CITY OF LOGAN, UTAH
ORDINANCE NO. 13-23

AN ORDINANCE AMENDING SECTIONS 12.28.010, 12.28.020, 12.28.040, 12.28.050, 12.28.060 AND ADDING SECTION 12.20.25 OF THE LOGAN MUNICIPAL CODE REGARDING CANALS AND WATERCOURSES

WHEREAS, the state legislature has granted general welfare power to the City Council, independent, apart from, and in addition to, its specific grants of legislative authority, which enables the City of Logan to pass ordinances as are necessary and proper to provide for the safety, promote the prosperity, improve the peace and good order, comfort, and convenience of the City and its inhabitants, and for the protection of property in the City; and

WHEREAS, the City Council has determined that the following ordinance is in the City’s best interest;

NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF LOGAN, UTAH, AS FOLLOWS:

SECTION 1:

Chapter 12.28
RIVERS, CANALS AND WATERCOURSES

12.28.010: MAINTENANCE; OWNER RESPONSIBILITY; ENFORCEMENT:

It shall be the duty of any person, firm or corporation, either public or private, owning or operating any property adjacent to or containing a river, creek, ditch or watercourse, either natural or manmade, within this city the City of Logan to clean out and maintain the same in proper repair; to so construct and maintain the bottom and sides of the ditch or canal watercourse as to prevent unreasonable seepage, leakage, flooding, or overflow of the ditch or canal banks watercourse, and to construct and maintain proper dams, headgates and boxes for the distribution or management of water flowing in such watercourse. Any person, officer of canal company or any corporation, whether public or private, violating or suffering or permitting a violation of this chapter due to their negligence shall be guilty of a misdemeanor; and shall, in addition to the penalty prescribed for violation of this chapter, be liable to the city for all damages and detriment caused to the City of Logan’s city sewer system by seepage and leakage of water from the canals and watercourses in the same infrastructure and other public or private property. Each separate day shall be deemed a separate violation of this chapter.

12.28.020: OBSTRUCTION CAUSING OVERFLOW FLOODING; RESPONSIBILITY:

Whenever, by reason of the operation or maintenance, or lack thereof, of any dam or obstruction, whether man made or natural, in the natural channel or floodway of any river or stream, any person, firm or corporation, whether public or private, causes the water flowing in such natural channel to be raised or backed up so that there is danger that the same will overflow the banks or floodway of such stream above those naturally occurring and associated with the flows, and cause damage to public or private property within the City of Logan this city, where the same would not be
occasioned except for the operation and maintenance, or lack thereof, of such dam or obstruction, it shall be the duty of such person, firm or corporation, whether public or private, to properly raise and strengthen the banks of such stream and to take such other measures as shall protect public or private property from injury by reason of the dam or obstruction kept and maintained in such natural channel.

12.28.025: FLOOD MANAGEMENT ALONG NATURAL RIVERS, STREAMS, OR CREEKS

A. The City of Logan and its designated agents shall have the authorization to access private property, not including buildings or structures, for the sole purpose of flood response, restoration, and mitigation and to clean, maintain, restore, construct and manage the floodway of the natural and manmade watercourses within the City of Logan upon the following conditions:

1. The City of Logan or its designated agent shall contact the property owner and occupants to schedule the time and locations for access to the watercourses for the necessary response, restoration, or mitigation work. Where property owners are not able to be contacted in a reasonable time frame, the City of Logan shall document attempts to contact the owner.

2. The City of Logan or its designated agent shall photograph or video record, and further document the conditions of the access prior to, during, and after the response, restoration, or mitigation work is completed.

3. The City of Logan or its designated agent shall reasonably restore the private property to its condition prior to the access solely at the City of Logan’s cost and within a reasonable time frame agreed upon between the owner and the City of Logan.

4. The City of Logan or its designated agent shall have reasonable access to perform an annual inspection of watercourses associated with flooding, whether natural or manmade upon the same conditions as other flood management activities.

B. The City of Logan and its designated agents shall be authorized to perform necessary flood response activities including emergency maintenance such as the maintenance of berms or levees, removal of debris and garbage, and other emergency services in the public interest in accordance with the access requirements of this section. While the City of Logan may provide sand bags, these response activities may not include the installation of sand bags. However, the City of Logan may assist in the maintenance and repair of sand bag walls at the sole discretion of the Public Works Director or the Director’s designated agent. All such work shall be completed in compliance with all City, State, and Federal requirements and permits.

C. The City of Logan and its designated agents shall be authorized, at the discretion of the City of Logan, to assist private and public property owners with the restoration of watercourses, whether on public or private property, upon receiving approval in writing from the property owner. Such work shall be governed by the terms and conditions of the associated funding source and based on the authorization of the owner of the property where the restoration work is to take place. Upon completion of restoration work, the City of Logan shall have access to inspect the effectiveness of the restoration work annually, upon coordination with the property owner, to maintain the restoration work. All such work shall be completed in compliance with all City, State, and Federal requirements and permits.
D. The City of Logan and its designated agents shall be authorized, at the discretion of the City of Logan, to assist private and public property owners with the mitigation of flooding and damage to water courses, whether on public or private property, upon receiving approval in writing from the property owner. Such work shall be governed by the terms and conditions of the associated funding source and based on the authorization of the owner of the property where the mitigation is to take place. Upon completion of mitigation, the City of Logan shall have access to inspect the effectiveness of the mitigation work annually, upon coordination with the property owner, to maintain the restoration work. All such work shall be completed in compliance with all City, State and Federal requirements and permits.

12.28.040: FILING NAME OF WATERMASTER REQUIRED:

It shall be the duty of every person, firm or corporation operating any watercourse within the City of Logan to file with the manager of the Division of Streets the name and contact information of the board members and watermaster elected or appointed upon such watercourse, and thereafter, whenever any change is made in such election or appointment, the name and contact information of such watermaster shall also be filed as set forth in this chapter.

12.28.050: DITCH WATERCOURSE MAINTENANCE REQUIRED:

A. It is unlawful for any person, firm or corporation, whether public or private, owning, having the charge of or operating any watercourse, including rivers, streams, ditches, or canals, or drainage systems within the corporate limits of the City of Logan to allow the same to become dangerous or defective, or to allow, suffer or permit water at or in such canal or watercourse to leak, percolate or flow therefrom to and upon the public streets or sidewalks of the City of Logan, or to suffer or permit such water to accumulate in swampy or stagnant pools injurious and detrimental to public health, or to damage other public or private property. It is made the duty of the several owners, masters or agent of any canal or irrigation company watercourse, upon notice from the manager of the Division of Streets Public Works Director, or the Director’s designated agent, to the effect that water is leaking from any canal or watercourse under his, hers or its care requires maintenance, to immediately remedy the defective condition of such canal or watercourse and prevent the water in such canal from leaking or percolating therefrom. Where such maintenance requires access onto or through private property, notice of the need for access shall be given to the necessary property owners within twenty-four (24) hours of the planned access.

B. All owners or occupants of property in the City of Logan having ditches watercourses running in front, beside, behind, or through of their lots along the street property are required to allow or provide maintenance and keep such ditches watercourses clean so that the full stream of the water therein, whether irrigation or stormwater, shall not flow cause the watercourses to overflow or become unreasonably restricted therefrom to the injury of such streets, or sidewalks, or other public or to private property. Where property owners cannot or choose not to allow ditch users, canal companies, or the City of Logan to enter their property to provide such maintenance, the property owners are solely responsible to provide this maintenance. All owners or occupants of property under this requirement shall respond upon request to either the owner of the watercourse or the City of Logan, within twenty four (24) hours of receiving such notice stating whether they will allow access or provide the maintenance to the watercourse and a schedule within which they shall provide the required maintenance.
12.28.060: OBSTRUCTION ON WATER DITCHES PROHIBITED:

It is unlawful for any person, other than certified water users or associated ditch or canal company, or the City of Logan, to place or maintain, in or about any watercourse or curb and gutter, any obstruction of any kind which hinders or prevents the free flow of the full stream of water through such watercourses or curb and gutter.

SECTION 2: Effective Date. This ordinance shall become effective upon publication.

AYES: Ward, Jensen, Daines, Austin, Olsen.
NAYS: None
ABSENT: None

/s/ Holly Daines, Chair

ATTEST:
/s/ Teresa Harris, City Recorder

PRESENTATION TO MAYOR

The foregoing ordinance was presented by the Logan Municipal Council to the Mayor for approval or disapproval this [7] day of May, 2013.

/s/ Holly Daines, Chair

MAYOR’S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby approved this [7] day of May, 2013.

/s/ Randy Watts, Mayor
Civil
PROOF OF PUBLICATION

STATE OF UTAH
COUNTY OF CACHE, ss

On this 13th day of May, A.D. 2013 personally appeared
before me Monica Christensen who being first being duly sworn, deposes and says that
she is the Assistant to the Finance Director of the Cache Valley Publishing Co., publishers of The Herald Journal
a daily newspaper published in Logan City, Cache County Utah, and that the
Legal Notice, a copy of which is hereto attached was published in said
newspaper for 1 issue(s) and that said notice also published on utahlegals.com
on the same days(s) as publication in said newspaper

Commencing on the following days:
05/12/2013

[Signature] , Assistant to the Finance Director

Subscribed and sworn to before me on this 13th day of May, A.D. 2013

[Signature] , Notary Public

Commissioned in the State of Utah

My Commission expires August 1, 2015