

**MILLVILLE CITY CODE
TITLE 13 - PUBLIC SERVICES
CHAPTER 13.24 - STORMWATER REGULATIONS**

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13.24.010: GENERAL

A. Purpose: It is the purpose of this chapter to:

1. Protect, maintain, and enhance the environment of Millville City.
2. Establish responsibilities for controlling and managing stormwater runoff.
3. Protect the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city and state.

4. Enable the city to comply with the national/Utah pollution discharge elimination system permit (NPDES/UPDES) and applicable regulations, 40 CFR section 122.26 for stormwater discharges.
5. Allow the city to exercise the powers granted by Utah code, which provides that, among other powers municipalities have with respect to stormwater facilities, is the power by ordinance or resolution to:
 - a. Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;
 - b. Adopt any rules and regulations deemed necessary to accomplish the purposes of this chapter, including the adoption of a system of fees for services and permits;
 - c. Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;
 - d. Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments, and other projects whether public or private;
 - e. Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
 - f. Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
 - g. Expend funds to remediate or mitigate the detrimental effects of negatively affected land or other sources of stormwater contamination, whether public or private.
6. Administration; Liability: The city shall administer the provisions of this chapter. Nothing in this chapter shall relieve any person from responsibility for damage to other persons or property, nor impose upon Millville City, its officers, agents or employees, any liability for damage to other persons or property. (Ord. 2011-4, 2011: Ord. 2008-2, 2008)

13.24.020: DEFINITIONS

For the purpose of this chapter, the following definitions shall apply. Unless specifically defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

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

BEST MANAGEMENT PRACTICES OR BMPs: Physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by Millville City and that have been incorporated by reference into this chapter as if fully set out therein. For purposes of this title, the relevant BMPs are more particularly defined in Millville City "Guidance Document For Storm Water Management".

CITY: The city of Millville or authorized designee.

CONSTRUCTION ACTIVITIES: Activities as defined in the stormwater construction permit.

CONTAMINANT: Any physical, chemical, biological, or radiological substance or matter in water.

DISCHARGE: 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 municipal separate storm sewer system.

EASEMENT: An acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

EROSION: 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.

ILLICIT CONNECTIONS: Illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

ILLICIT DISCHARGE: Any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under section 13.24.060 of this chapter.

MS4 PERMIT: The general permit for discharges for small municipal separate storm sewer systems (MS4), permit latest version.

MAINTENANCE: Any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater 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 site property that may directly impair the functions of the stormwater facility.

MAINTENANCE AGREEMENT: A document recorded in the land records that acts as a property deed restriction, and which provides for long term maintenance of stormwater management practices.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) (MUNICIPAL SEPARATE STORMWATER SYSTEM): The conveyances owned or operated by the municipality for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, manmade channels, and storm drains.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT OR NPDES PERMIT: A permit issued pursuant to 33 USC 1342.

NOTICE OF VIOLATION (NOV): Whenever the city finds that a person is in noncompliance with this chapter, the city will order compliance by written notice of violation to the responsible person. Requirements in this notice are at the discretion of the city, and may include monitoring, payment to cover costs relating to the noncompliance, and the implementation of best management practices.

PERSON: Any and all entities, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.

PREDEVELOPMENT: The status of an item prior to any modification (i.e., native condition).

PROPERTY OWNER: Landowner of property within the boundary of Millville City.

RUNOFF: That portion of water or precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.

SEDIMENT: 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.

SEDIMENTATION: Soil particles suspended in stormwater that can settle in streambeds and disrupt the natural flow of the stream.

STORMWATER: Stormwater runoff, snowmelt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

STORMWATER CONSTRUCTION PERMIT: Stormwater general permit for construction activities permit latest version as required by the Utah department of environmental quality, division of water quality.

STORMWATER MANAGEMENT: The programs to maintain quality and quantity of stormwater runoff to predevelopment levels.

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

STORMWATER RUNOFF: That portion of stormwater on a drainage area that is discharged from the area into the municipal separate stormwater system.

STORMWATER UTILITY: The stormwater utility created by ordinance of the city to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by the municipality.

STRUCTURAL BMPs: Devices that are constructed to provide control of stormwater runoff.

SURFACE WATER: Includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes and reservoirs.

UPDES: Utah pollution discharge elimination system. (Ord. 2011-4, 2011: Ord. 2008-2, 2008)

13.24.030: STORMWATER SYSTEM DESIGN

- A. Stormwater system design and construction documents shall conform to the standards adopted by the city.

- B. Stormwater outfall design and water quality shall meet federal, state and local discharge requirements. (Ord. 2011-4, 2011)

13.24.040: STORMWATER SYSTEM CONSTRUCTION

- A. Erosion and sediment control practices on construction sites must meet the technical requirements as required in the stormwater construction permit.
- B. Erosion and sediment control practices must be applied to all construction activities required by the stormwater construction permit including new development and redevelopment.
- C. All construction activities listed under the stormwater construction permit shall prepare a SWPPP in accordance with said permit.
 - 1. The SWPPP shall be submitted and reviewed by the city prior to application for said permit.
- D. Erosion and sediment BMPs used for construction activities, listed on the SWPPP and sediment and erosion control plans shall protect water quality, reduce the discharge of pollutants, and control waste such as, but not limited to, soils, sediment, oils, discarded building materials, concrete truck washout, chemicals, litter and sanitary waste that may cause adverse impact to water quality. (Ord. 2011-4, 2011)

13.24.050: STORMWATER SYSTEM OPERATION AND MAINTENANCE

- A. Stormwater Facilities Within The City: Operation and maintenance of stormwater facilities within the city shall be in conformance with the requirements of the MS4 permit.
- B. Access Easements: All stormwater infrastructure located on private land or that is to be accessed through private land, must have access easements for the purpose of inspection and repair. These easements must be binding on the current property owner and all subsequent owners, heirs and successors of the property and must be properly recorded in the land record.
- C. Privately Owned Stormwater Infrastructure:

1. Where the city chooses to not inspect, operate or maintain stormwater infrastructure, responsibility for the maintenance and repair of stormwater facilities shall be assigned to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.
 2. Where stormwater infrastructure is not maintained or repaired within the prescribed schedule, the city shall perform the maintenance and repair at its expense, and bill the same to the property owner. In the event that payment is not made, the city's cost of performing the maintenance shall be a lien against the property.
- D. Maintenance Easements: The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the current property owner and all subsequent owners, heirs and successors of the property and must be properly recorded in the land record.
- E. Maintenance Agreement: The owner of property to be served by an on site stormwater management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners, heirs and successors. The maintenance agreement shall:
1. Assign responsibility for the maintenance and repair of the stormwater facility to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.
 2. Provide for annual inspection by the property owner 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 registered stormwater inspector or registered professional engineer licensed to practice in the state of Utah who will submit a sealed report of the inspection to the city.
 3. Provide that maintenance needs must be addressed in a timely manner, on a schedule to be approved by the city.
 4. Provide that if the property is not maintained or repaired within the prescribed schedule, the city shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the city's cost of performing the maintenance shall be a lien against the property.

- F. Dedication: The municipality shall have the discretion to accept the dedication of any existing or future stormwater management facility, 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 stormwater facility accepted by the municipality must also meet the municipality's construction standards and any other standards and specifications that apply to the particular stormwater facility in question. (Ord. 2011-4, 2011: Ord. 2008-2, 2008)

13.24.060: ILLICIT DISCHARGES

- A. Scope: This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system. Prior situations or conditions are not exempt from the requirements of this chapter.
- B. Prohibition Of Illicit Discharges: No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater. The commencement, conduct or continuance of any nonstormwater discharge to the municipal separate storm sewer system is prohibited except as described in the MS4 permit.
- C. Prohibition Of Illicit Connections: The construction, use, maintenance or continued existence of illicit connections to the municipal separate storm sewer system is prohibited.
- D. Reduction Of Stormwater Pollutants By The Use Of Best Management Practices (BMPs): Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity shall be deemed in compliance with the provisions of this section.
- E. Stockpiling Of Materials In City Rights Of Way: Stockpiling of materials in city rights of way shall be reviewed and approved by the city prior to placement. Approved BMPs associated with stockpiling of material must be implemented and shown on the SWPPP.
- F. Notification Of Spills: In the event of a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, the person shall notify the city 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 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 five (5) years.

- G. Cleanup Of Spills: Within the requirements of the law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater and/or the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. (Ord. 2011-4, 2011: Ord. 2008-2, 2008)

13.24.070: ENFORCEMENT

- A. Enforcement Authority: The city shall have the authority to issue notices of violation, stop work orders, and citations, and to impose the criminal and civil penalties provided in this chapter.
- B. Notification Of Violation:
 - 1. Written Notice: Whenever the city finds that any person discharging stormwater has violated or is violating this chapter or a permit or order issued hereunder, the city will serve upon such person written notice of the violation. Within one business day 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 person to the city. 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.
 - a. Consent Orders: The city is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsections B1b and B1c of this section.

- b. Compliance Order: When the city finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, the city may issue an order to the violator directing that, following a specific time period, adequate structures, devices, etc., be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.
- c. Cease And Desist Orders: When the city finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the city may issue an order to cease and desist all such violations and direct those persons in noncompliance to:
 - 1. Comply forthwith; or
 - 2. 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. (Ord. 2011-4, 2011: Ord. 2008-2, 2008)

13.24.080: PENALTIES

- A. Infractions: In minor violations a penalty for infractions may be implemented. Such penalty shall be consistent with the severity of the violation and shall not exceed seven hundred fifty dollars (\$750.00). Penalties for specific infractions are established by resolution through the city council.
- B. Criminal Penalties First Offense: Any person violating the provisions of this chapter for the first time may be assessed a class C misdemeanor with a maximum fine of one thousand dollars (\$1,000.00) per day for each violation.
- C. Criminal Penalties Second Offense: Any person violating the provisions of this chapter for the second time may be assessed a class B misdemeanor with a maximum fine of two thousand five hundred dollars (\$2,500.00) per day for each violation.
- D. Measuring Civil Penalties: In assessing a civil penalty, the city may consider:

1. The harm done to the public health or the environment;
 2. Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
 3. The economic benefit gained by the violator;
 4. The amount of effort put forth by the violator to remedy this violation;
 5. Any unusual or extraordinary enforcement costs incurred by the municipality;
 6. The amount of penalty established by ordinance or resolution for specific categories of violations; and
 7. Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
- E. Recovery Of Damages And Costs: In addition to the civil penalty in subsection D of this section, the municipality may recover:
1. All damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.
 2. The costs of the municipality's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.
 3. Recovery of costs imposed on the city, including attorney fees, by state or federal entities.
- F. Other Remedies: The municipality may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
- G. 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. (Ord. 2011-4, 2011: Ord. 2008-2, 2008)

13.24.090: APPEALS

- A. Appeals To The Appeal Authority: 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 municipality's appeal authority.
- B. Appeals To Be In Writing: The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.
- C. Public Hearing: Upon receipt of an appeal, the municipality's appeal authority shall hold a public hearing within thirty (30) days. Ten (10) days' prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. The (10) days' notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the appeal authority shall be final.
- D. Appealing Decisions Of The Municipality's Appeal Authority: Any alleged violator may appeal a decision of the appeal authority. Any appeal to the appeal authority must be made to the district court within thirty (30) days from when the written decision is made. (Ord. 2011-4, 2011)

13.24.100: INSPECTIONS

- A. Purpose: To be in accordance with the MS4 permit, the city will conduct inspections to monitor all discharges to natural water bodies including lakes, rivers, stream and canals, stormwater controls and BMPs.
- B. Scope: Inspections relating to the MS4 permit include, but are not limited to, illicit discharges, construction activities and post-construction operation and maintenance of stormwater controls, 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 either publicly or privately owned.
- C. Access:

1. Visual Inspections: Visual inspections by the city of discharges to natural water bodies, spills and stormwater related controls on private property within the city limits of Millville are permitted by the city at any time.
 2. Other Inspections: When a visual inspection is not adequate to determine the extent of discharges to natural water bodies, spills or determine the status of stormwater related controls on private property, real or suspect, the city will give twenty four (24) hours' notice of the inspection to take place and the extent of the inspection. Equipment and manpower necessary to perform the inspection will be allowed to access and work as necessary to determine the state of the situation.
 3. Emergency Inspections: During times of emergency including discharges to natural water bodies, spills or potential damage to life or property, real or suspect, the city may access the location of concern on private property as necessary and with the equipment required to determine the status of the situation. Reasonable attempts to contact the property owner prior to the inspection will be made prior to accessing private property.
- D. Fees For Inspections: Fees for inspections shall be as adopted by resolution through the city council. (Ord. 2011-4, 2011: Ord. 2008-2, 2008)