

TITLE ELEVEN – PUBLIC UTILITIES AND SERVICES

Table of Contents

<u>CHAPTER 1 – ELECTRIC POWER.....</u>	<u>2</u>
<u>CHAPTER 2 – WATER SERVICE.....</u>	<u>8</u>
<u>CHAPTER 2A – DRINKING WATER SOURCE PROTECTION ORDINANCE.....</u>	<u>13</u>
<u>CHAPTER 2B – PRESSURE IRRIGATION WATER SERVICE.....</u>	<u>16</u>
<u>CHAPTER 2C – CONTROL OF BACKFLOW AND CROSS CONNECTIONS PROGRAM AND POLICY.....</u>	<u>21</u>
<u>CHAPTER 3 – SEWER SERVICE.....</u>	<u>27</u>
<u>CHAPTER 3A – WASTEWATER PRETREATMENT.....</u>	<u>33</u>
<u>CHAPTER 4 – GARBAGE SERVICE.....</u>	<u>52</u>
<u>CHAPTER 5 – TELECOMMUNICATION UTILITY.....</u>	<u>58</u>
<u>CHAPTER 6 – SECONDARY WATER.....</u>	<u>60</u>
<u>CHAPTER 7 – STORM WATER DRAINAGE UTILITY.....</u>	<u>62</u>
<u>CHAPTER 8 – STORM WATER ENFORCEMENT.....</u>	<u>64</u>
<u>CHAPTER 9 – FLOOD DAMAGE.....</u>	<u>84</u>

CHAPTER 1 – ELECTRIC POWER

11-1-010. Creation.

The power department of Salem City is hereby created. The purpose of the power department is to provide a reliable source of electric power for the benefit of the residents and businesses of the city.

11-1-020. Power Organization.

The city may join with other cities, agencies, or other organizations for the purpose of providing electric power to the city.

11-1-030. Rules and Regulations.

The city council may enact rules and policies for levying, billing, guaranteeing, and collecting charges for electric power services and all other rules necessary for the management and control of the power department.

11-1-040. Rates and Connection Fees.

The electric power rates and connection fees for electricity from the city power department shall be fixed from time to time by the city council. The rates and fees may be established in the annual budget enacted by the council. Any profit created by the rates established shall be available for use in the general fund of the city.

11-1-050. Payment - Delinquency - Discontinuance of Service.

- A. The city recorder shall furnish to each user or mail or leave at his or her place of residence or usual place of business a written or printed statement, written thereon the amount of the power service charge assessed against him or her once each month or such other regular interval as the city council shall direct.
- B. Said statement shall separately specify the amount of the bill for the electric power service used and the place and payment and date due. If any person fails to pay the power charges within twenty (20) days of the date due, the city recorder shall have the authority to direct that all utility service to the premises involved be discontinued.
(ordinance #100511)
- C. Before said power service to the said premises shall again be provided, all delinquent power charges must be paid to the city treasurer, together with such extra charge for turning the power on and off as the city council may have established.
- D. The city recorder is authorized and empowered to enforce the payment of all delinquent power service charges by an action at law in the corporate name of the city.

11-1-060. Metering devices.

- A. No person shall be permitted to use any electric power from the city power department for any purpose unless the same is measured through a meter. The city will provide meters for new construction as part of the connection fee. Meters worn out or obsolete will be replaced by the city. Meters on all new construction shall be installed and maintained outside of the building, not over seven (7) feet from the floor or ground, and as near the lead in wires as practicable.
- B. Any person misusing or abusing a meter which causes it to be broken or obsolete and in need of replacement shall pay for the replacement of the same.
- C. Tampering with the meters in any manner, defacing or damaging the meters is prohibited.
- D. Any person found in violation of this section is guilty of a Class B Misdemeanor.

11-1-065 Access to Meters.

Access to electric meters shall be kept free from brush, trees, bushes, or any other obstacles, including but not limited to parked vehicles, locked fencing, animal kennels and /or threatening animals, such that the City has unobstructed access to the meter at all times. Authorized City employees shall have the right to enter premises furnished with electricity by the City for purpose of examining, reading, or servicing the meter, excavating or digging materials on or around the meter, determining the amount of electricity used or the manner in which used, or to shut off the electricity services. It shall be unlawful for any person to deny access to the meter to any such employee lawfully doing his or her job. If an electricity user refuses to remove an obstruction, the City may, within its discretion, either discontinue service until the obstruction is removed, or remove the obstruction with the user being liable for all the costs of doing so. Such costs may be added to the user's monthly bill, and if not paid, may be grounds for the discontinuance of electricity services to the premises.

11-1-070. Turning on Power After Being Turned Off - Prohibited.

It is unlawful for any person, after the power has been turned off from his or her premises for nonpayment of power charges or for other violation of the rules and regulations pertaining to the power department, to turn on or allow the power to be turned on or used without authority. A violation of this section is a Class C Misdemeanor.

11-1-075. Maintenance

- A. Salem City will maintain its electrical lines in accordance with accepted utility practices in order to minimize power outages, protect persons and property from dangerous conditions, and provide a safe working environment for its employees.
- B. Salem City has the right to go upon private property where it has easements, either formal or prescriptive, in order to trim trees and other vegetation to keep them from interfering with the electrical lines. Tree and vegetation trimming does not have the purpose of being aesthetically pleasing, but will be for the purpose of maintaining safe and reliable power

lines. The scope of any trimming will be at the sole discretion of the Salem City Electric Department and will be based upon line voltage, transformers and other equipment, and the type of trees or vegetation involved and their propensity for rapid growth. If a tree should need to be removed, the City will still advise and work with the property owner, but removal will ultimately be the responsibility of the owner, unless the tree or vegetation is in the public right-of-way. In such an event the City will decide and may proceed to remove a tree or vegetation. The City will not trim around lines feeding a residence from a transformer. The property owner shall be responsible for that trimming. Failure to trim will subject the property owner to damages if the growth causes an outage and the property owner shall not be eligible to receive any reimbursement from the City, or its sub-contractors or suppliers for damage to the owner's property due to their failure to trim trees or other vegetation. (ordinance 91510B)

11-1-080. Non-liability of City.

The city shall not be held liable for damages to the consumer of light or power by reason of stoppage or interruption of the electric current caused by scarcity of power, accident to the system, by any alteration, additions, extensions, repairs, or from any other unavoidable cause.

11-1-090. Net Metering.

A. Salem City allows customer owned grid connected electric generating systems (net metering) based upon the requirements and standards of this section, provided that the total energy generated by customer owned systems pursuant to this ordinance shall not exceed one percent (1%) of the average total energy load within the City for the three preceding fiscal years. Net metering allows for interconnected non-utility-owned electric generation to be connected for parallel operation with the electrical system of Salem City.

B. Net metering will be allowed to interconnect with Salem City's electrical distribution system at a service level voltage only after determination by Salem City that such interconnection will not interfere with the operation of the distribution circuit and ensures the safety of Salem City employees and customers.

C. Interconnection Requirements:

1. Customer shall comply with all the latest applicable National Electric Code (NEC) requirements [NEC Articles 690 and 705], National Electrical Safety Code (NESC) requirements, State of Utah requirements, building codes, and shall obtain building permit(s) for the equipment installation.

2. Meter and transformer pole serving the Customer-Generator shall be labeled by Salem City to indicate potential electric current back feed. Customer will provide labels to be installed when Customer-Generator's electric system is approved for interconnection.

3. Customer shall provide space for metering equipment and meter base as per Salem City requirements.

4. Customer's over-current device at the service panel shall be marked to indicate power source and connection at Salem City's electric distribution system.

5. The Customer shall assume the full responsibility for all maintenance of the generator and protective equipment and keeping of records for such maintenance. These records shall be available to Salem City for inspection at all times.

6. Customer's power production control system shall comply with NEC Articles 690 and 705; and applicable and current Institute of Electrical and Electronics Engineers (IEEE) Standards including Standard number 1547 "Interconnecting Distributed Resources with Electric Power Systems" for parallel operation with Salem City; in particular the following:

a. Power output control system shall automatically disconnect from Salem City's source upon loss of voltage and not reconnect until Salem Power's voltage has been restored for at least five (5) minutes continuously.

b. Power output control system shall automatically initiate a disconnect from Salem City's source within six (6) cycles if Customer's voltage falls below 60 Volts rms to ground (nominal 120 V rms base) on any phase.

c. Power output control system shall automatically initiate a disconnect from Salem City's electrical system within two (2) seconds if the voltage rises above 132 Volts rms phase to ground or falls below 104 Volts rms phase to ground (nominal 120 V rms base) on any base.

d. Power output control system shall automatically initiate a disconnect from Salem City's electrical system within three (3) cycles for any reverse power flow condition.

7. Customer shall provide a written description of how the protection devices will achieve compliance with the requirements of this policy as part of the Building Permit Application.

8. Customer shall furnish and install on customer's side of the meter, a UL-approved safety disconnect switch which shall be capable of fully disconnecting the Customer's generating facility from Salem City's electric system. The disconnect switch shall be located adjacent to Salem City's meters and shall be of the visible break type in a metal enclosure which can be secured by a padlock. The disconnect switch shall be accessible to Salem City personnel at all times.

9. Additional Metering: For purposes of gathering research data, Salem City may, at its expense, install and operate additional metering and data-gathering devices.

10. **Solar Photovoltaic Equipment** shall be in compliance with Underwriters Laboratories (UL) 1741, *Standard for Static Inverters and Charge Controllers for Use in Photovoltaic Systems*; UL 1703, *Standard for Safety: Flat- Plate Photovoltaic Modules and Panels*; and IEEE 1262-1995, *Recommended Practice for Qualification of Photovoltaic (PV) Modules*; and the solar system shall be installed in compliance with IEEE Standard 929-2000, *Recommended Practice for Utility Interface of Photovoltaic Systems*.

11. Wind turbines shall meet the requirements of the Salem City Zoning Code.

D. Safety

All Safety and operating procedures for joint use equipment shall be in compliance with the Occupational Safety and Health Administration (OSHA) standard 29 CFR 1910.269, the NEC, the NESC, State of Utah rules, City Standards, and equipment manufacturer's safety and operating manuals.

E. Guidelines for System Diagrams

A system diagram or schematic must be submitted with a building permit application. The required System Diagram is one of the most important parts of the application for interconnection. The system diagram is used by Salem City during the review and approval process, and again during field testing and meter installation. The diagram is a permanent record copy of the system and is filed at Salem City for reference.

Discrepancies between the diagram and the actual installation as built are cause for rejection at the final testing and net meter installation.

The System Diagram can be anything for a One-Line, to a Schematic, to a complete Wiring Diagram that shows every wire and every connection throughout. Any of these are acceptable as long as the minimum key information is included. Salem Power has the discretion to reject the diagram submitted and require a specified format. The diagram does not need to be overly complex, but accuracy and clarity are critical. At a minimum, the System Diagram must show how the components of the customer generator system are connected electrically. Additional information, such as equipment part numbers and physical locations, should also be included on the diagram. Some of this additional information may be contained in the application forms as well, but documenting it on the System Diagram provides a single complete reference for the project and speeds the engineering reviews and field work.

Some systems have more complex requirements for interconnection and will require much more significant design drawings for review and approval.

The System Diagram should provide the information as described below:

- i. Generator (PV Panels, Wind Turbine, Hydro Turbine, etc.) – Include manufacturer, part number, nameplate maximum capacity (kW), and physical location. For modular systems (e.g. pv panels), also include: number of modules, configuration, nameplate maximum capacity of each module, and total nameplate maximum capacity.
- ii. Inverter – Include manufacturer, type or series, part number, serial number, nameplate maximum capacity (kW), output voltage, physical location.
- iii. Disconnect Switch – Include the physical location relative to the Salem Power Service Meter.

iv. Electrical Service Panel – Include the panel or main breaker size and the position at which the generation is connected. Show all panels (if there are multiple panels or subpanels) even if not directly connected into the generation system.

v. Salem Power Service Meter – Include existing meter serial number, meter form, and class.

vi. Other Related Equipment (battery banks, transfer or bypass switches, backup generators, etc.)

F. License Approval

1. Each customer desiring to engage in net metering must enter into a net metering license agreement as prepared by Salem City. The license agreement will contain additional conditions to maintain the integrity and reliability of the Salem City electrical system and/or conditions deemed necessary to maintain the health, safety, and welfare of the residents and employees of the City.

2. The license agreement application shall be accompanied by the design or schematic required by this section, together with a filing fee in the amount of \$500.00. Adjustments to the amount of the fee may be made by the City Council in the annual budget, or by resolution.

3. The license may be revoked for violations of any of the terms of the license agreement or for violation of any of the terms of this section.

G. Temporary Connections

This section shall not apply to the temporary generation of electric energy for emergency or standby purposes, except as noted below.

1. All emergency or standby generation shall not be interconnected with Salem City's electrical system at any time. A positive, physical means of transferring and separating loads between normal and alternate sources of supply must be used to prevent inadvertent interconnection.

2. All emergency or standby generation shall comply with the provisions of the latest revision of the National Electric Code and National Electrical Safety Code. (Ordinance #21611)

CHAPTER 2 – WATER SERVICE

11-2-010. Water Service in General - Rules and Regulations.

The city shall provide culinary water to the residents of the city. The city council may enact rules and policies for levying, billing, guaranteeing, and collecting charges for water services and all other rules necessary for the management and control of the system.

11-2-020. Rates and Connection Fees.

The water rates and connection fees for culinary water from the city water system shall be fixed from time to time by the city council. The rates and fees may be established in the annual budget enacted by the council.

11-2-030. Payment - Delinquent - Discontinuance of Service.

- A. The city recorder shall furnish to each user or mail or leave at his or her place of residence or usual place of business a written or printed statement, written thereon the amount of water service charge assessed against him or her once each month or such other regular interval as the city council shall direct.
- B. Said statement shall separately specify the amount of the bill for the water service used and the place of payment and date due. If any person fails to pay the water charges within twenty (20) days of the date due, the city recorder shall have the authority to direct that all water service to the premises involved be discontinued.(ordinance #100511)
- C. Before said water service to said premises shall again be provided, all delinquent water charges must have been paid to the city treasurer together with such extra charge for turning the water on and off as the city council may have established by resolution.
- D. The city recorder is authorized and empowered to enforce the payment of all delinquent water service charges by an action at law in the corporate name of the city.

11-2-040. Unauthorized Use.

- A. It is unlawful for any person, after the water has been turned off from his or her premises for nonpayment of water charges or other violation of the rules and regulations pertaining to the water supply, to turn on or allow the water to be turned on or used without authority.
- B. It shall be unlawful for any person by himself, family, servants, or agents to utilize the municipal water system without paying therefore, as herein provided or, without authority, to open any fire hydrant, stopcock, valve, or other fixtures attached to the system of water supply unless it is done pursuant to proper application, agreement, or resolution. It shall be unlawful to injure, deface, or impair any part or appurtenance

of the water system, or to cast anything into any reservoir or tank belonging to the water system.

- C. It is unlawful for any person to use or obtain water services from the premises of another without the express permission of the other.
- D. A violation of this section is a Class C Misdemeanor.

11-2-050. Metering Devices.

- A. Except as otherwise expressly permitted in this chapter, all structures, dwelling units, establishments, or persons using water from the city water system must have such a number of water meters connected to their water system as are necessary in the judgment of the city to adequately measure the use and determine the water charges to the respective users. Meters will be furnished by the municipality upon application for a connection and upon payment of such connection fees and other costs as has been established by the city council.
- B. No person shall be permitted to use any water from the city water system for any purpose unless the same is measured through a meter. As meters wear out or become obsolete, they will be replaced by the city. Worn out or obsolete meters must be turned into the city for disposal.
- C. Any person misusing or abusing a meter which causes it to be broken or obsolete and in need of replacement shall pay for the replacement of the same.
- D. Meters may be checked, inspected, or adjusted at the discretion of the city, and shall not be adjusted or tampered with by the customer. Meter boxes shall not be opened for the purpose of turning on or off the water except by an authorized representative of the city unless special permission is given by the city to do so.
- E. A violation of this section is a Class B Misdemeanor.

11-2-055 Access to Meters.

Access to water meters shall be kept free from brush, trees, bushes, or any other obstacles, including but not limited to parked vehicles, locked fencing, animal kennels and /or threatening animals, such that the City has unobstructed access to the meter at all times. Authorized City employees shall have the right to enter premises furnished with water by the City for the purpose of examining, reading, or servicing the meter, excavating or digging materials on or around the meter, determining the amount of water used or the manner in which used, or to shut off the water service. It shall be unlawful for any person to deny access to the meter to any such employee lawfully doing his or her job. If a water user refuses to remove an obstruction, the City may, within its discretion, either discontinue service until the obstruction is removed, or remove the obstruction with the user being liable for all the costs of doing so. Such costs may be added to the user's monthly bill, and if not paid, may be grounds for the discontinuance of water services to the premises.

11-2-060. Service Pipes - Maintenance.

- A. All water pipes from the city main to the water meter shall be maintained by the city. Pipes beyond the meter are service pipes and the responsibility of the customer.
- B. All users of water services shall keep their service pipes and connections and other apparatus in good repair and protected from frost at their own expense. No person, except under the direction of the city engineer, shall be allowed to dig into the street for the purpose of laying, removing, or repairing any service pipe.
- C. All service and other pipes used in conjunction with the water services of the city shall be of such material, quality, and specifications as the city engineer may from time to time provide, and shall be installed at such distances below ground as specified by the city. (Ord. #6-11-96 – Section 11-2-060 (D))
- D. Temporary water service shall be permitted during the construction of any building within the city. The contractor and/or owner shall pay a fee to be established from time to time by resolution of the City Council for the use of temporary water during construction and until permanent service is provided, which fee shall be paid as a condition of obtaining a building permit.

11-2-070. Connection to Water System - Required.

At such time as the municipal water system becomes available to a property, located within the city, which is served by a private well, a direct connection shall be made to the municipal water system within sixty (60) days in compliance with this chapter. The municipal water system shall be deemed available when the water mains are within 300 feet of a property line, which property contains any buildings serviced by a private well.

11-2-080. Extensions Within the City.

- A. Any person or persons, including any subdivider, desiring to have the water mains extended within the municipality, and being willing to advance the whole expense of such extension and receive the return of an agreed portion thereof, as hereinafter provided, may make application to the city council by petition containing a description of such proposed extension accompanied by a map showing the location thereof, which petition shall also contain an offer to advance the whole expense of making the same as said expense shall be certified by the city engineer. The city council may grant or deny the petition to extend the existing water lines in the city. In the event the extension is granted, the city engineer shall designate the route to be taken.
- B. Upon receipt of such petition and map, and before the petition is granted, the city council shall obtain from the city engineer a certified statement showing the whole cost and expense of making such extension.

- C. If the city council grants said petition, before any work is done on such extension, the petitioner shall provide to the city a bond for one hundred percent (100%) of the anticipated cost of the proposed extension.

11-2-090. Extensions Outside the City.

Extension of the City drinking water system beyond city limits is prohibited.

(ordinance #50119)

11-2-100. Ownership.

Any such extension shall be deemed the property of the city.

11-2-110. Waste Prohibited.

- A. It is an infraction for any water user to waste water or to allow it to be wasted by imperfect stops, taps, valves, leaky joints or pipes, or to allow tanks or watering troughs to leak or overflow, or to wastefully run water from hydrants, faucets or stops or through basins, water closets, urinals, sinks or other apparatus, or to use the water for purposes other than for those which he or she has paid, or to use the water in violation of the rules and regulations for controlling the water supply.
- B. If, in the judgment of any of the officers of the municipality, a user of city water engages in practices which result in the needless waste of water and continues to do so after reasonable notice to discontinue wastefulness has been given, the matter may be referred to the city council for a decision as set forth in this section.
- C. The city council may thereupon consider terminating the right of the individual to use culinary water. If it elects to consider the matter of termination, it shall give notice to the water user of the intention to terminate his water connection at least five (5) days prior to the meeting of the governing body at which termination of water service is to be considered. The notice shall inform him or her of the time and place of the meeting and the charges which lead to the consideration of the termination.
- D. A water user whose right to utilize municipal water is being reviewed shall have opportunity to appear with or without counsel and present reasons why water service should not be discontinued.
- E. After due hearing, the city council may arrive at a determination. If the determination is to discontinue the wasteful water user's service connection, it shall notify him or her of the decision and of the period during which the service will remain discontinued.

11-2-120. Excessive Use.

- A. It shall be unlawful for any person to use such number of outlets simultaneously or to use such sprinklers or combinations of sprinklers or outlets as will in the opinion of the governing body materially affect the pressure or supply of water in the municipal water system or any part thereof, and the governing body may from time to time, by resolution, specify combinations or numbers of outlets which may have such effect.
- B. The governing body shall, after determining that such improper use exists, notify the affected water user or the owner of the premises whereon such use occurs of such determination in writing, order such use discontinued and advise that such continued usage constitutes a violation of this part.

11-2-130. Limitations on Use.

In times of scarcity of water, whenever it shall in the judgment of the mayor and the city council be necessary, the mayor shall, by proclamation, limit the use of water for other than domestic purposes to such extent as may be necessary for the public good. It is an infraction for any person, or by his or her family, servants or agents, to violate any proclamation made by the mayor in pursuance of this section.

11-2-140. Water Use for Propelling Motors - Prohibited.

No water shall be supplied from the pipes of the municipal water system for the purpose of driving any motor, siphon, tubing or other wheels, or hydraulic engines, or elevators, or for driving or propelling machinery of any kind whatsoever.

11-2-150. Fire Hydrants.

All public fire hydrants shall be under the control of and shall be kept in repair by the city public works director, and in case of fire, the fire department shall have free access to said hydrants. Every person who opens or operates any fire hydrant or attempts to draw water therefrom without special permission of the city public works director or obstructs the approach thereto is guilty of an infraction.

11-2-160. City Not Liable For Damages.

The municipality shall not be liable for any damage to a water service user by reason of stoppage or interruption of his or her water supply caused by fires, scarcity of water, accidents to the water system or its mains, or which occurs as the result of maintenance and extension operations, or from any other unavoidable cause. This section shall not be construed to extend the liability of the municipality beyond that provided in the Governmental Immunity Act.

11-2-170. Violation - Penalty.

Unless otherwise specifically provided, every person who violates any provision of this chapter is guilty of a Class C Misdemeanor.

CHAPTER 2A – DRINKING WATER SOURCE PROTECTION ORDINANCE

11-2A-010. Short Title and Purpose.

(a) This ordinance shall be known as the “Drinking Water Source Protection Ordinance”.

(b) The purpose of this ordinance is to insure the provision of a safe and sanitary drinking water supply for the City by the establishment of drinking water source protection zones surrounding the wellheads and spring collection areas for all wells and springs which are the supply sources for the City water system and by the designation and regulation of property uses and conditions which may be maintained within such zones.

11-2A-020. Definitions.

When used in this ordinance the following words and phrases shall have the meanings given in this Section:

- (a) **Design Standard** – means a control which is implemented by a potential contamination source to prevent discharges to the ground water. Spill protection is an example of a design standard.
- (b) **Land Management Strategies** – means zoning and non-zoning controls which include, but are not limited to, the following: zoning and subdivision ordinances, site plan reviews, design and operating standards, source prohibitions, purchase of property and development rights, public education programs, ground-water monitoring, household hazardous waste collection programs, water conservation programs, memoranda of understanding, written contracts and agreements, and so forth.
- (c) **Pollution Source** – means point source discharge of contaminants to ground water or potential discharges of the liquid forms of “extremely hazardous substances” which are stored in containers in excess of “applicable threshold planning quantities” as specified in SARA Title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, land filling of sludge and septage, manure piles, salt piles, pit privies, and animal feeding operations with more than ten animal units. The following clarify the definition of pollution sources:
 - (1) **Animal Feeding Operation** – means a lot or facility where the following conditions are met: animals have been or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, and crops vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be a single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.

- (2) **Animal Unit** – means a unit of measurement for any animal feeding operation calculated by adding the following numbers; the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.
- (3) **Extremely Hazardous Substances** – means those substances which are identified in the Sec. 302 (EHS) column of the “TITLE III LIST OF LISTS – Consolidated List of Chemicals Subject to Reporting Under SARA Title III,” (EPA 560/4-91-011).
- (d) **Potential Contamination Source** – means any facility or site which employs an activity or procedure which may potentially contaminate ground water. A pollution source is also a potential contamination source.
- (e) **Regulatory Agency** – means any governmental agency with jurisdiction over hazardous waste as defined herein.
- (f) **Sanitary Landfill** – means a disposal site where solid waste, including putrescible wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.
- (g) **SARA** – means Superfund Amendments and Re-authorization Act.
- (h) **Septic Tank/Drain-field Systems** – means a system which is comprised of a septic tank and a drain-field which accepts domestic wastewater from buildings or facilities for subsurface treatment and disposal. By their design, septic tank/drain-field system discharges cannot be controlled with design standards.
- (i) **Wellhead** – means the upper terminal of a well, including adapters, ports, seals, valves and other attachments.

11-2A-030. Establishment of Drinking Water Source Protection Zones.

There is hereby established use districts to be known as zones one, two, three, and four of the drinking water source protection area, identified and described as follows:

- (a) **Zone One** is the area within a 100-foot radius from the wellhead, or spring collection area.

- (b) **Zone Two** is the area within a 250-day ground-water time of travel to the wellhead or spring collection area, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer.
- (c) **Zone Three** (waiver criteria zone) is the area within a 3-year ground-water time of travel to the wellhead or margin of the spring collection area, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer.
- (d) **Zone Four** is the area within a 15-year ground-water time of travel to the wellhead, the boundary of the aquifer(s) which supplies water to the ground-water sources, or the ground-water divide, whichever is closer.

11-2A-040. Permitted Uses.

The following uses shall be permitted within drinking water source protection zones:

- (a) Any use permitted within existing agricultural, single family residential, multi-family residential, and commercial districts so long as uses conform to the rules and regulations of the regulatory agencies.
- (b) Any other open land use where any building located on property is incidental and accessory to the primary open land use.

11-2A-050. Prohibited Uses.

The following uses or conditions shall be and are hereby prohibited within drinking water sources protection zones, whether or not such use or condition may otherwise be ordinarily included as a part of a use permitted under Section 11-2A-040 of the ordinance:

- (a) **Zone One** – the location of any pollution source as defined herein.
- (b) **Zone Two** – the location of a pollution source unless its contaminated discharges can be controlled with design standards.
- (c) **Zone Three and Four** – the location of a potential contamination source unless it can be controlled through land management strategies.

11-2A-060. Administration.

The policies and procedures for administration of any source protection zone established under this ordinance, including without limitation those applicable to nonconforming uses, exception, enforcement and penalties, shall be the same as provided in the existing zoning ordinance for Salem City, as the same is presently enacted or may from time to time to be amended. (Ordinance No. 1-21-98-B)

CHAPTER 2B – PRESSURE IRRIGATION WATER SERVICE

11-2B-010. Pressure Irrigation Water Service.

The City shall provide pressure irrigation water service to its residents and businesses. This water is not treated and is not to be used for any culinary purpose, but is for outdoor watering use only. The City Council may enact policies necessary for the management and control of the system.

11-2B-020. Rates and Fees.

The City Council may establish rates and fees for use of the pressure irrigation system. Impact fees may be established only after following the requirements of state law to establish impact fees. The connection fees and usage rates may be set by resolution of the City Council, or may be set as part of the City's annual budget approval process.

11-2B-030. Billing-Delinquent-Discontinuance of Service.

- A. The City Recorder shall furnish to each user or mail or leave at his or her place of residence or usual place of business a statement, written thereon the amount of pressurized irrigation water service assessed against him or her, once each month, or such other regular interval as the City Council shall direct.
- B. Said statement shall separately specify the amount of the bill for the pressurized irrigation water used and the place of payment and date due. If any person fails to pay the water charges within thirty (30) days of the date due, the City Recorder shall have the authority to direct that all pressurized irrigation water service to the premises involved be discontinued.
- C. Before said pressurized irrigation water service to said premises shall again be provided, all delinquent pressurized irrigation water charges must have been paid to the City Treasurer, together with such extra charge for turning the water on and off and late fees as the City Council may have established by resolution.

11-2B-040. Unauthorized Use.

- A. It is unlawful for any person, after the pressurized irrigation water has been turned off from his or her premises for nonpayment of these charges or other violation of the rules and regulations pertaining to the pressurized irrigation water supply, to turn on or allow the water to be turned on or used without authority.
- B. It shall be unlawful for any person, whether by himself, family, servants, or agents, to utilize the municipal pressurized irrigation water system without paying therefore, as herein provided or, without authority, to open any stopcock, valve, or other fixtures attached to the system of pressurized irrigation water supply unless it is done pursuant to proper applications, agreement or resolution. It shall be unlawful to injure, deface, or impair any part or appurtenance of the pressurized irrigation water system.

- C. It is unlawful for any person to use or obtain pressurized irrigation water services from the premises of another without the expressed permission of the other.

11-2B-050. Service Pipes-Maintenance.

- A. All water pipes from the city main to the pressurized irrigation water valve, located at near property line, shall be maintained by the City. Pipes beyond the valve are service pipes and the responsibility of the customer.
- B. All users of pressurized irrigation water service shall keep their service pipes and connections and other apparatus in good repair and protected from frost at their own expense. No cross-connections with the culinary water system shall be allowed. No person, except under the direction of the City Engineer, shall be allowed to dig into the street for the purpose of laying, removing or repairing any service pipe.
- C. All service and other pipes used in conjunction with the pressurized irrigation water services of the City shall be of such material, quality, and specifications as the City Engineer may from time to time provide, and shall be installed in accordance with the Construction and Development Standards of the City.
- D. Any person cross connecting the pressurized irrigation water service with the culinary water service shall be guilty of a Class B Misdemeanor. In addition to any criminal penalty, such person shall also be subject to termination of all water service (culinary and pressurized irrigation) from the City and shall be responsible for the costs of disinfecting the City's culinary water system, together with all other costs incurred by the City as a result of the cross connection.

11-2B-060. Connection Required.

All outdoor water users in the City, who have access to the pressurized irrigation water system, shall be required to connect to the system, and pay the required fees. The City Engineer may waive this requirement for any lot that has a private well which can be used for outdoor watering. Any such lot which seeks to connect to the system at a future date must pay applicable impact and connection fees in place at the time of application, and prior to connection to the system.

11-2B-070. Waste Prohibited.

- A. No water user may waste water or to allow it to be wasted by imperfect stops, taps, valves, leaky joints or pipes, or to allow tanks or watering troughs to leak or overflow, or to wastefully run water from hydrants, taps, hoses, stops, or other apparatus, or to

use the water for purposes other than those which he or she has paid, or to use the water in violation of the rules and regulations for controlling the pressurized irrigation water supply, including any restrictions imposed under §11-2B-090. The pressurized irrigation water system may not be used to water lawns, shrubs, or other landscaping between the hours of 10:00 a.m. and 6:00 p.m., except for new lawns, short cycles for testing, inspection, or maintenance, and except for those large government or commercial users authorized by the City Engineer in order to more efficiently use the system and/or provide benefit to the system or the residents of the City. If, in the judgment of the City Engineer, or designee, any user of the city pressurized irrigation water service engages in practices which result in the needless waste of water or are in violation of any of the provisions of this Chapter, they are subject to the penalties of paragraph B.

B. Any user violating any of the measures of this Chapter to help prevent waste shall be subject to the following civil penalties, which are in addition to any criminal penalties which may be applicable.

1. A written notice shall be sent for the first violation. Notice is deemed sufficient if left with a resident over age fourteen or with a business occupant of the premises, or if left on the front door of the premises.

2. A second violation by a residential user within the same calendar year shall subject the user to a \$100.00 penalty and the valve shall be turned off and tagged. The valve may not be turned back on until the fee is paid. Notice of the penalty shall be provided as outlined in subsection (1) and added to the City Utility Bill for the premises.

3. A third violation within the same calendar year shall subject the user to a \$750.00 penalty and the pressure irrigation service shall be metered and a metered rate paid for the water used. Once a meter is installed, it will remain with the property and the owners/users causing its installation shall pay a metered rate each year thereafter. If the owner/user moves, the pressure irrigation rate will revert back to the pre-violation rate. Notice of the penalty shall be provided as outlined in subsection (1) and added to the City Utility Bill for the premises. The person(s) violating must appear before the City Council and obtain their approval to have water restored

4. A fourth violation will also result in the termination of the service for the remainder of the irrigation season

5. The pressurized irrigation system can only be used on lawns and gardens unless prior written approval by the City is granted or allowed by contract between the user and the City. The pressure irrigation system can only be used on the legal parcel where the pressure irrigation lateral is installed. Use on any other parcel, whether owned by the same person(s)/entity or another person(s)/entity, is strictly prohibited, unless prior written approval by the City is granted allowed by contract between the user and the City. Lawns and gardens do not include pastures, orchards, neighborhood gardens, commercial garden, farm crops, or other large uses of similar type. A contract or written approval by the City may include the requirement to purchase and install a meter and paying a large lot metered rate. (ordinance 3-19-14-B)

C. Any user desiring to contest any violation or penalty as set forth in sub-paragraph B shall have the right to request a hearing. The hearing shall be held before the City Recorder. A request for hearing shall be made within ten (10) days of the date that the notice is delivered. The hearing shall be scheduled within twenty (20) days of receipt of the request for hearing. The hearing officer shall follow these guidelines:

1. The penalty provisions shall be closely followed. The hearing officer may not reduce the financial amount of any penalty, but may allow it to be paid over a period of time, not to exceed five months.

2. The hearing officer may waive the penalty if it is determined that the offense occurred through no fault of the user and that means to prevent wasting water were taken by the user within 15 days of their knowledge of a wasteful event and/or practice. A member of the user's family, employee, a contractor or sub-contractor are all considered to be agents of the user and their conduct is to be considered as fault of the user. Economic hardship shall not be a basis to waive any penalty.

D. Either the City or the user may appeal the decision of the hearing officer to the City Council. A request for hearing shall be made within 10 days of the decision. The hearing shall be held within thirty (30) days after request for a hearing is made. The decision of the Council is final and non-appealable.

E. Any penalty added to the City Utility Bill shall be treated as part of the bill, and not timely paid, is subject to late fees, penalties, and/or shutoff of utility service in accordance with utility rules in place at the time. (Ordinance 6-03-09)

11-2B-080. Excessive Use.

A. It shall be unlawful for any person to use such number of outlets simultaneously or to use such sprinklers or combinations of sprinklers or outlets as will, in the opinion of the City Engineer, materially affect the pressure or supply of pressurized irrigation water in the municipal pressurized irrigation water in the municipal pressurized irrigation water system or any part thereof.

- B. The City Engineer shall, after determining that such improper use exists, notify the affected pressurized irrigation water user or the owner of the premises whereon such use occurs of such determination in writing, order such use discontinued and advise that such continued usage constitutes a violation of this part.

11-2B-090. Limitations of Use.

In times of scarcity of water, whenever it shall in the judgment of the Mayor and the City Council be necessary, the Mayor shall, by proclamation, limit the use of pressurized irrigation water to such extent as may be necessary for the public good.

11-2B-100. City Not Liable For Damages.

The City shall not be liable for any damage to a water service user by reason of stoppage or interruption of his or her pressurized irrigation water supply caused by scarcity of water, accidents to the water system or its mains, or which occurs as the result of maintenance and extension operations, or from any other unavoidable cause. This section shall not be construed to extend the liability of the City beyond that provided in the Utah Governmental Immunity Act.

11-2B-110. Violation-Penalty.

Unless otherwise specifically provided, every person who violates any provision of this chapter is guilty of a Class C Misdemeanor. (Ordinance 12-13-06-B)

CHAPTER 2C – CONTROL OF BACKFLOW AND CROSS CONNECTIONS PROGRAM AND POLICY

(Ordinance#11823)

11-2C-010. SECTION 1. CROSS CONNECTION CONTROL – GENERAL POLICY

A. Purpose of Ordinance

- i. To protect the Public drinking water supply of Salem City from the possibility of contamination or pollution by requiring compliance with the Utah State Rules for Public Drinking Water Systems and the Plumbing Code as adopted by the State of Utah, that require a cross connection control protection of all public drinking water systems in the State of Utah. Compliance with these minimum safety codes will be considered reasonable diligence for the prevention of contaminants or pollutants which could backflow into the public drinking water system; and
- ii. To promote the reasonable elimination or control of cross connection in the plumbing fixtures and industrial piping system(s) of the consumer, as required by the state and plumbing regulations to assure water system safety; and
- iii. To provide for the administration of a continuing program of backflow prevention which will systematically examine risk and effectively prevent the contamination or pollution of the drinking water system.

B. Responsibility: Drinking Water Purveyor

- i. Salem City shall be responsible for the protection of the drinking water distribution system from the foreseeable condition leading to the possible contamination or pollution of the drinking water system due to the backflow of contaminants or pollutants into the drinking water supply.
- ii. Drinking water system surveys/inspections of the consumer's water distribution system(s) shall be conducted or caused to be conducted by individuals deemed qualified by and representing Salem City. Survey records shall indicate compliance with the State of Utah Regulations. All such records will be maintained by Salem City.
- iii. Salem City shall schedule and notify in writing, all consumers of the need for the periodic system survey to insure compliance with existing applicable minimum health and safety standards.
- iv. Selection of an approved backflow prevention assembly for containment control required at the service entrance shall be determined from the results of the system survey.

C. Responsibility: Consumer

- i. To comply with this ordinance as a term and condition of water supply and consumer's acceptance of service is admittance of his/her awareness of his/her responsibilities as a water system user.
- ii. It shall be the responsibility of the consumer to purchase, install, and arrange testing and maintenance of any backflow prevention device/assembly required to comply with this ordinance. Failure to comply with this ordinance shall constitute grounds for discontinuation of service.

D. Responsibility: Plumbing Official

- i. The plumbing official's responsibility to enforce the applicable sections of the plumbing code begins at the point of service (downstream or consumer side of the meter) and continues throughout the length of the consumer's water system.
- ii. The plumbing official will review all plans to ensure that unprotected cross connections are not an integral part of the consumer's water system. If a cross connection cannot be eliminated, it must be protected by the installation of an air gap or an approved backflow prevention device/assembly, in accordance with the Plumbing Code as adopted by the State of Utah.

E. Responsibility: Certified Backflow Technician, Surveyor, or Repair Person

- i. Whether employed by the consumer or a utility to survey, test, repair, or maintain backflow prevention assemblies the Certified Backflow Technician, Surveyor, or Repair Person will have the following responsibilities:
- ii. Insuring that acceptable testing equipment and procedures are used for testing, repairing or overhauling backflow prevention assemblies.
- iii. Make reports of such testing and/or repairs to the consumer and the water purveyor on form approved for such use by the water purveyor within time frames as described by the Division of Drinking Water.
- iv. Include the list of materials or replacement parts being used in the reports.
- v. Ensuring that replacement parts are equal in quality to parts originally supplied by the manufacturer of the assembly being repaired.
- vi. Not changing the design, material or operational characteristics of the assembly during testing, repair or maintenance.
- vii. Performing all tests of the mechanical devices/assemblies and shall be responsible for the competence and accuracy of all tests and reports.

- viii. Insuring that his/her license is current, the testing equipment being used is acceptable to the State of Utah, and is in proper operating condition.
 - ix. Being equipped with, and competent to use, all necessary tools, gauges, test tags, and other equipment necessary to properly test, and maintain backflow prevention assemblies.
 - x. Tagging each double check valve, pressure vacuum breaker, reduced pressure backflow assembly and high hazard air gap, showing the serial number date tested and by whom. The certified technician's license number must also be on the tag.
- F. **Responsibility: Repair of backflow assemblies.** In the case of a consumer requiring an assembly to be tested, any currently Certified Backflow Technician is authorized to make the test and report the results to the consumer and the water purveyor. Any installation repair or relocation shall be done with individuals having appropriate licensure from the department of licensing.

11-2C-020. **SECTION 2. DEFINITIONS**

- A. **Water Purveyor:** The person designated to be in charge of the Water Department of Salem City, is invested with the authority and responsibility for the implementation of an effective cross connection control program and for the enforcement of the provisions of this ordinance.
- B. **Approved Backflow Assembly:** An assembly accepted by the Utah State Department of Environmental Quality, Division of Drinking Water, as meeting an applicable specification or as suitable for the proposed use.
- C. **Auxiliary Water Supply:** Any water supply on or available to the premises other than the purveyor's public water supply will be considered as an auxiliary water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source(s) such as a well, spring, river, stream, etc., or "used waters" or "industrial fluids". These waters may be contaminated or polluted or they may be objectionable and constitute an unacceptable water source over which the water purveyor does not have authority for sanitary control.
- D. **Backflow:** The reversal of the normal flow of water caused by either back-pressure or back siphonage.
- E. **Back-Pressure:** The flow of water or other liquids, mixtures, or substances from a region of high pressure to a region of lower pressure into the water distribution pipes of a potable water supply system from any source(s) other than the intended source.
- F. **Back-Siphonage:** The flow of water or other liquids, mixtures, or substances under vacuum conditions into the distribution pipes of a potable water supply

system from any source(s) other than the intended source, caused by the reduction of pressure in the potable water system.

- G. Backflow Prevention Assembly:** An assembly or means designed to prevent backflow. Specifications for backflow prevention assemblies are contained within the Plumbing Code as adopted by the State of Utah and in the Cross Connection Control Program for Utah maintained by the Division of Drinking Water.
- H. Cross Connection:** Any physical connection or arrangement of piping or fixtures which may allow non-potable water or industrial fluids or other material of questionable quality to come into contact with potable water inside a water distribution system. This would include temporary conditions, such as swing connections, removable sections, four way plug valves, spools, dummy sections of pipe, swivel or change-over devices or sliding multiport tubes or other plumbing arrangements.
- I. Contamination:** Means a degradation of the quality of the potable water supply by sewage industrial fluids or waste liquids, compounds or other materials that may create a health hazard.
- J. Cross Connection-Controlled:** A connection between a potable water system and a non-potable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.
- K. Cross Connection-Containment:** The installation of an approved backflow assembly at the water service connection to any customer's premises where it is physically and economically infeasible to find permanently eliminate or control all actual or potential cross connection within the customer's water distribution system; or, it shall mean the installation of an approved backflow prevention assembly on the service line leading to and supply a portion of a customer's water distribution system; or, it shall mean the installation of a portion of a customer's water system where there are actual or potential cross connections which cannot be effectively eliminated or controlled at the point of the cross connection (isolation).

11-2C-030. SECTION 3. REQUIREMENTS

- A. Policy:**

 - i.** No water service connection to any premises shall be installed or maintained by the Water Purveyor unless the water supply is protected as required by State laws, regulations, codes, and this ordinance shall be discontinued by the water purveyor after due process of written notifications of violation and an appropriate time suspense for voluntary compliance, if:

- ii. A backflow prevention assembly required by this ordinance for the control of backflow and cross connections is not installed, tested, and maintained, or
- iii. If it is found that a backflow prevention assembly has been removed or by-passed, or
- iv. If an unprotected cross connection exists on the premises, or
- v. If the periodic system survey has not been conducted.
- vi. Service will not be restored until such conditions or defects are corrected.
- vii. The customer's system(s) shall be open for inspection at all reasonable times to authorized representatives of the water purveyor to determine whether cross connections or other structural or sanitary hazards, including violation of this ordinance exist and to audit the results of the required survey (R309.105.12 of the Utah Administrative Code).
- viii. Whenever the public water purveyor deems a service connection's water usage contributes a sufficient hazard to the water supply, and approved backflow prevention assembly shall be installed on the service line of the identified consumer's water system, at or near the property line or immediately inside the building being served; but, in all cases, before the first branch line leading off the service line.
- ix. The type of protective assembly required under subsection 3.1.3, shall depend upon the degree of hazard which exists at the point of cross connection (whether direct or indirect), applicable to local and state requirements or resulting from the required survey.
- x. All presently installed backflow prevention assemblies which do not meet the requirements of this section but were approved assemblies for the purposes described herein at the time of installation and which have been properly maintained, shall, except for the inspection and maintenance requirements under subsection 3.1.6, be excluded from the requirements of these rules so long as the water purveyor is assured that they will satisfactorily protect the public water system. Whenever the existing is moved from the present location or requires more than minimum maintenance or when the water purveyor finds that the operation or of this assembly constitutes a hazard to health, the unit shall be replaced by an approved backflow prevention assembly meeting all local and state requirements.
- xi. It shall be the responsibility of the consumer at any premises where backflow prevention assemblies are installed to have certified surveys; inspections, and operational tests made at least once per year at the

consumer's expense. In those instances where the Public Water Purveyor deems the hazard to be great, he may require certified surveys/inspections and tests at a more frequent interval. It shall be the duty of the purveyor to see that these tests are made according to the standards set forth by the State Department of Environmental Quality, Division of Drinking Water.

- xii.** All backflow prevention assemblies shall be tested within ten (10) working days of installation.
- xiii.** No backflow prevention assemblies shall be installed so as to create a safety hazard. (Example: Installed over an electrical panel, steam pipes, boilers, or above ceiling level).

B. Violation of this Policy: If violation of this ordinance exists if there has not been any corrective action taken by the consumer within ten (10) days of the written notification of the deficiencies noted within the survey or test results, then the water purveyor shall deny or immediately discontinue service to the premises by providing a physical break in the service line until the customer has corrected the condition(s) in conformance with all State and local regulations and statutes relating to plumbing, safe drinking water suppliers, and this ordinance.

CHAPTER 3 – SEWER SERVICE

11-3-010. Sewer Service in General - Rules and Regulations.

- A. The city shall provide a sewer system for the benefit of the residents of the city. The city council may enact rules and policies for levying, billing, guaranteeing, and collecting charges for sewer services and all other rules necessary for the management and control of the sewer system.
- B. The City will provide a trailer dump for use by its residents at the sewer plant. Non-residents may use the facilities to dump their personal trailers after purchasing a permit. No commercial dumping is allowed by residents or non-residents. Non-resident permits are available at the City Office and shall be good for the period from April 1 through October 31. The initial cost of a permit is twenty-five dollars (\$25.00), which amount may be amended by resolution of the Council, or in the City budget. The cost of the permit may not be pro-rated for a portion of the time period. (ordinance 5-1-13)

11-3-020. Rates and Connection Fees.

The sewer rates and connection fees for sewer from the city sewer system shall be fixed from time to time by the city council. The rates and fees may be established in the annual budget enacted by the city council.

11-3-030. Payment - Delinquency - Discontinuance of Service.

- A. The sewer department, or such other person as the city council may designate, shall furnish to each user or mail or leave at his place of residence or usual place of business, a written or printed statement stating the sewer service charges assessed against him or her once each month or at such other regular intervals as the city council shall direct. The statement shall specify the amount of the bill, the place of payment, and the date due.
- B. Said statement shall separately specify the amount of the bill for the sewer service used and the place and payment and due date. If any person fails to pay the sewer charges within twenty (20) days of the date due, the city recorder shall have the authority to direct that all utility service to the premises involved be discontinued.

(Ordinance #100511)
- C. If the water service is thereafter discontinued for failure to make payment of the sewer service charges, before the water service to the premises shall again be provided, all

delinquent sewer charges must have been paid to the municipal treasurer or arrangements made for payment that are satisfactory to the municipality.

- D. In the event water is turned off for nonpayment of sewer charges, before the water service to the premises shall again be provided, the customer shall pay, in addition to all delinquent charges such extra charge for turning the water on and off as the city council may have established by resolution or ordinance.
- E. If any person fails to pay the sewer charges within thirty (30) days of the due date, the recorder is hereby authorized to take all action necessary to enforce collection, including but not limited to the commencement of legal proceedings in a court of proper jurisdiction seeking judgment for the amount of the delinquent fees and service charges and all costs of collection, including court costs and attorney's fees.
- F. Other entities may have the right to discharge into the sewer system. In addition to discontinuance of service, and any other remedies available, any such entity which exceeds its discharge/capacity rights is subject to a civil penalty in a minimum amount of \$5,000.00 per month for each month in which a violation occurs, or such greater amount as is imposed upon Salem City by a state or federal authority having jurisdiction over any violation caused by such excess discharge. In addition thereto, a penalty equal to double the Salem residential sewer charge shall be imposed for each connection within the offending entity. If court action is required to recover any such penalty, attorney's fees and costs shall also be assessed, which costs shall include engineering/consulting and expert witness fees. (Ord. No. 01-19-05)

11-3-040. The Use of Sewer System Mandatory.

All new buildings constructed within the boundaries of Salem City, whether in residential, commercial, or industrial zones shall be connected to the public sanitary sewer. Existing structures which are not yet connected to the public sewer shall do so at such time as the public sewer becomes available to a property served by a private waste water disposal system. Such connection shall take place within 60 days after the public sewer system becomes available. The public sewer system shall be deemed available when the sewer lines are within 1000 feet of a property line which property contains a building serviced by a private wastewater system. Following connection to a public sewer system, any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material. Exceptions to this Section may be granted by the City Council upon a showing of hardship, which shall not include economic hardship. (Ordinance

No. 11-14-95 / Section 11-3-040)

11-3-050. Owner Responsible for Costs.

All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

11-3-060. Standards.

- A. The size, slope, alignment, and materials of construction of all sanitary sewers including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.
- B. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and material must be approved by the city engineer before installation.
- C. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection as designated in this section.
- D. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the city engineer, to meet all requirements of this chapter.

11-3-070. Permits Required.

No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining written permit from the city engineer.

11-3-080. Inspections.

The applicant for a building sewer permit shall notify the city engineer when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the city engineer or representative.

11-3-090. Private Waste Water Systems.

- A. Where the public sewer is not available, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.
- B. Before commencement of construction of a private wastewater disposal system, a percolation test and permit from the Utah County Health Department must be obtained. The owner(s) shall then obtain a written permit signed by the city engineer. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information as is deemed necessary by the engineer. A permit and inspection fee of twenty-five (25) dollars shall be paid to the city at the time the application is filed.
- C. A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the city engineer. The city shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the engineer when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within twenty-four (24) hours of the receipt of notice by the engineer.
- D. The type, capacities, location, and layout of a private wastewater disposal system shall comply with all recommendations of the Utah County Health Department and the Department of Public Health of the State of Utah. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than one acre. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- E. The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city.
- F. No private waste water systems shall be allowed anywhere within Salem City limits which lie east of Woodland Hills Drive and south of the Strawberry-Highline Canal.

(Ord. No. 9-03-03)

11-3-100. Unlawful Deposits.

It is unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of said city, any human or animal excrement, garbage, or other objectionable waste.

11-3-110. Unlawful Discharge.

1. It is unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this chapter.
2. It is unlawful to discharge any material into the waste water treatment system except through and authorized connection. (Ord. No. 1-7-04-A)

11-3-120. Prohibited Uses.

- A. Inflammables. It shall be unlawful for any person to injure, break or remove any part or portion of any sewer appliance or appurtenance, or to discharge into a sewer any inflammable gas, gasoline or oil, any calcium carbide or residue therefrom, or any liquid or other materials or substance which will emit an inflammable gas when in contact with water, sewage or fire. Oil separators installed in any building where volatile fluids are used must not be connected directly or indirectly with a sewer.
- B. Waste pipes from enumerated establishments. The contents of waste pipes from water filters, gas engines, air compressors, vacuum or dry cleaners, garages, wash racks, stores or warehouses containing inflammable substances, car barns, buildings for the stabling or keeping of horses, cows and other animals, or plants using milk or processing milk products, and all similar establishments shall not be disposed of through connection with a sanitary sewer unless such contents are discharged into settling tanks properly trapped and vented. The construction of such tanks must be approved by the municipal engineer, and must be subject to his inspection, approval, or condemnation before cement is poured and at all times thereafter until completion of such construction. Upon condemnation by the municipal engineer, the sewage from the tanks shall not be allowed to flow into the sewer until satisfactory alterations have been made and the construction approved by the municipal engineer.
- C. Obstructive material. It shall be unlawful for any person to empty or discharge into the public sanitary sewer any garbage, refuse or other similar matter or substance likely to obstruct the sewer, or any substance, solid or liquid other than the waste products for which the sewer is provided.
- D. Drainage waters and destructive materials. It shall be unlawful for any person to connect with a public sanitary sewer any drain or pipe which discharges rain water, cellar or surface water, acids, alkalies, lye or other injurious liquids, or the contents of

any spring, flowing well, creek, ditch,, or other water courses. No boiler or heating plant shall be directly connected to the sanitary sewer. The overflow from boilers or heating plants, when cooled to a temperature not to exceed 120° fahrenheit, will be allowed to run to a sump, which sump shall be connected to the sewer. The discharge of the contents of waste pipes from water filters, gas engines, air compressors, vacuum or dry cleaners, garages, wash racks, stores or warehouses which contain inflammable substances, buildings for the stabling or keeping of horses, cows and other animals, and all similar establishments, shall not be made into or connected with a sanitary sewer, unless such contents are discharged into settling tanks properly trapped and vented. Settling tanks shall be constructed of a material approved by the city and shall be at all times subject to inspection and approval or condemnation. Upon condemnation, the sewage from said tanks shall not be allowed to flow into the sewer until satisfactory alterations have been made and the construction approved by the city.

- E. It shall be unlawful for any wastewater containing toxic pollutants which either singly or by interaction with other pollutants, causes injury or interference with any wastewater treatment process, constitutes a hazard to humans or animals, creates a toxic effect in the receiving waters of the sewer system, or contaminates the sludge or any sewer system, to be discharged into the sewer system.
- F. It shall be unlawful for any malodorous liquids, gases, or solids which either singly or cumulatively or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair, to be discharged into the sewer system.
- G. Septic tank, portable toilet, and similar waste is prohibited except for residents dumping waste from a motor home or camp trailer in designated area. (Ord. No. 01-19-05)

11-3-130. Vandalizing Facilities.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewer system without the permission of the city. Any person violating this section shall be subject arrest under the charge of vandalism.

11-3-140. Violation - Penalty.

Any person violating any provision of this chapter, unless otherwise indicated, is guilty of a Class C Misdemeanor.

CHAPTER 3A – WASTEWATER PRETREATMENT

11-3A-010. Definitions.

Shall is mandatory, may is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use. In addition, the following definitions shall be applicable:

- A. **Biochemical Oxygen Demand (BOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20° centigrade expressed in terms of mass and concentration [milligrams per liter (mg/l)]. This test must be performed in accordance with approved procedures found in 40 CFR part 136.
- B. **Chemical Oxygen Demand (COD).** “Chemical Oxygen Demand (COD) means the oxygen equivalent of that portion of organic matter in a wastewater sample that is susceptible to oxidation by a strong chemical oxidant. Laboratory determinations shall be made in accordance with methods set forth in 40 CFR 136 or its successors.
- C. **Composite Sample.** The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time, to minimize the effect or the variability of the individual samples.
- D. **Grab Sample.** A sample which is taken from a waste stream on a one-time basis, over 15 minutes or less.
- E. **Indirect Discharge (Discharge).** The introduction of pollutants into the POTW from any non-domestic source.
- F. **Instantaneous Maximum Allowable Discharge Limit.** The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any grab or composite sample collected.
- G. **Interference.** A Discharge which, alone or in conjunction with a Discharge or Discharges from other sources both: 1) inhibits or disrupts the POTW and 2) causes a violation of Salem City’s UPDES permit.
- H. **NPDES.** Means the National Pollution Discharge Elimination System or the Utah Pollution Discharge Elimination System.
- I. **pH.** Means the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution.

- J. **Pass Through.** A discharge which exits the POTW into waters of the State in quantities or concentrations which alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the UPDES permit (including in the magnitude or duration of a violation).
- K. **Pollutant.** Means the manmade or man-induced alteration of the chemical, physical, biological, and radiological integrity of water, including, but not limited to, any dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive material, heat, direct or discharge equipment, rocks, sand, dirt, and industrial, municipal, and agricultural waste discharged into water.
- L. **Pretreatment.** The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes, or any other means, except as prohibited by 40 CFR 403.6(d).
- M. **Publicly Owned Treatment Works (POTW).** The treatment works owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of municipal/domestic sewage or industrial wastes of a liquid nature discharged into the stated system. Also included are any conveyances, such as pipelines, conduits or channels which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the indirect Discharges to such a system and the discharges from the treatment works.
- N. **Prohibited Discharge Standards or Prohibited Discharges.** Absolute prohibitions against the discharge of certain substances or wastewater characteristics, these prohibitions appear in Section 2.1 of this ordinance.
- O. **Septic Tank Waste.** Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- P. **Slug Load.** An discharge at a flow rate or concentration which could cause a violation of the Prohibited Discharge Standards or any discharge of a nonroutine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

- Q. **Total Suspended Solids (TSS).** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- R. **Treatment Plant Effluent.** Any discharge from the POTW into waters of the State of Utah.
- S. **Treatment Plant Operator or Operator.** The person designated by Salem City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance or his duly authorized representative.
- T. **Wastewater.** Liquid and water-carried non-domestic wastes, and sewage from residential dwellings, commercial buildings, non-domestic and manufacturing facilities, and institutions, whether treated or untreated which are contributed to the POTW.

11-3A-020. Prohibited Discharge Standards.

No non-domestic user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. Furthermore, no user may contribute the following substances to the POTW.

- A. Pollutants which create a fire or explosive hazard in the POTW system, including but not limited to waste streams with a closed-cup flashpoint of less than 140° F (60° C) using the test methods specified in 40 CFR 261.21.
- B. Any Pollutants which will cause, corrosive structural damage to the POTW or equipment, or endanger Salem City personnel, but in no case discharges with a pH of less than 5.0 or more than 9.0.
- C. Any pollutant, including oxygen demanding pollutants (BOD, etc), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
- D. Any wastewater having a temperature greater than 140° F, or which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantity that it causes the temperature at the POTW to exceed 104° F (40° C).
- E. Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW system in a quantity that may cause acute or chronic worker health and safety problems.

- F. Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or to prevent entry into the sewers for maintenance and repair.
- G. Any wastewater containing any radioactive wastes or isotopes.
- H. Storm water, surface water, ground water, artisan well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the Operator.
- I. Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the POTW system.
- J. Any discharge of fats, oils, or greases of animal or vegetable origin is limited to 100 mg/l.
- K. No discharge of petroleum oil is allowed.

11-3A-030. Salem City's Right of Revision.

The Salem City reserves the right to establish, in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

11-3A-040. Special Agreement.

Salem City reserves the right to enter into special agreements with non-domestic users setting out special terms under which they may discharge to the POTW.

11-3A-050. Dilution.

No non-domestic user shall increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by Salem City.

11-3A-060. Pretreatment Operations.

- A. Non-domestic users shall provide wastewater treatment as needed to comply with this ordinance, and shall achieve compliance with all the prohibitions stated in this Chapter within the time limitations specified by the Operator. Any facilities necessary for compliance shall be provided, operated, and maintained at the non-domestic user's expense, including flow meters when required by the operator. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to Salem City for review, and shall be acceptable to Salem City before construction of the facility. The review of such plans and operating procedures shall in no way relieve the non-domestic user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to Salem City under the provisions of this ordinance.
- B. Grease, oil and sand interceptors shall be provided when, in the opinion of the Operator, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand, except that such interceptors shall not be required for residential users. All interceptor units shall be of type and capacity approved by the Operator and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected and cleaned at least once each year or more frequently, as needed, by the owner at their expense.

11-3A-070. Slug Load Control Plans.

The Operator may require any non-domestic user to develop and implement a slug control plan. Any non-domestic user required to develop or implement a slug control plan shall submit a plan which addresses, at a minimum, the following:

- A. Description of discharge practices, including nonroutine batch discharges.
- B. Type and quantity of stored chemicals.

- C. Procedures for immediately notifying Salem City of any accidental or slug discharge.
- D. Procedures to prevent adverse impact from any accidental or slug discharge.

11-3A-080. Owner/Tenant Responsibility.

When an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is a non-domestic user, either or both may be held responsible for compliance with the provisions of this ordinance.

11-3A-090. Hauled Wastewater.

A. Septic tank waste may be accepted into the POTW at a designated receiving structure within the treatment plant area, and at such times as are established by the Operator.

Fees for dumping septage will be established as part of the non-domestic user fee system.

11-3A-100. Non-domestic Waste Survey.

When requested by the Operator non-domestic users must submit information on the nature and characteristics of their wastewater by completing a questionnaire and a baseline monitoring report. Failure to complete this application questionnaire shall be reasonable grounds for terminating service to the non-domestic use and shall be considered a violation of the ordinance.

11-3A-110. Application questionnaire Contents.

The Operator shall approve a form to be used as a permit application. Incomplete or inaccurate applications will not be processed and shall be returned to the non-domestic user for revision. Should any of the information requested or supplied be considered by the non-domestic user to be of a confidential nature, the non-domestic user should request confidential status in accordance with this Chapter. The information must contain at least the following:

- A. **Identifying Information.** The name and address of the facility including the name of the operator and owners.

- B. **Hours of Operation.** Number and type of employees, hours of operation, either proposed or actual hours.
- C. **Permits.** A list of any environmental control permits held by or for the facility.
- D. **Description of Operations.** A description of the activities, facilities and processes on the premises, average rate of production, and standard industrial classifications of the operation(s) carried out by the industrial user. This Description should include a schematic process diagram which indicates all points of discharge to the POTW from the regulated processes.
- E. **Facility Plans.** The site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
- F. **Raw Materials.** Type and amount of raw materials processed (average and maximum per day) and chemicals used or stored at the facility.
- G. **Products.** Each product produced by type, amount, process or processes, and rate of production.
- H. **Pretreatment Standards.** Identify the categorical Pretreatment Standards applicable to each regulated process.
- I. **Pollutants.** Submit the results of sampling and analysis identifying the nature and concentration of regulated pollutants in the discharge for each regulated process. Instantaneous, daily maximum and long term average concentration shall be reported. The sample shall be representative of daily operations and shall be sampled and analyzed in accordance with procedures set out in this chapter.
- J. **Flow Measurement.** Time, duration and quantity of discharge. In addition, measured average daily and maximum daily flow, in gallons per day, to the POTW from each waste stream, as necessary to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
- K. **Certification.** A statement reviewed by the industrial user's authorized representative and certified by the qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis. If not, state whether

additional O&M and/or additional pretreatment is required to meet the Pretreatment Standards and requirements.

- L. **Compliance Schedule.** If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.
- M. **Additional Information.** Any other information as may be deemed necessary by the operator to evaluate the wastewater discharge permit application.

11-3A-120. Treatment Works Operator.

The Operator will evaluate the data furnished by the non-domestic user and may require additional information. Within Thirty (30) days of receipt of a complete wastewater discharge permit application, the Operator will determine whether or not to issue a wastewater discharge permit. The Operator may deny for cause any application for a wastewater discharge permit. The basis for denial shall be provided to the non-domestic user.

11-3A-130. Wastewater Discharge Permit Requirement.

- A. It shall be unlawful for any significant non-domestic user to discharge wastewater into POTW without first obtaining a wastewater discharge permit from the Operator.

Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to sanctions. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with any other requirements of Federal, State or local law.

- B. The Operator may require, other non-domestic users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.

11-3A-140. Connections.

- A. **Existing Users.** Any significant non-domestic user which has an indirect discharge into the sewer system prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to Salem city for a wastewater discharge permit, and the user shall not cause or allow discharges to the POTW system to continue after ninety days of the effective date of this ordinance, except in accordance with a wastewater discharge permit issued by the Operator.
- B. **New Users.** Any significant non-domestic user proposing to begin or recommence discharging non-domestic wastes into the POTW must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit must be filed at least ninety (90) days prior to the date upon which any discharge will begin. Salem City has the right to place conditions on new or increased contributions from existing users.

11-3A-150. Contents.

Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Operator to prevent pass through or interference, protect the quality of the water body receiving the lagoon's effluent, protect worker health and safety, protect ambient air quality, and protect against damage to the POTW.

11-3A-160. Modifications.

The Operator may modify the wastewater discharge permit for good cause.

11-3A-170. Wastewater Discharge Permit Appeals.

Any person, including the non-domestic user, may petition Salem City to reconsider the terms of a wastewater discharge permit within thirty (30) days of its issuance.

- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

- B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- D. If Salem City fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied.

11-3A-180. Revocation.

Wastewater discharge permits may be revoked for the following reasons:

- A. Failure to notify Salem City of Significant changes to the wastewater prior to the changed discharge.
- B. Failure to provide prior notification to Salem City of changed conditions.
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
- D. Falsifying self-monitoring reports.
- E. Tampering with monitoring equipment.
- F. Refusing to allow Salem City timely access to the facility premises and records.
- G. Failure to meet effluent limitations.
- H. Failure to pay fines.
- I. Failure to pay sewer charges.
- J. Failure to meet compliance schedules.

- K. Failure to complete a wastewater survey or the wastewater discharge permit application.
- L. Failure to provide advance notice of the transfer of a permitted facility.

Wastewater discharge permits shall be voidable upon non-operation of permitted Facility, cessation of operations, or transfer of business ownership.

11-3A-190. Changed Conditions Report.

Each non-domestic user is required to notify the Operator of any planned changes to the non-domestic user's operations or system which might alter the nature, quality or volume of its wastewater at least 30 days before the change.

11-3A-200. Slug Discharge Report.

- A. In the case of any discharge including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load which may cause potential problems for the POTW (including a violation of the prohibited discharge standards in this Chapter), it is the responsibility of the non-domestic user to immediately telephone and notify the Operator, or his designee of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the non-domestic user.
- B. Within five (5) days following such discharge, the non-domestic user shall, unless waived by the Operator, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the non-domestic user to prevent similar future occurrences. Such notification shall not relieve the non-domestic user or any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property, nor shall such notification relieve the non-domestic user of any fines, civil penalties, or other liability which may be imposed by this ordinance.

- C. Failure to notify Salem City of potential problem discharges shall be deemed a separate violation of this ordinance.
- D. A notice shall be permanently posted on the non-domestic user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause or suffer such a discharge to occur, are advised of the emergency notification procedure.

11-3A-210. Nonpermitted Non-domestic Users Reports.

All non-domestic users not required to obtain a wastewater discharge permit shall provide appropriate reports to Salem City as (the Operator) may require.

11-3A-220. Hazardous Waste Discharge Notification.

- A. Any non-domestic user who commences the discharge of hazardous waste shall notify Salem City, the EPA Regional Waste Management Division Director, and the State Department of Environmental Quality, Division of Solid and Hazardous Waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. All notifications must take place no later than 30 days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged.

11-3A-230. Timing.

Written reports will be deemed to have been submitted on the date of receipt of the report.

11-3A-240. Record Keeping.

Non-domestic users shall retain, and make available for inspection and copying, all records and information required to be retained under this ordinance. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any enforcement action concerning compliance with this ordinance, or where the non-domestic user has been specifically notified of a longer retention period by the Operator.

11-3A-250. Inspection.

- A. **Right to Enter.** Salem City shall have the right to enter the facilities of any non-domestic user at reasonable times to ascertain whether the purpose of this ordinance, and any permit or order issued hereunder, is being met and whether the non-domestic user is complying with all requirements thereof. Non-domestic users shall allow the Operator or his representatives ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
- B. **Search Warrants.** If the Operator has been refused access to a building, structure or property or any part thereof, and if the Operator has demonstrated probable cause to believe that there may be a violation of this ordinance or that there is a need to inspect as part of a routine inspection program designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then upon application by the Salem City Attorney, the appropriate judge shall issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the Operator in the company of a uniformed police officer. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

11-3A-260. Monitoring.

- A. **Sample Collection.** Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab collection techniques. All other wastewater samples shall be collected using composite sampling procedures. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- B. **Monitoring Equipment.** Salem City, the State of Utah, or the EPA shall have the right to set up on the non-domestic user's property, or require installation of such devices as are necessary to conduct sampling and/or metering of the user's operation.

Salem City may require the non-domestic user to install monitoring equipment as necessary. Equipment at multiple points may be required, at the direction of the operator. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the non-domestic user at its

own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually to ensure their accuracy.

- C. **Analytical Requirements.** All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or for any of the reports required in this Chapter shall be performed in accordance with the prescribed in 40 CFR Part 136.
- D. **Determination of Noncompliance.** The Operator may use a grab sample(s) to determine noncompliance with Pretreatment Standards. The decision to use this method is at the discretion of the Operator and would not be announced in advance to the non-domestic user.

11-3A-270. Obstruction and Delays.

- A. Any temporary or permanent obstruction to safe and easy access to the non-domestic facility to be inspected and/or sampled shall be promptly removed by the non-domestic user at the written or verbal request of the Operator and shall not be replaced. The costs of clearing such access shall be born by the non-domestic user.
- B. Delays in allowing Salem City personnel access to the non-domestic user's premises shall be a violation of this ordinance.

11-3A-280. Confidential Information.

Information and data on a non-domestic user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from Salem City inspection and sampling activities, shall be available to the public without restriction unless the non-domestic user specifically requests, and is able to demonstrate to the satisfaction of Salem City, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law. When requested and demonstrated by the non-domestic user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall immediately be made available, upon request, to governmental agencies for uses related to the UPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction. Salem City will provide a secure facility to maintain documentation considered confidential.

11-3A-290. Significant Noncompliance.

The term significant noncompliance shall mean:

- A. **Discharge violations:** Any discharge violation that Salem City believes has caused, alone or in combination with other discharges, interference or pass through.
- B. **Endangerment:** Any discharge of pollutants that has caused imminent endangerment to Salem City personnel, the public, or to the environment, or has resulted in Salem City's exercise of its emergency authority to halt or prevent such a discharge.
- C. **Failure to Comply:** Failure to meet, within ninety 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.
- D. **Failure to Report.** Failure to provide within ninety (90) days after the due date, any required reports.
- E. **Failure to Accurately Report Noncompliance.**
- F. **Other Violations:** Any other violation(s) which Salem City determines will adversely affect the operation of the POTW.

11-3A-300. Notification of Violation.

Whenever the Operator finds that any non-domestic user has violated or is violating this ordinance, a wastewater discharge permit, or order issued hereunder, the Operator or his agent may serve upon said user a written Notice of Violation. Such written notice shall be served in person or by certified mail where a receipt is obtained. Within thirty (30) days of the receipt 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 by the user to the Operator. Submission of this plan in no way relieves the user of liability for any violation occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of Salem City to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

11-3A-310. Consent Orders.

The Operator is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for

noncompliance. Such orders will include specific action to be taken by the order. Consent Orders shall have the same force and effect as administrative orders issued pursuant to this Chapter and shall be judicially enforceable.

11-3A-320. Show Cause Hearing.

The Operator may order any user which causes or contributes to violation(s) of this ordinance, wastewater discharge permit, or orders issued hereunder, or any other Pretreatment Standard or requirement, to appear before the Operator and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. Such written notice shall be served in person or by certified mail where a receipt is obtained. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least seven (7) days prior to the hearing. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the user.

11-3A-330. Compliance Orders.

When the Operator finds that a user has violated or continues to violate the ordinance, wastewater discharge permits, or orders issued hereunder, or any other Pretreatment Standard or requirement, he may issue an order to the user responsible for the discharge directing that the user come into compliance within thirty (30) days. If the user does not come into compliance within thirty (30) days, sewer service may be discontinued. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Federal Pretreatment Standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

11-3A-340. Cease and Desist Orders.

When the Operator finds that a user is violating this ordinance, the user's wastewater discharge permit, any order issued hereunder, or any other Pretreatment Standard or requirement, or that the user's past violations are likely to recur, the Operators may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements.

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

Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.

11-3A-350. Administrative Fines.

- A. Notwithstanding any other section of this ordinance, any user found to have violated any provision of this ordinance, its wastewater discharge permit, and orders issued hereunder, or any other Pretreatment Standard or requirement may be fined in an amount not to exceed **\$1,000 per day per violation**. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation. Salem City may add the costs of preparing administrative enforcement actions such as notices and order to the fine.
- B. Assessments may be added to the user's next scheduled sewer service charge and the City shall have such other collection remedies as may be available for other service charges and fees.
- C. Unpaid charges, fines, and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of ten (10) percent of the unpaid balance and interest shall accrue thereafter at a rate of 1% per month (12% per annum). A lien against the individual user's property will be sought for unpaid charges, fines, and penalties.
- D. Users desiring to dispute such fines must file a written request for the City to reconsider the fine, along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the City shall convene a hearing on the matter within fourteen (14) days of receiving the request from the non-domestic user. In the event the user's appeal is successful, the payment together with any interest accruing thereto shall be returned to the non-domestic user.
- E. Issuance of an administrative fine shall not be a prerequisite for taking any other.

11-3A-360. Emergency Suspensions.

The Operator may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of any people. The Operator may also suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Operator shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, contamination of sludge, or endangerment to any individuals. The Operator shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of Salem City that the period of endangerment has passed, unless the termination proceedings set forth in this Chapter are initiated against the user.

A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Operator, prior to the date of any show cause or termination of discharge hearing under this chapter.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

11-3A-370. Termination of Discharge.

In concert with the wastewater discharge permit revocation provisions of this Chapter, any user that violates any of the following conditions of this ordinance, wastewater discharge permits, or orders issued hereunder, is subject to discharge termination:

- A. Violation of wastewater discharge permit conditions.
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge.
- C. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.
- E. Violation of any of the standards of this Chapter.

The Non-domestic user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under this Chapter why the proposed action should not be taken.

11-3A-380. Injunctive Relief.

Whenever a user has violated a Pretreatment Standard or requirement or continues to violate the provisions of this ordinance, wastewater discharge permits or orders issued hereunder, or any other pretreatment requirement, Salem City may petition the appropriate Court for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by the ordinance on activities of the non-domestic user. In addition, Salem City may recover reasonable attorney's fees, court costs, and other expenses of litigation by appropriate legal action against the user found to have violated any provision herein, or any other rules, regulations, permits, or agreement issued herein. Such other action as appropriate for legal and/or equitable relief may also be sought by Salem City. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.

11-3A-390. Civil Fine Pass Through Recovery.

In the event that a non-domestic user discharges such pollutants which cause Salem City to violate any conditions of its NPDES Permit and Salem City is fined by EPA or the State of Utah for such violations, then such non-domestic users shall be fully liable for the total amount of the fines and civil penalties assessed against the City by EPA or the State of Utah, together with all administrative costs incurred, including attorneys fees.

11-3A-400. Referral to State of Utah for Action.

Salem City may refer to the State of Utah criminal violations of any Pretreatment Standards or permit conditions. The State, at its discretion, may initiate appropriate criminal action.

11-3A-410. Nonexclusive Remedies.

The remedial provisions in this Chapter are not exclusive remedies. Salem City reserves the right to take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with Salem City's enforcement response plan. However, Salem City reserves the right, to take other action against any user when the circumstances warrant. Further, Salem City is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently.

11-3A-420. Severability.

If any provision of this Chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

(Ordinance No. 6-10-97-C)

CHAPTER 4 – GARBAGE SERVICE

11-4-010. Garbage Service in General - Rules and Regulations.

- A. The city shall provide garbage pickup and recycling services for the benefit of the residents and businesses of the city. Recyclable material is material which may be reused in a valuable form following a remanufacturing process. Since specific items may change over time, specific items will be spelled out in contracts between the City and recyclable providers. The city may fulfill its obligation by providing the service itself or by contracting the service to a private contractor. The City Council may enact rules and policies for levying, billing, guarantying, and collecting charges for solid waste and recycling services and all other rules necessary for the management and control of the garbage and recycling services. (Ord. No. 11-16-16)
- B. All solid waste collected within the City shall be disposed of at a disposal site specified by the City. The City may specify different sites if part of the material may be recycled. (Ord. No. 3-3-04)
- C. The City may provide a green waste dump site for use of its residents. Non-residents may use the green waste dump site by paying a fee established by the Council. It shall be illegal for any non-resident to dump green waste at the green waste dump site without paying the applicable fee. Any non-resident found dumping green waste without paying the established fee is subject to the penalties in §11-4-150.
- D. The City may provide recycling bins for use of its residents. It shall be illegal for any non-resident to drop items into the recycling bins. Any non-resident found dropping items into the recycling bins is subject to the penalties in §11-4-150. (ordinance 1-16-13)

11-4-020. Rates.

The garbage pickup rates for garbage services from the city shall be fixed from time to time by the city council. The rates may be established in the annual budget enacted by the council.

11-4-030. Pickup Receptacles.

Salem City will provide and maintain ownership of automated solid waste and recycling collection receptacles. One solid waste and recycling receptacle shall be provided to each resident or business, unless that resident or business opts out of recycling, in which case only a solid waste receptacle will be provided. Additional receptacles may be obtained at a charge to be determined by the city council. Each receptacle shall be numbered and recorded in the city office with the address of the customer. (ordinance 11-16-16)

11-4-040. Condition of Receptacles - Abuse Prohibited.

- A. All receptacles shall be kept in a safe, clean, and sanitary condition by the person using them. Any damage caused by improper use, or loss of the receptacle shall be the responsibility of the person using them.
- B. It shall be unlawful for any person to willfully break, deface, or injure any receptacle.
- C. It shall be the responsibility of users of all receptacles to see that the area around such is kept neat, clean, and sanitary at all times.

11-4-050. Placement of Receptacles - Spillage.

- A. Receptacles containing solid waste or recyclables shall be set out for collection at the front curb line of the premises using such receptacles, or at a location indicated by the city. Receptacles shall be set out on the day of collection by seven (7:00) a.m. All empty receptacles must be removed from the curb as soon as practicable after being emptied and, in every case, must be removed from the curb the same day they are emptied.
- B. All containers shall be located at appropriate places so as to be readily accessible for emptying and so as not to constitute a nuisance or hazard. No container shall be permanently placed on a city street, right of way, or sidewalk.
- C. Solid waste vehicle operators shall not be required to pick up any solid waste that has been spilled, or that is laying outside the receptacle or container unless the vehicle operators are responsible for the spillage.

11-4-060. Title to Solid Waste.

- A. Title to solid waste or recyclables shall pass to the city when the receptacle containing the solid waste is set out for pickup. Where receptacles are not to be set out for pickup, title to the solid waste or recyclables placed in them shall pass to the city upon being placed in the receptacle.
- B. Nothing in this section shall prohibit the generator of the solid waste from reclaiming material set out prior to collection.

- C. It shall be unlawful for any person to place materials of any kind into a receptacle that is not owned, or assigned to that specific person.

11-4-070 Accumulation Prohibited.

- A. It shall be unlawful for any person owning and/or occupying any premises or lot in the city to permit to collect or remain upon such premise or lot any garbage for a period of more than one (1) week, or any refuse for a period of more than one (1) month, unless written approval is granted by the city. Accumulations of leaves and grass used to produce mulch are excluded from the requirements of this section.
- B. It shall also be unlawful to accumulate any of the materials specifically excluded from the definitions of refuse, garbage, or solid waste herein. It shall be the responsibility of the owner of the property to have all such materials removed within a reasonable time depending upon the type of materials, but in no event shall the materials be allowed to accumulate for more than thirty (30) days.

11-4-080. Dumping Prohibited.

Except as provided by the terms of this title, it shall be unlawful for any person to place, deposit, bury, or dump upon any lot, street, alley, or into any water, waterway or container not intended for his or her use, within the corporate city limits, any solid waste or other matter constituting a nuisance.

11-4-090. Hazardous Waste Prohibited.

- A. Except as otherwise provided herein, no person shall knowingly collect or dispose of:
 - 1. Any unmarked sealed barrel for any reason;
 - 2. Any sealed or unsealed barrel upon suspicion of hazardous waste content;
 - 3. Any hazardous waste of any description.
- B. Subsection (A) above, shall not apply to persons licensed pursuant to federal and state law to dispose of hazardous wastes.

- C. A violation of this section is a Class B Misdemeanor, and shall be imposed in addition to federal or state penalties which may also be imposed. A violation by a solid waste contractor or any person employed by a solid waste contractor shall be grounds for suspension or revocation of the license and permit granted to the contractor.

11-4-100. Burning Prohibited.

It shall be unlawful for any person to burn garbage, waste, manure, or other refuse in the open air or any furnace or stove within the municipality.

11-4-110. Burning Exceptions.

- A. The city hereby expressly prohibits outdoor burning with the exceptions identified hereafter and in Utah Code Annotated § 11-7-1(2)(a).
- B. Open burning shall be permitted in the following instances:
1. In devices for the primary purpose of preparing food such as outdoor grills and fireplaces;
 2. Campfires and fires used solely for recreational purposes where such fires are under control of a responsible person and the fuel is clean, dry wood or charcoal;
 3. In indoor fireplaces and residential solid fuel burning devices except as provided in rules promulgated by Division of Environmental Quality and published in the Utah Administrative Code;
 4. Burning of prunings from trees, bushes, and plants, including dead or diseased trees, bushes, and plants, including stubble, when such burning is incident to horticultural or agricultural operations and the burning is located on property which is *not* zoned residential;
 5. Burning of weed growth along ditch banks for clearing ditches for irrigation purposes;

- 6. Controlled heating of orchards or other crops during the frost season to lessen the chances of their being frozen, so long as the emissions are consistent with the requirements identified in Utah Administrative Code, R307-202-3(3).
- C. During open burn periods, with a properly issued permit, and in accordance with the permit requirements set forth in Utah Administrative Code, R307-202-7.
- D. Other burning is permitted only upon the obtaining of a special burn permit from the Utah County Health Department and a permit or other permission is obtained from the Air Conservation Committee of the Utah State Department of Health. Such burning shall be permitted only within the parameters of the respective permits.

11-4-120. Inspections - Corrections.

Authorized city representative may, with a proper warrant or with the consent of the owner or occupant of the premises, inspect any premises or lots within the corporate city limits from time to time in order to examine the sanitary conditions of the property and to determine whether the property is in compliance with all applicable provisions contained in this chapter. All persons shall, within three (3) days after written notice of any violation, comply with all applicable city ordinances and regulations.

11-4-130. Unauthorized Collection. (Ord. No. 9-26-95 – Section 11-4-130.)

- A. It shall be unlawful for any person or entity, other than the City, or private contractor licensed by the City, to collect, remove, or dispose of solid waste for hire.
- B. This section shall not prohibit any person from transporting their own garbage to an appropriate and licensed landfill, transfer station, mulching yard, compost pit, or recycling center.

11-4-140. Responsibility for Compliance.

The occupant of any premises within the city shall be primarily responsible for the sanitary condition of the premises. The owner of any unoccupied property shall be primarily responsible for the sanitary condition of the property. It shall be unlawful for any person to place, deposit, or allow to be placed or deposited on his or her premises or property any solid waste, except as permitted by the terms of this title.

11-4-150. Violation – Penalty.

Any person found in violation of this chapter is guilty of a Class C Misdemeanor.

CHAPTER 5 – TELECOMMUNICATION

- 11.5.010 General**
- 11.5.020 Utility Rules and Regulations**
- 11.5.030 Damage to Property - Interruption of Service - Liability**
- 11.5.040 Installations**
- 11.5.050 Telecommunications Competition**

11.5.010. General.

There is created a telecommunications utility known as Salem Fiber, which shall be a department of the City. The telecommunications utility may provide telecommunication services including but not limited to: internet services, telephony, data transmission, and other telecommunications-related services to City residents. The telecommunications utility shall be responsible for the proper installation and maintenance of all City telecommunication facilities including but not limited to: poles, conduit, conductor, nodes, switches, junction boxes, and head end. Salem Fiber is hereby granted authority to construct, own, purchase, hire, lease, maintain, and operate all aspects of the telecommunications system within the City. Salem Fiber may enter into operation, management, license, joint construction, or other agreements with internet service providers, local telephone exchange carriers, and/or other telecommunications companies in order to provide quality telecommunications services to its subscribers. Residents of the City, where such services are available, may subscribe to such telecommunications services as may be offered by the City, or may elect to not subscribe for such services. Subscribers will be bound by the requirements of the subscription contract. Fiber and/or electronic cabling and other equipment installed by or at the direction of SFCN for the distribution of telecommunications services shall be the property of the City. This Chapter is enacted to promote the health, safety and welfare of the citizens of Salem City, by providing for the efficient, safe, affordable, and environmentally sound distribution of telecommunications.

11.5.020. Utility Rules and Regulations.

Salem City has the right to go upon private property where it has easements, either formal or prescriptive, in order to trim trees and other vegetation to keep them from interfering with the telecommunications cabling. Tree and vegetation trimming does not have the purpose of being aesthetically pleasing, but will be for the purpose of maintaining safe and reliable lines. The scope of any trimming will be at the sole discretion of Salem Fiber, and will be based upon equipment and facilities present, and the type of trees or vegetation involved and their propensity for rapid growth. If a tree should need to be removed, the City will still advise and work with the property owners, but removal will ultimately be the responsibility of the owner, unless the tree or vegetation is in the public right-of-way. In such an event the City may decide and may proceed

to remove a tree or vegetation. The City may top a tree if a property owner fails to timely remove it.

11.5.030. Damage to Property - Interruption of Service – Liability.

All consumers of telecommunications services from Salem Fiber shall be responsible for all damages to or loss of property belonging to the City located on such consumer's premises unless occasioned by cause beyond their control or by the negligence of the telecommunications utility. The telecommunications utility shall not be responsible for any interruption or failure to supply telecommunications services. Nothing in this Chapter shall be construed to relieve or lessen the responsibility of any person owning, operating or installing cabling, wires, fixtures, appliances, apparatus, construction, or equipment for damages to anyone injured or damaged either in person or to property by any defect therein.

11.5.040. Installations.

All installations related to the telecommunications utility shall comply with all applicable codes adopted by the City and shall comply with all licensing and inspection ordinances now or hereafter adopted by the City, including the design and development standards.

11.5.050. Telecommunications Competition.

The City promotes and encourages competition for voice, data, video, and video programming services that make the latest and best technology available and which keep service prices affordable for all City residents and businesses. The City shall manage access to the public easements and rights-of-way for telecommunications purposes in a nondiscriminatory, competitively neutral, and in a nonexclusive manner, and, to the extent allowed under applicable law, receive fair compensation therefore. Telecommunications and video programming franchises and licenses will be managed to preserve the integrity of the City infrastructure, assure efficient use of City property, and ensure compliance with City ordinances, rules, and regulations. The following guidelines shall be in effect:

1. Minimal disruption of public and private property will be a priority;
2. Telecommunications and video programming franchises shall be required to place their facilities underground in situations where existing utility services are underground, whenever existing overhead facilities go underground, and whenever City policy so requires;
3. All construction and development standards of the City shall be followed.

Any franchise fees assessed against private businesses providing telecommunications services shall have a like cost assessed against the telecommunications utility. (Ordinance#70721B)

CHAPTER 6 – SECONDARY WATER

11-6-010. Created

The City shall provide secondary water facilities to the residents of the City for outdoor use. The secondary water facilities shall be maintained and administered by a secondary water utility.

11-6-020. Definitions.

The following definitions are applicable to this chapter:

- A. **Connection Fee** means the cost of participation in the secondary system.
- B. **Equivalent Residential Unit or ERU** represents the amount of outdoor water usage in the average residential lot within the City, determined to be 0.8 acre feet per year.
- C. **Secondary Water** means non-culinary quality water, delivered in a system separate from the culinary water system, for outdoor usage.
- D. **Secondary Water Utility** means the physical facilities consisting of the system, together with the administrative functions, including the part of the public works department devoted to the operations and maintenance of the system.

11-6-030. Mandatory Connection to System.

Every water user shall be required to connect to the secondary water system, unless the City Engineer makes a determination that the secondary system will not be available to such user. All water users shall be required to pay a connection fee in the amount of \$25.00 per month starting December, 2006 and continuing until the system is operational, at which time the connection fee will cease and the user rate will commence.

11-6-040. Rates.

- A. All users of the municipal secondary water system shall pay a monthly rate based on the number of ERU's there are on each developed parcel. Each single family unit, twin home, or town home shall be assessed one ERU. All other developed parcels will be assessed a rate based upon the number of ERU's on the parcel, with a minimum of one ERU.
- B. The rates are to be established each year by the City Council, either by resolution or as part of the annual budget approval process.
- C. The rates authorized herein shall be assessed against every developed parcel regardless of the amount of secondary water used.
- D. The City Recorder shall furnish to each user, a written or printed statement, with the amount of the secondary water charges assessed against him/her once each month. Said statement shall specify the amount of the bill for secondary water, the

place of payment, and the due date. If any person fails to pay the secondary water charges within twenty (20) days of the due date, the City Recorder shall have the authority to direct that all utility services to the premises involved be discontinued.

(ordinance #100511)

11-6-050. Violation – Penalty.

- A. Unless otherwise specifically provided, every person who violates any provision of this chapter is guilty of a Class C Misdemeanor.
- B. Each date that a violation of any provision of this chapter continues constitutes a separate and distinct offense.

(Ord. No. 10-18-06B)

CHAPTER 7 – STORM WATER DRAINAGE UTILITY

11-7-010 Created

The City shall provide storm water drainage facilities to the residents of the City. The storm water drainage facilities shall be maintained and administered by a storm water drainage utility.

11-7-020 Definitions

The following definitions are applicable to this chapter

- A. **Developed Parcel.** Developed Parcel shall be all property which is altered from a natural state by grading, paving, compaction, construction of structures, impervious surfaces, or drainage works so that storm water runoff from the properties is changed in quantity, quality, or point of discharge from that which would occur in its natural condition.
- B. **Impervious Surface** is 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 rate of flow than the natural surface. Common impervious surfaces include, but are not limited to, roof tops, sidewalks, walkways, patio area, driveways, parking lots, storage areas, compacted gravel and soil surfaces, and other similar structures and/or surfaces.
- C. **Retention/Detention Basin** shall mean a depression, designed with an inlet and outlet that regulates water flow and allows debris to settle out, and is capable of detaining or retaining storm water runoff until it can be released without causing damage downstream.
- D. **Storm Drain** means precipitation such as rain, snow, hail, or other natural occurrence.
- E. **Storm Drain Run Off** is water that is generated by storm water which flows overland.
- F. **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 sub-soil. Sumps generally receive storm water runoff from paved areas such as streets, parking lots, building roofs, etc.
- G. **Storm Drain Pipe** means a closed conduit for transmitting storm water that has been collected by inlets or collected by other means.
- H. **Storm Drain Ditch** means an open conduit for transmitting storm water that has been collected or routed by inlets, curb and gutter, or other means.
- I. **Drain Inlet** means a point of entry into a sump, detention/retention basin, or storm drain pipe ditch.
- J. **Debris** means any dirt, rock, sand, tree, grass clippings, or other rubbish, litter, etc.

11-7-030 Rates

- A. All Developed Parcels shall pay a monthly storm drain fee. All single and multi-family residential parcels shall be assessed one residential rate. All other developed parcels will

be assessed a rate based on the impervious surface on the site, as a ration of the residential rate.

- B. The rates are to be established by the City Council, which may be set as part of the annual budget approval process or by resolution.

11-7-040 Obstruction of Facilities

- A. It is unlawful for any person to obstruct or contribute to the obstruction of the flow of storm water runoff or non-storm water runoff into any sump, retention basin, storm drain, storm drain ditch, curb and gutter, drain inlet, or other associated structural controls that convey storm water and/or non-storm water runoff.
- B. It is unlawful for any person to cause any obstruction that inhibits the normal flow of storm water and/or storm drainage improvements project and is authorized by the Public Works Director, or his/her appointee, and granted with the issuance of a permit signed by the Public Works Director, or his/her appointee.
- C. It is unlawful for any person to cover over any drain inlet for any reason or purpose.

11-7-050 Dumping

- A. It is unlawful for any person to dump, or allow to be dumped into any sump, detention basin, storm drain, curb and gutter, drain inlet, storm drain ditch or other storm drainage structure that conveys storm water and/or non-storm, any type of debris, petroleum product, chemical, paint, pesticide, herbicide, heavy metal, acid or base product, solid or liquid waste product, hazardous waste product, and/or human or animal waste.
- B. The restrictions as set forth in paragraph A shall not apply to the normal runoff of non-storm water related to domestic home uses; for example, lawn watering, washing cars, etc.

11-7-060 Violation – Penalty

- A. Unless otherwise specifically provided, every person who violates any provision of this chapter is guilty of a Class C Misdemeanor.
- B. Each date that a violation of any provision of this chapter continues constitutes a separate and distinct offense.

CHAPTER 8 – STORM WATER ENFORCEMENT

(Ordinance#111820B)

11-8-010. General.

- (1) The City Engineer, or designee, shall administer the provisions of this ordinance.
- (2) Nothing in this ordinance shall relieve any person from responsibility for damage they cause to other persons or property, nor impose upon Salem City, its officers, agents, or employees, any liability for damage to other persons or property.

11-8-020. Definitions.

- (1) 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 usage within the storm water industry.

1. “As Built Plans” means drawings depicting conditions as they were actually constructed.
2. “Best Management Practices” or “BMPs” are physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the City and are hereby incorporated by reference into this ordinance as if fully set out therein. For purposes of this Chapter, the relevant BMP’s are more particularly defined in the Salem City Storm Water Management Program.
3. “BMP Manual” means the most recent documentation adopted by City which accepts specific Best Management Practices for use in City.
4. “Channel” means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
5. “City” means Salem City.
6. “City Engineer” means the Salem City Engineer or authorized designee.
7. “City Storm Drain Representative” means the authorized storm water representative(s) responsible for inspection, enforcement, and other related matters pertaining to the City’s storm drain system. The City Engineer is a City Storm Drain Representative, and may appoint other city employees to also be City Storm Drain Representatives.
8. “City Storm Water System” means the storm system that receives runoff from public rights-of-way, natural waterways, or systems identified in a City easement, including facilities and components owned and/or operated by City.
9. “Community Water” means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of Salem City.
10. “Contaminant” means any physical, chemical, biological, or radiological substance or matter in water.
11. “Design Storm Event” means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a storm water facility.

12. “Discharge” means dispose, deposit, spill, pour, inject, seep, dump, leak, or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the City Storm Water System.
13. “Easement” means a non-possessory interest acquired by a person, party, firm, corporation, municipality or other legal entity that entitles the holder the right to use of the owner’s land in the manner specified in the easement documents.
14. “Erosion” means the removal of soil particles by the action of water, wind, ice, or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.
15. “Erosion and Sediment Control Plan” means a written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.
16. “General Construction Storm Water Permit” is a permit required by the Utah Department of Environmental Quality, Division of Water Quality prior to commencing construction of any project within City.
17. “Hotspot” or “Priority “Area” means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water.
18. “Illicit connections” means either one of the following:
 - i. Any drain or conveyance, whether on the surface or subsurface that allows a contaminated or illicit discharge to enter the storm drain system.
Examples include, but are not limited to, any conveyance which allows non-storm water discharge such as sewage, processed wastewater, or wash water to enter the storm drain system, and any connections to the storm drain system from indoor drains or sinks regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or
 - ii. Any drain or conveyance connected to the storm drain system, whether or not such connection results in discharges into that system, which has not been (1) documented in plans, maps, or equivalent records submitted to the City, and (2) approved in writing by the City.
19. “Illicit discharge” means any discharge to the municipal separate storm sewer system (MS4) that is not composed entirely of storm water, storm water that is being discharged without an approved treatment methodology, and not specifically exempted under §11-8-030(4) of this ordinance. Illicit discharges include both direct connections (e.g. wastewater piping either mistakenly or deliberately connected to the storm water system) and indirect connections (e.g., infiltration into the storm water system or spills collected by drain inlets).
20. “Irrigation Ditches” means gravity irrigation ditches used by irrigation company shareholders having a right of water passageway by right-of-way, easement, or ownership. Irrigation ditches also include those facilities that function as a combined storm water and irrigation conveyance intended at times as a water routing and disposal system.

21. “Land Disturbance Permit” means a Salem City Land Disturbance Permit as adopted by the City.
22. “Land Disturbing Activity” means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.
23. “Long-Term Storm Water Controls” is the storm water system using LID (Low Impact Development) for the 80th percentile storm and traditional or alternative methods of flood control.
24. “Maintenance” means any activity that is necessary to keep a storm water facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a storm water facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the property site that may directly impair the functions of the storm water facility.
25. “Maintenance Agreement” means a document recorded with the Utah County Recorder that acts as a property deed restriction, and which provides for long-term maintenance of storm water management facility or storm water best management practices.
26. “Municipal Separate Storm Sewer System,” “Municipal Separate Storm Water System,” or “MS4” means the storm water conveyance facilities owned or operated by City for the collection and transportation of storm water, including the streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.
27. “National Pollutant Discharge Elimination System Permit” or “NPDES permit” means a permit issued by the Utah Division of Environmental Quality pursuant to 33 U.S.C. §1342.
28. “Notice of Violation” or “N.O.V.” means whenever the City Storm Drain Representative finds that a person is in non-compliance with this ordinance, he/she will order compliance by giving written notice of violation to the responsible person. Requirements in this Notice are at the discretion of the City Storm Drain Representative, and may include monitoring, payment to cover costs relating to the non-compliance, and/or the implementation of Best Management Practices.
29. “Off-site Facility” means a structural BMP located outside the subject property boundary described in the permit application for land development activity, which provides an integral part of the storm drain system for a given parcel.
30. “On-site Facility” means a structural BMP located within the subject property boundary described in the permit application for land development activity.
31. “Peak Flow” means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
32. “Person” means any individual, corporation, partnership, firm, association, company, or body politic organized or existing under the laws of this or any other state or country, including any agency of the State of Utah and the United States government, this includes both the singular and plural form of said groups, who acts to discharge to or otherwise influence City’s storm water system.

33. “Pre-Existing Conditions” means conditions of property in its native state or changed under approval by the City or changed property that is grandfathered.
34. “Priority Area” means “Hot Spot” as herein defined.
35. “Property Owner” means the owner of record of real property located within the boundaries of Salem City.
36. “Runoff” means that portion of the precipitation or other naturally or artificially occurring water on a drainage area that is discharged from the area into the Municipal Separate Storm Water System. Also, water produced by storms, surface drainage, snow and ice melt, and other water handled by the MS4.
37. “Salem City Storm Water Management Program” means those certain manuals, drawings, documents, specifications, ordinances, practices, and policies set in place by City to regulate, permit, manage, and otherwise oversee the discharge of storm water within the corporate boundaries of the City. This includes both those manuals and practices which are in place at the time of the passage of this ordinance and those which will yet be put in place, adopted, or revised in future actions.
38. “Sediment” means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level or within any part of the storm drainage system.
39. “Sedimentation” means soil particles suspended in storm water that can or have settled in stream beds and which disrupt the natural flow of the stream or otherwise disrupt the intended storm drain system function.
40. “Sensitive Lands” means wetlands, slopes over 30% grade, and other unique features on land as designated by the City Engineer.
41. “Soils Report” means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, licensed in the State of Utah, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.
42. “Stabilization” means providing adequate measures, vegetative and/or structural, that will prevent erosion.
43. “Storm water” means storm water runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration, and drainage.
44. “Storm Water Design Standards and Regulations” means the Salem City storm water design standards and regulations adopted by the City as part of Salem City’s Construction and Development Standards, the Salem City Municipal Code, policies, and other appurtenant documentation.
45. “Storm Water Master Plan” means the most recent version of the Salem City Storm Water Master Plan as adopted by City.
46. “Storm Water Management” means the programs adopted to maintain the quality and quantity of storm water runoff to pre-development levels.
47. “Storm Water Management Facilities System” means the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which storm water is collected, transported, pumped, treated, or disposed of.

48. “Storm Water Management Plan” means the 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 storm water runoff to pre-development levels.
49. “Storm Water Runoff” means water flow on the surface of the ground, resulting from precipitation.
50. “Storm Water Utility” means the storm water utility created by ordinance to administer the storm water management ordinance, and other storm water rules and regulations adopted by City.
51. “Structural BMPs” means devices that are constructed to control storm water runoff.
52. “Surface Water” includes waters upon the surface of the earth created naturally or artificially including, but not limited to, streams, ditches, lakes, reservoirs, ponds, sloughs, canals, or other bodies of water.
53. “SWPPP” means Storm Water Pollution Prevention Plan. A set of plans showing the location of the BMPs during the different phases of construction and system management.
54. “SWMP” means the developer’s Storm Water Management Plan. A Technical Report including a copy of the Land Disturbance Permit, Notice of Intent (NOI) if applicable, Storm Water Pollution Prevention Plan during construction and post construction, storm water pollution prevention BMPs, spill prevention and countermeasure information, inspection records, and signed and dated Certification Statement from the Site Operator and the responsible person preparing the report.
55. “Watercourse” means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
56. “Watershed” means all the land area that contributes runoff to a particular point along a waterway.
57. “UPDES” means the Utah Pollution Discharge Elimination System.

11-8-030. Land Disturbance Permits.

(1) When required.

- a. Every person will be required to obtain a Land Disturbance Permit in the following cases:
 - i. Land disturbing activity which generally disturbs one (1) or more acres of land.
 - ii. Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acres of land;
 - iii. Land disturbing activity of less than one (1) acre of land, if in the discretion of the City Engineer, such activity poses a unique threat to water, or public health or safety;
 - iv. The creation and use of borrow pits or those excavation sites used to generate fill and/or decorative material for off-site location.

- v. Development of a single family home, which is not part of a subdivision project.
- vi. Processing of earthen materials such as top soil and gravel screening.
- vii. Construction of parking lots.
- viii. Creation of an impervious area 0.25 acres/10,890 square feet constructed with compacted gravel, asphalt, concrete, or other impervious or semi-impervious material.
- ix. Creation or alteration of storm drain works or systems.
- x. Excavation or disturbance of more than 1,000 cubic yards of material in any non-agricultural earth moving activity.

(2) Drainage channels, waterways, and sensitive areas.

- a. Property owners shall not fill wetlands or alter or restrict natural channels and waterways without proper permits.
- b. Modifications of Sensitive Lands will require a Land Disturbance Permit and approval from all other responsible governing agencies.
- c. Property owners proposing to redirect runoff, surface, and/or pipe flow to properties or facilities outside Salem City boundaries must provide written approval from the applicable governing agency.
- d. Property owners are responsible for the protection of Channels located within their property in compliance with this ordinance.
- e. Discharges or modifications to irrigation ditches or canals require written approval from the canal owners and applicable governing agencies.

(3) Building permit. No building permit shall be issued until the applicant has obtained a Land Disturbance Permit where the same is required by this ordinance.

(4) Exemptions. The following activities are exempt from the Land Disturbance Permit requirement:

- a. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources including activities required to promote public safety, repairs to water lines, and/or other City infrastructure repairs.
- b. Nursery and agricultural operations conducted as permitted uses.
- c. Any agricultural activity that is consistent with an approved farm conservation plan or a management plan prepared or approved by the appropriate government agency.
- d. Additions or modifications to existing single family structures.
- e. Landscape modifications resulting in disturbances below the limits identified in §11-8-030(1).
- f. Excavation activities necessary for public purposes approved by City.

(5) Application for a Land Disturbance Permit.

- a. Each application shall include the following information:
 - i. Name of applicant;
 - ii. Address of applicant;
 - iii. Name, address, and telephone number of the Property Owner;
 - iv. Address and legal description of the subject property including the tax serial/parcel number of the subject property;

- v. Name, address, and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who are responsible for the erosion and sediment control plan;
 - vi. 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.
- b. The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property. However, the inclusion of those permits in the application shall not preclude the City Engineer from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits. Failure of the applicant to obtain the necessary permits may be a basis for denial of issuance of a Land Disturbance Permit.
- c. Each application shall be accompanied by:
 - i. A sediment and erosion control plan.
 - ii. A Storm Water Management Plan providing for storm water management during the land disturbing activity and after the activity has been completed.
- d. Each application for a Land Disturbance Permit shall be accompanied by payment of appropriate fees, as adopted by the Council in the annual budget or by resolution.

(6) Review and approval of application.

- a. 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 45 days after receiving an application, the City Engineer or designee shall provide one of the following responses in writing or via email:
 - i. Approval of the permit application;
 - ii. Approval of the permit application, subject to such reasonable conditions as may be necessary to secure the objectives of this Chapter; or
 - iii. Denial of the permit application, indicating the reason(s) for the denial.
- b. If the City Engineer or designee has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established. However, the applicant shall be allowed to proceed with the land disturbing activity provided it conforms to conditions established by the City Engineer, and further provided the revised plan is submitted within 15 days.
- c. No land disturbing activities shall be allowed until the land disturbance permit has been approved.

(7) Permit duration.

- a. Every land disturbance permit shall expire and become null and void if substantial work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance, or is not complete within one year from the date of the preconstruction meeting.

(8) Notice of construction.

- a. The applicant must notify the City Engineer ten (10) working days in advance of the commencement of construction. Regular inspections of the storm water management system construction shall be conducted by the City Engineer or designee. All inspections shall be documented and written reports prepared that contain the following information:
 - i. The date and location of the inspection;
 - ii. Whether construction is in compliance with the approved storm water management plan;
 - iii. Variations from the approved construction specifications;
 - iv. Any violations that exist.

(9) Performance bonds.

- a. The City Engineer shall:
 - i. Require the submittal of a performance bond in the form of an escrow bond, letter of credit, or cash. The bond must be drawn on financial institutions licensed to conduct business in the State of Utah. The bond shall be provided prior to issuance of a permit in order to ensure that the storm water pollution prevention practices are installed by the permit holder as required by the approved Storm Water Management Plan.
 1. The amount of the 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 administration, enforcement, etc.
 2. The performance bond shall be forfeited for failure to timely complete work specified in the Storm Water Management Plan.
 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.
 4. Alternatively, the City Engineer shall have the right to calculate the cost of construction cost estimates and revise the opinion of probable costs accordingly.
- b. For single family residences, the performance bond is required in cash.
- c. The bond may be released in full only upon completion and City approval of all final inspection punch list items and removal of all temporary control measures.
- d. The City Engineer or designee will make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of this Chapter. Provisions for a partial pro-rata release of the performance bond based on the completion of various development phases may be made at the discretion of the City Engineer.

11-8-040. Storm Water System Design and Management Standards.

(1) Irrigation ditches.

- a. Existing irrigation ditches located on the site or straddling a site property boundary shall be piped with a sufficient size pipe to handle the irrigation need

and shall be coordinated with the City Engineer and the irrigation company unless otherwise approved by the City Engineer.

- b. Property Owners are responsible for the protection of irrigation ditches.
- c. Discharges to private irrigation ditches require written approval from the ditch owner(s) and design shall comply with the terms of approvals and the Storm Water Design Standards and Regulations and the Land Disturbance Permit.
- d. Piping of irrigation ditches and modification to the diversion boxes require the irrigation company to sign the plat or give written consent. If the City Engineer deems the conditions onerous, he/she may approve less onerous conditions. Design and coordination requirements shall comply with the Storm Water Design Standards and Regulations and the Land Disturbance Permit documents.

(2) Storm water design and BMP manuals.

- a. Adoption. City adopts as its storm water design and best management practices (BMP) manuals the following publications, which are incorporated by reference in this Chapter as if fully set out herein:
 - i. Salem City's Construction and Development Standards.
 - ii. Salem City Storm Water Master Plan
 - iii. Guidance Document for Storm Water Management (prepared by the Salt Lake County Public Works Department)
- b. These manuals include a list of acceptable BMPs and include specific design performance criteria and operation and maintenance requirements for each storm water practice. The manuals may be updated and expanded from time to time, at the discretion of the City Council, upon the recommendation of the City Engineer, based on improvements in engineering, science, monitoring, and local maintenance experience. Storm water facilities that are designed, constructed, and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(3) General performance criteria for storm water management. Unless granted a waiver or determined by the City Engineer to be exempt, the following post construction performance criteria shall be addressed for storm water management at all sites:

- a. Design of storm drain systems in City boundaries and discharges into a Salem City storm drain system requires direct supervision of a Utah Registered Professional Engineer, and shall carry his/her seal.
- b. All site designs shall control the peak flow rates of storm water discharge associated with design storms specified in this ordinance or in the BMP manual and reduce the generation of post construction storm water runoff to pre-construction levels or 100 year historical runoff flow rates. These practices should seek to utilize pervious areas for storm water treatment and to infiltrate storm water runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.
- c. Specific channel protection criteria shall be provided as prescribed in the BMP manual to protect stream channels from degradation.

- d. Storm water discharges to critical areas with sensitive resources (i.e., cold water fisheries, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain storm water management practices.
- e. Storm water discharges from “hot spots” may require the application of specific structural BMPs and pollution prevention practices.
- f. Prior to or during the site design process, applicants for land disturbance permits shall consult with the City Engineer or designee to determine if they are subject to additional storm water design requirements.
- g. The calculations for determining peak flows as found in the BMP manual shall be used for sizing all storm water facilities.

(4) Minimum control requirements.

- a. Storm water discharge during all construction activities shall comply with the terms of the Land Disturbance Permit, the Storm Water Design Standards and Regulations, and/or requirements set forth in the most recent edition of the International Building Code, and the State of Utah UPDES requirements.
- b. Storm water designs shall meet the multi-stage storm frequency storage requirements as identified in the BMP manual unless the City Engineer has granted the applicant a full or partial waiver for a particular BMP under §11-8-060 of this ordinance.
- c. Runoff rates from one lot to another may not exceed pre-existing conditions as defined by City, nor in such a manner that may unreasonably and unnecessarily cause more harm than formerly.
- d. If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City Engineer or designee may impose additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(5) Storm water management plan requirements. Property Owners are responsible to manage storm water runoff and sediment which originates on their property. This responsibility may extend to the defining of agreements, easements, and other appropriate measures to address storm water management. The storm water management plan shall include sufficient information to allow the City Engineer to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing storm water generated at the project site. To accomplish this goal the storm water management plan shall comply with all requirements in the Storm Water Design Standards and Regulations.

- a. Every person will be required to create Long-Term Storm Water Controls in the following cases:
 - i. Development or redevelopment which generally disturbs one (1) or more acres of land.
 - ii. Development or redevelopment of less than one (1) acre of land if such Development or redevelopment is part of a larger common plan of development that affects one (1) or more acres of land;

- iii. Development or redevelopment of less than one (1) acre of land, if in the discretion of the City Engineer, development poses a unique threat to water, or public health or safety;

- (6) **Maintenance Easements.** The applicant must ensure access to the site for the purpose of inspection and repair by securing all the easements needed. These easements must be properly recorded in the office of the Utah County Recorder.
- (7) **Maintenance Agreement.** The Property Owner to be served by an on-site storm water management facility must execute a Maintenance Agreement for the storm water facilities. The maintenance agreement shall:
 - a. Assign responsibility for the maintenance and repair of the storm water facility to the Property Owner upon whose property the facility is located.
 - b. Provide for a periodic inspection by the Property Owner or qualified designee for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this Chapter. The Property Owner will arrange for this inspection to be conducted by a qualified person as defined by the Utah Division of Water Quality who will submit a sealed report of the inspection to the City Engineer.
 - c. Grant permission to City's employees or agents to enter the property at reasonable times to inspect the storm water facility to ensure that it is being properly maintained.
 - d. Provide that the minimum maintenance and repair needs for detention and retention basins, and inlets and drainage pipes and any other storm water facilities including, but not limited to: the removal of silt, litter and other debris, the cutting of grass, grass cuttings and vegetation removal, and the replacement of landscape vegetation. It shall also provide that the Property Owner shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the BMP manual.
 - e. Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City Engineer or designee.
 - f. Provide that if the property is not maintained or repaired within the prescribed schedule, City may perform the maintenance and repair at its expense, and bill the same to the Property Owner. The Maintenance Agreement shall also provide that City's cost of performing maintenance shall be a lien against the property until paid in full.
- (8) **Dedication.** City shall have the discretion to accept the dedication of any existing or future storm water management facilities, provided such facility meets the requirements of this Chapter, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any storm water facility accepted by City must also meet City's Construction and Development Standards and any other standards and specifications that apply to the particular storm water facility in question.
- (9) **Sediment and Erosion Control Plans.** The applicant must prepare a sediment and erosion control plan for all construction activities that meets the requirements below.

- a. The sediment and erosion control plan shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. The plan shall be prepared by a qualified individual as defined by the State of Utah. The plan shall also conform to the requirements found in the BMP manual, and shall include at least the following:
- i. Project Description - Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.
 - ii. A topographic map with contour intervals of five (5) feet or less showing present conditions and proposed contours resulting from land disturbing activity.
 - iii. All existing drainage ways, including intermittent and wet-weather drainage ways. Include any designated floodways or flood plains.
 - iv. A general description of existing land cover. Individual trees and shrubs do not need to be identified.
 - v. Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed, and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.
 - vi. Approximate limits of proposed clearing, grading and filling.
 - vii. Approximate flows of existing storm water leaving any portion of the site.
 - viii. A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.
 - ix. Location, size, and layout of proposed storm water and sedimentation control improvements.
 - x. Proposed drainage network.
 - xi. Proposed drain tile or waterway sizes.
 - xii. Proposed sizing for storm system piping, dewatering facilities, or other waterways.
 - xiii. Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of

- waterways, if any, accepting storm water off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.
- xiv. The projected sequence of work represented by the grading, drainage, and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention facilities or any other structural BMP's.
 - xv. Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures, including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.
 - xvi. Specific details for: the construction of rock pads, wash down pads, and settling basins for controlling erosion; road access points; eliminating or mitigating soil, sediment, and debris on streets and public ways to a level acceptable to the City Engineer or designee. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day by machine, broom, or shovel to the satisfaction of the City Engineer or designee. Failure to remove the sediment, soil, or debris shall be deemed a violation of this Chapter.
 - xvii. Proposed structures; location (to the extent possible) and identification of any proposed additional buildings, structures, or development on the site.
 - xviii. A description of on-site measures to be taken to recharge surface water into the ground water system through infiltration.
 - xix. Future phasing plans and impervious areas, if applicable.

11-8-050. Post Construction.

- (1) **As built plans.** All applicants are required to submit actual as built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all storm water management facilities and must be signed by a Registered Professional Engineer licensed to practice in Utah. A final inspection by the City Engineer or designee is required before any performance bond will be released. The City Engineer shall have the discretion to adopt provisions for a partial pro-rata release of the performance bond on the completion of various stages of development. In addition, certificates of occupancy shall not be granted until corrections to all BMP's have been made and accepted by the City Engineer or designee. These requirements may be waived for single family residential sites or projects with minimal on-site storm water facilities as determined appropriate by the City Engineer.
- (2) **Landscaping and stabilization requirements.** Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be revegetated according to a schedule approved by the City Engineer or designee. The following criteria shall apply to revegetation efforts:

- a. Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.
 - b. Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
 - c. Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the full year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival rate for one (1) year is achieved.
 - d. In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.
- (3) **Inspection of storm water management facilities.** Periodic inspections of facilities shall be performed as provided for in this Chapter.
- (4) **Records of installation and maintenance activities.** Parties responsible for the operation and maintenance of a storm water management facility shall make records of the installation of the storm water facility, and of all maintenance and repairs to the facility, and shall retain the records for at least five (5) years. These records shall be made available to the City Engineer or designee during inspection of the facility and at other reasonable times upon request.
- (5) **Failure to meet or maintain design or maintenance standards.** If a responsible party fails or refuses to meet the design or maintenance standards required for storm water facilities under this ordinance, the City Engineer or designee, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the storm water management facility becomes a danger to public safety or public health, the City Engineer or designee shall notify, in writing, the party responsible for maintenance of the storm water management facility. Upon receipt of that notice, the responsible person shall have 15 days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the City Engineer or designee may take necessary corrective action. The cost of any action by the City Engineer or designee under this section shall be charged to the responsible party, and may act as a lien against the property until paid in full.

11-8-060. Waivers.

- (1) **General.** Every applicant shall provide for post construction storm water management as required by this Chapter, unless a written request to waive this requirement is filed and approved. Requests to waive the storm water management plan requirements shall be submitted to the City Engineer for approval.
- (2) **Conditions for waiver.** The minimum requirements for storm water management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:
 - a. It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this Chapter.
 - b. Alternative minimum requirements for on-site management of storm water discharges have been established in a storm water management plan that has been approved by the City Engineer or designee.
 - c. Provisions are made to manage storm water by an off-site facility. The off-site facility must be in place and designed to provide the level of storm water control that is equal to or greater than that which would be afforded by on-site practices. Further, the facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility.
- (3) **Downstream damage, etc. prohibited.** In order to receive a waiver, the applicant must demonstrate to the satisfaction of the City Engineer that the waiver will not lead to any of the following conditions downstream:
 - a. Deterioration of existing culverts, bridges, dams, or other structures;
 - b. Degradation of biological functions or habitat;
 - c. Accelerated stream bank or streambed erosion or siltation;
 - d. Increased threat of flood damage to public health, life, or property.
- (4) **Land disturbance permit not to be issued where waiver requested.** No land disturbance permit shall be issued where a waiver has been requested until the waiver is granted. If no waiver is granted, the plans must be resubmitted with a storm water management plan.

11-8-070. Existing locations and developments.

- (1) **Requirements for all existing commercial and industrial locations and developments.** The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this Chapter:
 - a. Denuded areas must be vegetated or covered under the standards and guidelines specified in the BMP manual and on a schedule approved by the City Engineer or designee.
 - b. Cuts and slopes must be properly covered with appropriate vegetation and/or properly designed retaining walls constructed.
 - c. Drainage ways shall be properly covered in vegetation or secured with rip-rap, channel lining, etc., to prevent erosion.
 - d. Trash, junk, rubbish, etc. shall be cleared from drainage ways.

- e. Storm water runoff shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures shall include those methods and measures identified in the Salem City Storm Water Management Program.
- (2) **Requirements for existing problem locations.** The City Engineer or designee shall, in writing, notify the owners of existing locations and developments of specific drainage, erosion, or sediment problems affecting such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.
- (3) **Inspection of existing facilities.** The City Engineer or designee may, to the extent authorized by state or federal law, establish inspection programs to verify that all storm water management facilities, including those built before as well as after the adoption of this Chapter, are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints, or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of City's NPDES/UPDES storm water permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.
- (4) **Corrections of problems subject to appeal.** Corrective measures imposed by the City Engineer or designee under this section are subject to appeal under §11-8-110.

11-8-080. Illicit discharges.

- (1) **Scope.** This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm water system.
- (2) **Prohibition of illicit discharges.** No person shall introduce or cause to be introduced into the municipal separate storm water system any discharge that is not composed entirely of storm water. The commencement, conduct, or continuance of any non-storm water discharge to the municipal separate storm water system is prohibited except as described as follows:
 - a. Uncontaminated discharges from the following sources:
 - i. Water line flushing or other potable water sources,
 - ii. Landscape irrigation or lawn watering with potable water or City's pressure irrigation water,
 - iii. Diverted stream flows,
 - iv. Rising ground water,
 - v. Groundwater infiltration to storm drains,
 - vi. Uncontaminated pumped groundwater,
 - vii. Foundation or footing drains,
 - viii. Crawl space pumps,

- ix. Air conditioning condensation,
- x. Springs,
- xi. Natural riparian habitat or wet-land flows,
- xii. Swimming pools (if dechlorinated - typically less than one PPM chlorine),
- xiii. Firefighting activities, and
- xiv. Any other uncontaminated water source.
- xv. Discharges specified in writing by the City Engineer as being necessary to protect public health and safety.
- xvi. Dye testing is an allowable discharge if the City Engineer has so specified in writing.
- xvii. The prohibition shall not apply to any non-storm water discharge permitted under an 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 written approval has been granted for 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 storm water pollutants by the use of best management practices. Any person responsible for 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 BMP's necessary to prevent the further discharge of pollutants to the municipal separate storm water system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance 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 the municipal separate storm water 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 non-hazardous materials, the person shall notify the City Engineer or designee in person or by telephone 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 City Engineer or designee within three (3) 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 at least three (3) years.

11-8-090. Enforcement.

(1) **Enforcement authority.** The City Engineer or designee shall have the authority to issue notices of violation, stop work orders, and citations, and to impose the civil penalties provided in this section.

- a. With the issuance of a City storm water 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. Violations of this Chapter may result in penalties being assessed as established herein, or by other applicable laws.

(2) **Notification of violation.**

- a. **Written Notice.** Whenever the City Engineer or designee finds that any permittee or any other person discharging storm water 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.
- b. **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 orders issued pursuant to paragraphs (d) and (e) below.
- c. **Show Cause Hearing.** The City Engineer or designee may order any person who violates this ordinance 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 with the City Engineer or designee, 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 certified mail (return receipt requested) at least ten (10) days prior to the hearing.
- d. **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 thereunder, he/she 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 to prevent future violations. 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.

- e. ***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 City Engineer or designee may issue an order to cease and desist all such violations and direct those persons in noncompliance to:
 - i. Comply forthwith; or
 - ii. 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.
- (3) **Conflicting standards.** Whenever there is a conflict between any standard contained in this ordinance and in the BMP manual adopted by the City under this Chapter, the strictest standard shall prevail.

11-8-100. Civil Fine Pass Through Recovery

In the event that a non-domestic user discharges water into the Salem Separate Storm Sewer System which causes City to violate any conditions of its state or federal storm water discharge obligations and City is fined by the State of Utah or EPA for such violations, then such non-domestic user shall be fully liable for the total amount of the fines and civil penalties assessed against City, together with all administrative costs incurred, including attorneys fees.

11-8-110. Violations and Penalties.

- (1) **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 a Class C Misdemeanor. Each day of violation shall constitute a separate violation.
- (2) **Penalties.** In addition to any criminal penalties, each violation may also subject the violator to civil penalties of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000.00) per day for each day of violation.
- (3) **Measuring civil penalties.** In assessing a civil penalty, the City Engineer or designee 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 the violation;
 - e. Any unusual or extraordinary enforcement costs incurred by the City;
 - 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.
- (4) **Recovery of damages and costs.** In addition to the civil penalty in subsection (3) above, City may recover;

- a. All damages proximately caused by the violator to City, 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.
 - b. The costs of City's maintenance of storm water facilities when the user of such facilities fails to maintain them as required by this Chapter.
- (5) **Other remedies.** The City 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.
- (6) **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.

11-8-120. Appeals.

- (1) **Appeals to municipal governing body.** Any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this Chapter may appeal said penalty or damage assessment to the City Council. Notice of appeal must be filed with the City Recorder within 10 days of the civil penalty or damage assessment. A hearing with the City Council will be scheduled within 30 days of the receipt of the notice of appeal by the City Recorder. The decision of the City Council shall be final and non-appealable.

11-8-130. Severability

- (1) If any provision or clause of this chapter or its application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses, or applications which can be implemented without the invalid provision, clause, or application. To this end, the provisions of this Chapter are declared to be severable.

CHAPTER 9 – FLOOD DAMAGE PREVENTION

(Ordinance#61720A)

11-9-010 Statutory Authorization, Findings of Fact, and Purpose and Methods

A. Statutory Authorization. Salem City elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program (NFIP) is a voluntary program administered by the Federal Emergency Management Agency (FEMA), a component of the U.S. Department of Homeland Security, and Salem City community officials have elected to join the program, participate, and enforce this Flood Damage Prevention Ordinance and the requirements and regulations of the NFIP. The NFIP, established in the aforesaid act, provides that areas of Salem City having a special flood hazard be identified by FEMA, and that floodplain management measures be applied in such flood hazard areas. Furthermore, Salem City may elect to administer the Flood Damage Prevention Ordinance to areas not identified as Special Flood Hazard Areas (SFHAs) by FEMA on the community's effective Flood Insurance Rate Map (FIRM), if the community has documentation to support that there is an inherent risk of flooding in such areas.

B. Findings of Fact.

1. The flood hazard areas of Salem City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare.
2. These flood losses are created by the cumulative effect of obstructions in floodplains that cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed, or otherwise protected from flood damage.

C. Statement of Purpose. It is the purpose of this ordinance 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 to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood-control projects;
3. Minimize the need for rescue and relief efforts associated with flooding that are generally undertaken at the expense of the general public;

4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities, such as water and sewer mains, electric and telephone lines, and streets and bridges located in floodplains.
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize blight to future flood-prone areas;
7. Ensure that potential buyers are notified that property is in a flood area.

D. Methods of Reducing Flood Losses. In order to accomplish its purposes, this ordinance uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

11-9-020 Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its' most reasonable application.

Alluvial Fan Flooding means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Area of future-conditions flood hazard means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Erosion Hazard is land that is adjacent to or within 200 feet of Salem Lake, aka Salem Pond, adjacent to or within 200 feet of the centerline of Beer Creek, or within 100 feet of any other open channel facility that conveys runoff water located within the corporate limits of City.

Area of special flood hazard is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

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

Base Flood Elevation (BFE) – Is the water surface elevation of the one (1) percent annual chance flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building—

For floodplain management purposes, a walled and roofed building that is principally above ground, as well as a manufactured home.

For insurance purposes, means

1. A structure with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; or
2. A manufactured home (a “manufactured home,” also known as a mobile home, is a structure built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or
3. A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws.

Conditional Letter of Map Revision means FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood

Elevations, or the Special Flood Hazard Area. The letter does not revise an effective map; it indicates whether the project, if built as proposed, would be recognized by FEMA.

Critical Feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Crawlspace is that area below an elevated building that is typically built on a solid (perimeter) wall foundation and is used to access utilities and/or the building is elevated over unsuitable foundation materials. Height limitations apply.

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, demolition of buildings or structures, fences, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated Building means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO- AH, B, C, X, and D, to have the top of the elevated floor. elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A 1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Enclosed Area is that portion of an elevated building below the lowest elevated floor that is either partially or fully enclosed by rigid walls. For the purposes of the NFIP, enclosed areas can be an enclosure, crawlspace, subgrade crawlspace, or attached garage.

Enclosure is the area below an elevated building that is partially or fully enclosed and over 5' in height from enclosure floor to finish floor elevation of the floor immediately above the enclosed area.

That portion of an elevated building below the lowest elevated floor that is either partially or fully enclosed by rigid walls.

Erosion means the process of the gradual wearing away of land masses. This peril is not per se covered under the Program.

Existing construction means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Flood or Flooding means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters.
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
 - c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

Flood elevation determination means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study or Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood plain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of “flooding”).

Floodplain Management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain Management Regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood Protection System means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify

flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. Wet floodproofing includes permanent or contingent measures applied to a structure or its contents that prevent or provide resistance to damage from flooding while allowing floodwaters to enter the structure or area and may be applied to residential or non-residential structures. Dry floodproofing is making a structure watertight below the level that needs flood protection to prevent floodwaters from entering. Making the structure watertight requires sealing the walls with waterproof coatings, impermeable membranes, or a supplemental layer of masonry or concrete and can only be used for non-residential structures.

Floodway (Regulatory 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 a designated height.

Floodway encroachment lines mean the lines marking the limits of floodways on Federal, State and local flood plain maps.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic reservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior, or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Letter of Map Amendment means an official amendment, by letter, to an effective map. A LOMA establishes a property's location in relation to the Special Flood Hazard Area and are usually issued because a property has been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation.

Letter of Map Revision means FEMA's modification to an effective Flood Insurance Rate Map, or Flood Boundary and Floodway Map, or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations, or the Special Flood Hazard Area.

Letter of Map Revision Based on Fill means FEMA's modification of the Special Flood Hazard Area shown on the Flood Insurance Rate Map based on the placement of fill outside the existing regulatory floodway.

Conditional Letter of Map Revision means FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations, or the Special Flood Hazard Area. The letter does not revise an effective map; it indicates whether the project, if built as proposed, would be recognized by FEMA. A CLOMR does not replace a floodplain development permit.

Levee means a man-made structure usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. Only levees that are recognized by FEMA will be shown on the FIRMs as providing protection from the 1% annual chance flood.

Levee System means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

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 Sec. 60.3.

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 attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map means the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

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 projection;
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.

Regulatory 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 a designated height.

Special flood hazard area: see “area of special flood hazard”.

Special hazard area means an area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M, or E.

Start of Construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. 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 part of the main structure. 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 designed and/or constructed system including but not limited to a building (walled and roofed building that is principally above ground), as well as a manufactured home, a gas or liquid storage tank, levee, road, culvert, or bridge.

Subgrade Crawlspace is a type of crawlspace when the floor of the crawlspace will be located below the exterior grades on all sides. If one side of a crawlspace “daylights” to the exterior grade, then it is a crawlspace. Height limitations apply.

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

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
2. Any alteration of a “historic structure”, provided that the alteration will not preclude the structure's continued designation as a “historic structure.”

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

11-9-030 General Provisions

- A. Lands to which this Ordinance Applies. The ordinance shall apply to all areas of special flood hazard identified by FEMA within the jurisdiction of Salem City.
- B. Basis for Establishing the Areas of Special Flood Hazard. 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 Utah County and Incorporated Communities," dated June 19, 2020, with accompanying FIRMs, and any revisions thereto are hereby automatically adopted by reference and declared to be a part of this ordinance.
- C. Annexation. When the community annexes any land from a neighboring jurisdiction, Salem City will manage and regulate the annexed land under this ordinance.
- D. Establishment of Development Permit. A Floodplain Development, preliminary plat approval, site plan approval, or a building permit, shall be required to ensure conformance with the provisions of this ordinance.
- E. Compliance. No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.
- F. Abrogation and Greater Restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- G. Interpretation. In the interpretation and application of this ordinance, all provisions shall be:
 - a. considered as minimum requirements;
 - b. liberally construed in favor of the governing body; and
 - c. deemed neither to limit nor repeal any other powers granted under State statutes.
- H. Warning and Disclaimer. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes.

This ordinance 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 ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

- I. Severability. If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

11-9-040 Administration

- A. Designation of the Floodplain Administrator. The Assistant City Engineer is hereby appointed the Floodplain Administrator and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.
- B. Duties and Responsibilities of the Floodplain Administrator. Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
 2. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
 3. Review, approve or deny all applications for development permits required by adoption of this ordinance.
 4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
 5. Where interpretation is 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 Floodplain Administrator shall make the necessary interpretation.
 6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is State Engineer's office, prior to any alteration or relocation of a

watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
 8. When base flood elevation data has not been provided in accordance, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of this ordinance.
 9. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
 10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).
- C. Permit Procedures. Application for a preliminary plat, site plan, or building permit within a special floodplain hazard area shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured

homes, and the construction fences, and the location of the foregoing in relation to areas of special flood hazard and areas of special erosion hazard.

Additionally, the following information is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 11-9-050(B);
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
5. A bank stability/erosion hazard analysis performed by a licensed professional engineer, including site photographs, that evaluates potential flood-related erosion hazards and identifies appropriate erosion hazard mitigation measures to protect any structural improvements proposed in the area of special erosion hazard.
6. A geotechnical report that includes: at least one measurement of the ambient groundwater surface elevation on the site of proposed development collected between May 1 and May 31 (unless otherwise approved by the Floodplain Administrator); an engineer's estimate of the maximum anticipated groundwater elevation anticipated on the site during periods of flooding on the Spanish Fork River, referencing nearby base flood elevations on the current FIRM and all other available sources; and an engineer's recommendation with regard to the lowest elevation(s) that the lowest floor(s) (including basement) of all new and substantially improved structures should be constructed to be protected from flooding from groundwater and groundwater that could be influenced by surface water during periods of flooding.
7. A grading permit shall be obtained from the Floodplain Administrator before any excavation or fill work that could modify the flood hazards defined on the community's FIRM is completed in the area of special erosion hazard area.
8. Maintain record of all such information.

D. FLOODPLAIN PERMIT APPROVAL OR DENIAL

Approval or denial of a preliminary plat, site plan, or any permit required by shall be based on all of the provisions of this ordinance and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;

5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
9. The relationship of the proposed use to the comprehensive plan for that area.

E. Variance Procedures. The City Council shall act as the appeal authority and shall hear and render judgment on requests for variances from the requirements of this ordinance.

1. Any person or persons aggrieved by the decision of the City Council may appeal such decision in the courts of competent jurisdiction.
2. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency and the State Office of Emergency Management upon issuing a variance.
3. 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 the relevant factors in Section C of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
4. Upon consideration of the factors noted above and the intent of this ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance.

5. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
6. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
7. Prerequisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall only be issued upon:
 - (1) showing a 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, or conflict with existing local laws or ordinances.
 - c. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the 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.
8. Variances may be issued by Salem City for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - a. the criteria outlined in Section 11-9-040(D)(1)-(9) are met, and
 - b. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

11-9-050 Provisions for Flood Hazard Reduction

- A. General Standards. In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
5. All new construction shall be required to connect to City's sanitary sewer system.
6. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
7. No solid walls, solid fences, or other structures that could disrupt flowing water in an area of special flood hazard shall be constructed in a position or direction contrary to the direction of flowing water.

B. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided, the following provisions are required:

1. Residential and Nonresidential Construction - New residential and nonresidential construction and substantial improvement of any structure shall have the lowest floor (including basement), elevated to two feet above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a

certification to the Floodplain Administrator that the standards of this ordinance are satisfied.

2. Enclosed Areas – including enclosures, crawlspaces, subgrade crawlspaces, and attached garages - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to:
 - a. automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
 - b. Flood vents meeting ICC-ES standards may be used with the bottom of all openings shall be no higher than one foot above grade and a minimum of two openings, or
 - c. Vents certified by a registered professional engineer or architect meet or exceed the following minimum criteria:
 - (1) 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.
 - (2) The bottom of all openings shall be no higher than one foot above grade.
 - (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Enclosures are areas that have a height greater than 5 feet from the enclosure floor to the finish floor elevation above. Crawlspaces have at least one side of the crawlspace floor at or above the exterior grade. The crawlspace floor must be less than 5 feet from the finish floor elevation above. Subgrade crawlspaces have an exterior grade that cannot be more than 2' above crawlspace floor elevation and a finish floor elevation of floor immediately above cannot be more than 5' above the crawlspace floor.

4. Manufactured Homes

- a. Require that all manufactured homes to be placed within Zone A on Salem City's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- b. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a

flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- d. In A-1-30, AH, and AE Zones, require that manufactured homes to be placed or substantially improved in an existing manufactured home park to be elevated so that the lowest floor is at or above the Base Flood Elevation; OR the chassis is supported by reinforced piers no less than 36 inches in height above grade and securely anchored.
5. Recreational Vehicles - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:
 - a. be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use, or
 - b. meet the permit requirements of Section 11-9-040(C), and the elevation and anchoring requirements for "manufactured homes" of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

6. Special Erosion Hazards - In all areas of special erosion hazards the following provisions are required for all new construction or substantial improvements:
 - a. Erosion Hazard. No new construction or substantial improvements shall be designed or constructed until a licensed professional engineer certifies that no erosion hazard exists on the reach of open channel adjacent to or upstream from the proposed site for a distance of at least 150 feet or until any potential erosion hazard is mitigated by measures designed by a registered professional engineer and accepted by the Floodplain Administrator.
 - b. Set Back. All permanent structures shall be set back a minimum of 60 feet from the top of bank of the nearest open channel that conveys runoff water.
 - c. Grading Permit. No excavation or fill that could modify the flood hazards defined on the FIRM shall be performed without applying for and receiving a grading permit from the Floodplain Administrator.
 - d. No solid walls, solid fences, or other structures that could disrupt flowing water in an area of special erosion hazard shall be constructed in a position or direction contrary to the direction of flowing water.
 - e. In all areas of special flood hazard, all areas of special erosion hazard, and areas with potentially high groundwater levels the following provisions are required for all new construction or substantial improvements:

As part of the building or development permit process, a geotechnical report shall be completed that includes a licensed professional engineer's recommendation with regard to the lowest elevation(s) that the lowest floor(s) (including basement) of all new and substantially improved structures should be constructed to be protected from flooding from groundwater and groundwater that could be influenced by surface water during periods of flooding.

C. Standards for Subdivision Proposals.

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with the provisions of this ordinance.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of this ordinance.
3. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser.
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

D. Standards for Areas of Shallow Flooding (AO/AH Zones)

Located within the areas of special flood hazard established in Section 11-9-030(B), are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
2. All new construction and substantial improvements of **non-residential** structures
 - a. have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;
 - b. together with attendant utility and sanitary facilities be designed so that below the base flood level the structure

is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

3. A registered professional engineer shall submit a certification to the Floodplain Administrator that the standards of Section 11-9-040(C) are satisfied.
4. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.
5. FIRMs may also identify areas of shallow flooding hazards with an average depth less than 1 foot deep (shaded Zone X). These areas may be between the flood hazard boundaries defined for the 1- and 0.2-percent-chance-annual-flood or associated with base flood depths less than 1 foot where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity may be evident. Such flooding is generally characterized by sheet flow. Therefore, the following provisions apply for all new construction or substantial improvements of residential and nonresidential structures:
 - a. All new construction or substantial improvements have the lowest floor (including basement) elevated above the estimated depth of the base flood and above the highest groundwater level that is anticipated to occur during periods of flooding.
 - b. Require within shaded X Zones positive ground slopes away from structures and adequate drainage paths around structures on sloping ground to guide flood water around and away from proposed structures.
 - c. A registered professional engineer shall submit certification to the Floodplain Administrator that the standards of this Section, as proposed is satisfied.

E. Floodways

Floodways located within areas of special flood hazard established in 11-9-030, are extremely hazardous areas due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Designate a regulatory floodway which will not increase the Base Flood level more than 1 foot.
2. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
3. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 11-9-050 in this ordinance.
4. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, Salem City may permit encroachments within the adopted

regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision through FEMA.

F. Standard for Areas of Special Erosion Hazard

In order to prevent damage to structures in area subject to special erosion hazards, the following provisions shall apply.

1. No structural development will be allowed to be constructed in an area of special erosion hazard unless the potential erosion hazards have been evaluated and mitigated and buildings meet minimum setback requirements in subsection (B)(6) of this section.
2. No excavation or fill that could modify flood hazard boundaries defined on the FIRM shall be performed in areas of special erosion hazard without a grading permit, in accordance with (B)(6) of this section.
3. No solid walls, solid fences, or other structures that could disrupt flowing water in an area of special flood hazard or special erosion hazard shall be constructed in a position or direction contrary to the direction of flowing water to create additional flooding and erosion hazards.

G. Penalties for Violation

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a Class C misdemeanor and shall be punished as provided in Section 1-2-080 of the Salem City Municipal Code, for each violation. In addition, a person who violates this ordinance shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent Spanish Fork City from taking such other lawful action as is necessary to prevent or remedy any violation.