK CITY MUNICIPAL CORPORATION

Andy Beerman, MAYOR

ATTEST:

Michelle Kellogg
City Recorder



APPROVED AS TO FORM:

Mark Harrington, City Attorney