

CHAPTER 38

DRAINAGE

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38-1 STORM DRAIN UTILITY

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SECTION 38-1-1 FINDINGS

The City Council makes the following findings regarding storm water runoff and the City's storm drain and flood control systems:

- A. Historically, the City's storm drainage system consisted of a network of ditches that were primarily used for irrigation. Those ditches are no longer allowed to be used or are being removed as improvements are made by installing curb and gutter. By eliminating the use of the ditches there is no way for the storm water to be conveyed.
- B. The City's existing culverts and remaining ditches do not adequately handle the storm water runoff generated in the City.
- C. The City's anticipated growth will place increased demands on the already inadequate storm drainage system.
- D. The City has constructed significant flood control improvements which need adequate maintenance in order to remain effective.
- E. Uncontrolled or inadequately controlled storm and flood waters cause erosion and property damage.
- F. Uncontrolled or inadequately controlled storm and flood waters hinder the City's ability to provide emergency services to its residents.
- G. Uncontrolled or inadequately controlled storm water runoff impedes the regular flow of traffic in the City.

- H. Uncontrolled or inadequately controlled storm and flood waters pose hazards to the citizens of the community.
- I. Storm water runoff carries concentrations of oil, grease, nutrients, chemicals, heavy metals, toxic materials and other undesirable materials that may jeopardize the integrity of ground waters receiving waters including the City's culinary water supply.
- J. All developed properties in the City contribute to the need for the storm drainage system by converting natural ground cover into impervious surfaces.
- K. All developed properties in the City make use of or benefit from the City's operation and maintenance of the storm drain and/or flood control systems.
- L. Inadequate drainage along existing streets due to the lack of adequate storm drain systems cause the street pavement to deteriorate and fail thus increasing street maintenance costs.
- M. Absent effective maintenance, operation, regulation and control of existing storm water drainage and flood control systems in the City constitute a potential hazard to the health, safety and general welfare of the City, its residents, and its businesses.
- N. A storm drain utility is the most equitable and efficient method of managing storm water and providing flood control in the City and ensuring that each property in the City pays its fair share of the amount that the property contributes to, benefits from, and otherwise uses the storm drain and flood control systems.

SECTION 38-1-2 PURPOSE

The purpose of this ordinance is to protect the health, safety and welfare of the City and its inhabitants by improving and maintaining the City's storm drain and flood control systems, managing and controlling storm water runoff, protecting property, preventing polluted waters from entering the City's water supply and other receiving waters, and establishing a viable and fair method of financing the improvement, operation and maintenance of the storm drain system.

SECTION 38-1-3 DEFINITIONS

The following bolded words and phrases shall be defined as follows:

- A. **Developed Parcel.** Any parcel that has been altered from its natural condition by grading, filling, or the construction of improvements or other impervious surfaces.
- B. **Impervious Surface.** 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.

SECTION 38-1-4 STORM DRAIN UTILITY.

- A. **Creation.** The City Council hereby creates and establishes a storm drain utility. The storm drain utility shall plan, design, improve, maintain, administer and operate the City's storm drain and flood control systems.
- B. **Enterprise Fund.** The City Council hereby establishes a storm drain utility enterprise fund to handle all income, expenses and other financial transactions related to the storm drain utility. All storm drain utility service charges shall be deposited in the enterprise fund. Money in the storm drain utility enterprise fund shall be restricted to expenses associated with the storm drain utility. However, the storm drain utility may pay other City funds for services and expenses directly attributable to the storm drain utility. The enterprise fund shall be operated according to State law and City Policy.
- C. **Facilities and Assets.** The storm drain utility shall operate independently of City operations funded by the general fund. The storm drain utility shall have the same relationship to the City as other City utilities, such as the Water utility and the sanitary sewer (waste water) utility. Upon creation of the utility, all of the City's storm drain and flood control facilities and assets (other than streets and other facilities and assets designated by the Public Works Director) shall be transferred to the storm drain utility in consideration for the storm drain utility's agreement to take primary responsibility for planning, designing, improving, maintaining, administering and operating the City's storm drain and flood control systems.
- D. **Operation, Maintenance and Administration.** The storm drain utility shall be operated and maintained under the direction of the City's Street Department Superintendent and administered by the City's Public Works Director.

SECTION 38-1-5 STORM DRAIN UTILITY FEE.

- A. **Imposed.** Each developed parcel of real property in the City shall be charged a storm drain fee.
- B. **ESU.** The fee shall be based on the number of equivalent service units (ESU's) contained in the parcel. The City Council finds that the ESU is the most accurate measurement for determining the amount that each parcel contributes to, benefits from, and otherwise uses the storm drain utility. The definition of an ESU shall be established by resolution of the City Council.
- C. **Calculation.** The City Council will establish a base rate for each ESU. Each parcel shall pay the base rate multiplied by the number of ESU's as defined by

resolution of the City Council. The City Council may adopt separate rates for uses that are not easily handled under the standard rate schedule.

- D. **Charge per ESU.** The amount charged for each ESU shall be established by resolution of the City Council.
- E. **Exemptions and Credits.** The City Council may establish exemptions and credits to the storm drain utility fee by resolution.
- F. **Policies.** The Public Works Director may adopt policies, consistent with this ordinance and any resolutions passed by the City Council, to assist in the application, administration and the interpretation of this ordinance and any resolutions related to the storm drain utility.
- G. **Appeals.** Any person or entity that believes that this ordinance, or any storm drain utility rate resolution, was interpreted or applied erroneously may appeal to the Public Works Director (“Director”). The appeal shall be in writing, shall state any facts supporting the appeal, and shall be made within ten (10) days of the decision, action, or bill being appealed. The Director may elect to hold a hearing on the appeal. The Director shall decide the appeal within ten (10) days of when the appeal is filed. If the person or entity is not satisfied with the Director’s decision, a further appeal may be made to the City Manager (or his/her designee). The appeal to the City Manager shall follow the same procedure as the appeal to the Director. The City Manager’s decision shall be final.

SECTION 38-1-6 BILLING

(A) The City Council finds that the City’s storm drain system, flood control system, sanitary sewer system, culinary water system, and solid waste collection system are interrelated services that are part of a unified City plan to provide for the health, safety and welfare of the City and its residents in an environmentally responsible manner. Therefore, the storm drain utility fee shall be included on the City’s regular monthly utility bill for any given property, the storm drain utility fee shall be charged to the owner of the property. The fee shall be deemed a civil debt owed to the City by the person or entity paying for the City utility services provide to the property. All properties shall be charged the fee, regardless of whether or not the owner or occupant of the property requests the storm drain utility service. Failure to pay any portion of the utility bill may result in termination of water service in accordance with the City’s Waterworks Ordinance.

(B) If upon examination of the customer’s bill staff determines that the customer was likely not receiving a bill for water services staff is authorized to take one of the following actions:

1. If the period of time when the customer was not receiving a bill for this utility service is longer than two (2) years staff shall bill the customer for two (2) years of service at the rates applicable during the two (2) years immediately preceding the bill. Staff is authorized to write off any amount that exceeds the bill for the preceding two (2) years. If the period of time when the customer was not

receiving a bill is anything shorter than two (2) years staff shall collect the entire bill.

2. If when the customer is notified they request additional time to pay for up to two (2) years of services for which they have not received a bill, then staff is authorized to offer the customer an agreement whereby the customer shall make monthly payments of the principle. The length of any such agreement shall not exceed two (2) years. During the course of such an agreement the customer shall not be charged interest or penalty on the initial principle amount. Interest may be charged if the customer is late on a payment pursuant to the payment agreement. The Mayor is hereby authorized to sign any such agreement on behalf of the City.
3. If staff can document that the customer has engaged in intentional fraud or deceit in order to avoid paying for utility services received, then staff shall not be allowed to offer the customer the benefit of a two year repayment and shall proceed with all legal collection efforts to collect the entire amount of un-paid bills due to the customer's intentional fraud or deceit.
 - A. A customer may appeal staff's decision that the customer engaged in intentional fraud and/or deceit. The appeal is to the City Manager. A brief written statement must be submitted by the customer. The City Manager is required to receive staff's input prior to making a decision. The City Manager shall render a decision within ten (10) working days, and notify the customer in writing. In cases where the City Manager does not agree with staff's finding of intentional fraud or deceit, the City Manager's authority is limited to allowing the customer to take advantage of the two (2) year payback provisions contained in this ordinance.
4. Staff shall be able to rely on the City's billing records in order to make a determination if the customer has been receiving a bill for these services and if the bill has been sent to the address requested by the property owner.
5. If the staff is not successful in collecting the bill pursuant to this section, nothing in this section shall be construed to limit, restrict, or prohibit the City from using its other collection remedies contained in the Cedar City Ordinance including, but not limited to discontinuing the customer's water service, or collecting the debt as a civil debt.

Amended by ordinance No. 1214-11

38-2. STORM DRAINAGE

Section 38-2-1 Definitions

Section 38-2-2 Development Improvements

Section 38-2-2a Storm Drains and Channels

Section 38-2-3 Obstruction

Section 38-2-4 Dumping
Section 38-2-5 Damage
Section 38-2-6 Violation and Penalty

SECTION 38-2-1 DEFINITIONS.

For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meaning given herein.

- A. **Sump** shall mean a formalized structure underground surrounded by drain rock, that acts as a detention basin to allow the slow release of water into the surrounding sub-soil. Sumps usually receive storm water runoff from paved areas such as streets, parking lots, building roofs, etc.
- B. **Detention Basin** shall mean a depression designed with an inlet and outlet that regulates water flow and allows debris to settle out, that is capable of detaining storm and flood water until it can be released without causing damage downstream.
- C. **Storm and Flood Water** is defined as precipitation such as rain, snow, hail, or other natural occurrence.
- D. **Storm Water Runoff** is water that is generated by storm water flows overland.
- E. **Non-Storm Water Runoff** is defined as any runoff other than storm water.
- F. **Storm Drain** shall mean a closed conduit for conducting storm water that has been collected by inlets or collected by other means.
- G. **Drain Inlet** shall mean a point of entry into a sump, detention basin, or storm drain system.
- H. **Catch Basin** is a basin combined with a storm drain inlet to trap solids.
- I. **Debris** shall mean any dirt, rock, sand, tree, or other rubbish, litter, etc.
- J. **Retention Basin** shall mean an engineered stormwater pond that is constructed to capture and retain the design storm on-site and dispose of the water through infiltration and evaporation.

SECTION 38-2-2 DEVELOPMENT IMPROVEMENTS

When property develops by subdividing the property, improving a dedicated street, or obtaining a building permit, the developer shall pay for any storm drains, drain inlets or catch basins that are required for the development. If a master planned storm drain is required to be extended through a development in order to convey off-site storm water runoff, the property

developer shall pay for the costs to install a 12-inch diameter storm drain or a storm drain sized to convey the storm water runoff from the developer's development, whichever is greater.

SECTION 38-2-2a STORM DRAINS AND CHANNELS

Except where otherwise provided in these ordinances, the following shall be the exclusive method of extending storm drains in Cedar City, Utah, on dedicated streets where such drainage improvements are not now available and outside of recognized subdivisions.

In the event the property owner requires a storm drain and there is not a storm drain in front of the property, then for whatever extension is necessary to bring the storm drain (12-inch minimum diameter) to the furthest developed property line, said property owner shall sign an agreement with Cedar City providing that he shall be reimbursed for expenses incurred to cover the actual cost of extending said storm drain. After said agreement is executed and construction drawings have been submitted and approved by the City Engineer, then the storm drain can be installed. Thereafter, the installation reimbursement amounts, shall be collected along the specific pipe line thus installed, and be paid by Cedar City Corporation to the individual that paid for the extension until that individual has been completely reimbursed without interest for the money expended for making said extension or for a ten-year period whichever occurs first. In addition to the cost of extension, said property owner shall pay the impact fee required by ordinance. Other property owners who thereafter connect to the extended line fronting their property shall pay for the impact fees and, for the ten-year period indicated above, the reimbursement amount of one half (1/2) the actual cost of the installation across the front of their property. This method of reimbursement shall also apply to lines extended and paid for by Cedar City.

This ordinance shall not be applicable in subdivisions wherein extensions have already been made at the cost of the developer.

ADOPTED by Cedar City Ordinance No. 0709-14.

SECTION 38-2-3 OBSTRUCTIONS

- 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, detention basin, storm drain, 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 non-storm water runoff in any curb and gutter, unless the obstruction is associated with a street and/or storm drainage improvement 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.
- D. Paragraphs A and B of this section shall not apply during clean-up periods established by the City, provided the materials are placed according to any directions from the City and do not obstruct drain inlets.

SECTION 38-2-4 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, or other storm drainage structure that conveys storm or flood water and/or non-storm water, 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 set forth in paragraph A shall not apply to the normal runoff of non-storm water related to the washing of vehicles displayed for sale on Automobile Sales Lots, washing of vehicles for charity or fund raising activities not required to have a business license, or for other domestic home uses; for example, lawn watering, washing cars, etc.

SECTION 38-2-5 DAMAGE

It is unlawful for any person to cause damage to any storm drain or flood control improvement.

SECTION 38-2-6 VIOLATION AND PENALTY

- A. The violation of any of the provisions of the Article shall be a Class B misdemeanor, punishable by a fine not to exceed One Thousand Dollars (\$1,000.00) or a jail term of up to ninety (90) days, or by both such fine and imprisonment. Each day that a violation occurs shall constitute a separate offense.
- B. If, as a result of the violation of any provision of this Chapter, the City or any other party suffers damages and is required to make repairs and/or replace any

materials, the cost of repair or replacement shall be borne by the party in violation, in addition to any criminal fines and/or penalties.

38-3 ON-SITE DRAINAGE CONTROL

Section 38-3-1 Ordinance Purpose

Section 38-3-2 Definitions

Section 38-3-3 Drainage Impact Fees

Section 38-3-4 Design and Installation Standards

Section 38-3-5 Improvement Maintenance

Section 38-3-6 Oversized Improvements

Section 38-3-7 Review Criteria

SECTION 38-3-1 PURPOSE OF ORDINANCE

The underlying purpose and intent of this Ordinance is to minimize storm water flooding to the extent possible for frequent storm events. This Ordinance is enacted for the further purpose of protecting human life and property, minimizing flood damage, protecting water quality and minimizing the need for public capital facilities for storm water management. Additionally, this Ordinance will provide a defined alternative to paying Drainage Impact Fees for commercial and industrial developments.

SECTION 38-3-2 DEFINITIONS

For the purpose of this Ordinance, the following definitions shall apply:

- A. **CFS** Storm water flow rate measured in cubic feet per second.
- B. **Impact-Fee-Assessed Development** Any construction or expansion of a residential building or structure or other building or structure that is not included in the definition of an Impact-Fee-Exempt Development; or any change in the use of land that creates additional demand and need for public facilities.
- C. **Impact-Fee-Exempt Development** Any construction or expansion of a commercial or industrial building where the builder or developer chooses to install required on-site storm water improvements as defined herein.
- D. **Miscellaneous Development** The Subdivision of any land, the construction of roads or bridges, and the filling, grading, clearing, excavation or paving of any site or parcel of land.
- E. **Drainage Improvements** When required, the minimum drainage improvements installed in a development shall be detention basins, detention basin controlled

outlet structures, detention basin overflow spillways and drainage systems. Other improvements may be required as determined by the City Engineer. On-site improvements are defined as improvements on private property; off-site improvements are defined as improvements on dedicated public rights-of-way.

SECTION 38-3-3 DRAINAGE IMPACT FEES

Drainage impact fees have been established by the Cedar City Council and adopted in the form of an Ordinance duly approved by said Council. Impact fees shall be paid in the amount and at the time designated in the impact fee Ordinance. The impact fees are used to install capital improvements as defined in the City's drainage capital facilities plan. Under no condition shall it be interpreted that the payment of impact fees is permission to drain storm water onto another private property owner. As an alternative to paying established impact fees, a commercial or industrial development can install on-site improvements as defined by this Ordinance.

SECTION 38-3-4 IMPROVEMENT DESIGN AND INSTALLATION STANDARDS

- A. Impact-Fee Assessed Development. Developments assessed drainage impact fees will not be required to install storm water improvements unless the storm water from the development flows to an adjoining private property owner; any development creating such conditions will be required to install necessary improvements to prevent such flows or obtain appropriate drainage easements.

- B. Impact-Fee-Exempt Development. Drainage improvements for impact-fee-exempt development, or any other development as defined herein requiring drainage improvements, shall be designed and installed according to the following minimum standards:
 - 1. A comprehensive drainage study shall be performed for the development by a licensed Professional Engineer. The drainage study shall provide all necessary data required by this Ordinance or the City Engineer.
 - 2. Detention basins shall be sized to detain a 25-year, 24-hour post development rainfall event.
 - 3. Detention basin outlet structures shall be designed to restrict flows to a predevelopment 2-year, 24-hour rainfall event or 0.2 CFS/acre, whichever is less.
 - 4. Detention basins shall be constructed with emergency overflow spillways with a post development 100-year rainfall peak capacity.
 - 5. Storm water drainage systems, including pipes, streets and gutters, must be designed to effectively convey flows to and from the detention basin for all storm events up to and including the 100-year rainfall event.

6. Flows from detention basin outlet structures and emergency overflow spillways shall be conveyed directly to a City designated storm drain system or street right-of-way without impacting other private property. This standard can be waived if a private property owner gives permission to receive the flow through a deeded drainage easement.
7. All required improvements shall be designed and installed according to City Engineering Standards.
8. Retention basins shall be an approved method of Impact-Fee-Exempt development under the following conditions:
 - a) Retention basins shall be sized to retain at a minimum the 100-year, 24-hour post-development rainfall event. Retention basin sizing calculations must be included in a drainage study prepared by a licensed professional engineer in the state of Utah.
 - b) Retention basins shall be designed and constructed according to recommendations from a licensed profession engineer in the state of Utah specializing in geotechnical engineering. The retention basin design recommendations must be included in the soils report for the development.
 - c) Retention basins will not be allowed in highly susceptible soil or susceptible soil areas, or in other poor soils areas as recommended by the geotechnical engineer. Refer to the “Relative Hydrocompaction Susceptibility” map.
 - d) The side slopes of retention basins shall not be steeper than 3:1 (H:V).
 - e) The maximum depth of retention basins shall be three (3) feet plus one (1) foot of freeboard above the emergency overflow and a maximum water depth of three feet below the emergency overflow.
 - f) Fencing that will prevent entry is required around retention ponds if the maximum water depth below the emergency overflow is greater than 12 inches in depth. Fence minimum height is to be 42 inches.
 - g) Retention basins with a maximum water depth below the emergency overflow of 12 inches or less can be landscaped and used as open space for the development.
 - h) Retention basins shall be designed to drain out completely within 2 days (48 hours) from the end of the storm event. This is to be documented with a certified percolation test of the native sub-grade material and the material to be placed during construction. The percolation rate must be documented in the soils report.
 - i) The emergency overflow shall be designed to pass the full 100-year event and convey the overflow to a City designated storm drain system or street right-of-way without impacting other private property.
 - j) Underground utilities (i.e., water lines, sewer lines, gas lines, power lines, telecommunication lines, etc.) shall not be allowed through the retention basin or within 5 feet of the pond side-slopes.
 - k) All retention ponds must be privately maintained and operated.

- C. Miscellaneous Development. Miscellaneous developments shall install off-site or on-site drainage improvements if required by the City Engineer.

SECTION 38-3-5 IMPROVEMENT MAINTENANCE

All drainage improvements shall be maintained so as to ensure their design capacities and effectiveness at all times. Drainage improvements installed off-site shall be maintained by the City. Improvements installed on-site shall be maintained by the property owner.

SECTION 38-3-6 OVERSIZED IMPROVEMENTS

Whenever the City requires improvements sized in excess of the requirements for a specific development, the City shall reimburse the developer for the actual cost of the increased size, including materials and installation. This does not include any costs for engineering, interest, or profit. The reimbursement shall be made upon submission of verified invoices by the developer to the City.

SECTION 38-3-7 REVIEW CRITERIA

The City Engineer has the authority to set forth storm water management and drainage criteria so that the intent of the Ordinance is met. All drainage studies and designs for storm water improvement projects shall be reviewed by the City Engineer to ensure compliance with this Ordinance and City Engineering Standards.

SEVERABILITY

The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such section, paragraph, sentence, clause, or phrase shall be declared invalid or unconstitutional by the valid judgment or decree of a Court of competent jurisdiction, such invalidity or unconstitutionality shall not impair or otherwise affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.