

**AMENDMENTS TO TITLE 8  
OF THE LAKE HAVASU CITY CODE  
TO ADD CHAPTER 8.28 STORMWATER  
DATED DECEMBER 10, 2013**

CHAPTER 8.28: STORMWATER

Section

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§ 8.28.010 FINDINGS OF FACT.

Illicit discharges occur due to illicit connections to the Municipal Separate Storm Sewer System from residential, business, industrial, or commercial establishments. As a result of illicit connections, contaminated stormwater, wastes, or wastewater enters into storm drains or directly into local waters without receiving treatment from a wastewater treatment plant. Illicit connections may be intentional or may be unknown to the property or business owner. Illicit discharges to the Lake Havasu City stormwater system can cause excessive discharges of pollutants to surface waters and groundwater. These discharges can negatively impact public health, welfare, and the environment by transporting and depositing pollutants.

§ 8.28.020 PURPOSE AND INTENT.

A. The purpose of this Chapter is to provide for health, safety, and general welfare within Lake Havasu City through the regulation of all stormwater to the Municipal Separate Storm Sewer System to the Maximum Extent Practicable as required by federal and state law. Unless expressly authorized or exempted by this Chapter, no person shall cause, participate in, or allow the discharge to a public right-of-way or public storm drain system of any substance that is not composed entirely of stormwater. This Chapter establishes authority to conduct and require inspection, monitoring, reporting, and enforcement activities to address the prevention, identification, and remediation of illicit discharges to the Municipal Separate Storm Sewer System. It is the intent of this chapter to comply with Arizona Pollutant Discharge Elimination System regulations for stormwater discharges, to be consistent with the stormwater quality provisions of the Federal Clean Water Act, and to enable the City to comply with all applicable stormwater quality provisions of federal, state, and local laws and regulations to ensure the future health, safety, and general welfare within the City, as well as the protection and preservation of the local environment.

B. The standards promulgated by the Chapter are minimum standards; therefore, it is not intended or implied that compliance with the provisions of this Chapter by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

§ 8.28.030 DEFINITIONS.

A. Unless the context specifically indicates otherwise, the meaning of words and terms used in this Chapter shall be as defined below.

1. **ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY (ADEQ).** The Arizona state agency established by Arizona Revised Statutes § 49-102.

2. **ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM (AZPDES).** The program established by Arizona Revised Statutes Title 49, Chapter 1, Article 3.1 to control the discharge of pollutants into waters in Arizona.

3. **AZPDES GENERAL PERMIT.** A general permit issued by ADEQ under authority delegated pursuant to the National Pollutant Discharge Elimination System (33 USC § 1342(b)).

4. **BEST MANAGEMENT PRACTICES (BMPS).** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to the MS4. BMPs also include treatment requirements, operating procedures, design requirements, and practices to control runoff, spillage, leaks, waste disposal, or pollution of storm drainage flows.

5. **CITY.** Lake Havasu City, Arizona.

6. **COMBINED SEWER.** An enclosed sewer system that conveys both sanitary sewage and stormwater flows.

7. **CONSTRUCTION GENERAL PERMIT.** A permit issued by the Permitting Authority that allows discharges of stormwater from construction activities as defined in 40 CFR §122.26.

8. **CONSTRUCTION SITE OPERATOR.** The primary operator of a construction site within the corporate limits of the City.

9. **CWA.** Clean Water Act or the Federal Pollution Control Act, 22 USC §§ 1251, *et seq.*

10. **DESIGNEE.** A person designated for a specific purpose by the City.

11. **DISCHARGE.** Any spilling, leaking, pumping, pouring, emitting, emptying, injecting, placing, releasing, leaching, dumping, or disposing into or on any land in a manner that may cause pollution, when used without qualification.

12. **EPA.** The United States Environmental Protection Agency.

13. **EROSION.** The wearing away of land due to the actions of water, other liquid, and/or wind.

14. **FACILITY.** Any land, building, installation, structure, equipment, device, conveyance, area, source, activity, or practice from which there is, or with reasonable probability may be, a discharge.

15. **ILLICIT CONNECTION.** Any manmade conveyance connecting an illicit discharge directly to an MS4.

16. **ILLICIT DISCHARGE.** Any discharge to the MS4 that is not composed entirely of stormwater, except for discharges allowed under AZPDES Permit No. AZG2002-002.

17. **MAXIMUM EXTENT PRACTICABLE (MEP).** The technology based discharge standard for municipal separate storm sewer systems to reduce pollutants in stormwater discharges. A discussion of MEP as it applies to small MS4's is found at 40 CFR 122.34. CWA § 402(p)(3)(B)(iii) requires that a municipal permit shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including Best Management Practices, control techniques and system design, and engineering methods, and other provisions that the State of Arizona determines appropriate for the control of such pollutants.

18. **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4).** A publicly-owned conveyance or system of conveyances designed or used for collecting or conveying stormwater which is not a combined sewer and which is not part of a publicly owned treatment works.

19. **MUNICIPAL STORMWATER PERMIT.** The AZPDES General Permit Arizona Pollutant Discharge Elimination System (AZPDES) Stormwater Permit for discharge from Small Municipal Separate Storm Sewer Systems to Waters of the United States. This permit is issued by the Arizona Department of Environmental Quality under authority delegated pursuant to 33 USC § 1342(b).

20. **NON-STORMWATER DISCHARGES.** A discharge not consisting entirely of stormwater.

21. **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT.** A permit issued by EPA (or by a state under authority delegated pursuant to 33 USC § 1342(b)).

22. **NOTICE OF INTENT (NOI).** That document submitted to the Permitting Authority in order to obtain coverage under a General Permit.

23. **PERMITTING AUTHORITY.** The NPDES-authorized state agency or EPA regional office that administers the NPDES stormwater permit program.

24. **PERSON.** An individual, employee, officer, managing body, trust, firm, joint stock company, consortium, public or private corporation, including a government corporation, partnership, association or state, a political subdivision of a state, a commission, the United States government or any federal facility, interstate body, or other entity.

25. **POLLUTANT.** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to, the following: contaminants, toxic wastes, chemicals, petroleum products, biological materials, wrecked or discarded equipment, rocks, sand, paints, varnishes and solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes and yard wastes, refuse, rubbish, garbage, litter, or other discarded or abandoned objects, floatables, pesticides, herbicides, and fertilizers, hazardous substances and wastes, heat, sewage, fecal coliform and pathogens, dissolved and particulate metals, animal wastes, wastes and residues that result from constructing a building or structure, noxious or offensive matter of any kind, or any other liquid, solid, gaseous, or hazardous substance.

26. **POLLUTION.** The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water of the State or waters of the United States, that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs

the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

27. **PUBLICLY-OWNED TREATMENT WORKS (POTW).** Any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature that is owned by a state or municipality. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

28. **PUBLIC STORM DRAIN SYSTEM.** All or any part of the publicly-owned and maintained roads, streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, and dry wells located within public easements, right-of-way, parks, common areas, retention/ detention areas, or other publicly-owned or maintained real property designed or used for collecting, holding, treating, or conveying stormwater.

29. **RECEIVING WATERS.** A river, ocean, stream, or other watercourse into which wastewater, stormwater, or treated effluent is discharged.

30. **STORMWATER.** Any surface flow, runoff, or drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation and which is being managed in accordance with BMP appropriate to the facility, pollutant, and quantity of water. Appropriate to the facility shall mean consideration shall be given to the size, location, zoning, and use.

31. **STORMWATER MANAGEMENT PLAN** or **STORMWATER QUALITY MANAGEMENT PLAN.** A document which describes the Best Management Practices and activities to be implemented by the City to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Drainage Systems, and/or Receiving Waters to the Maximum Extent Practicable.

32. **STORMWATER POLLUTION PREVENTION PLAN (SWPPP).** A document which describes the Best Management Practices, including but not limited to processes, devices, and activities, to be implemented by a person or business to identify sources, potential or actual, of pollution or contamination at a site and the action to eliminate or reduce pollutant discharges to stormwater, MS4, and/or receiving waters to the MEP.

33. **WASTEWATER.** Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

34. **WATERCOURSE.** Any body of water, including but not limited to, lakes, ponds, rivers, streams, and washes whether perennial, intermittent or ephemeral.

35. **WATERS OF THE UNITED STATES.** Notwithstanding the determination of an area's status by the City, state or federal agency, for the purposes of the Clean

Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA. Subject to other determination by EPA, Waters of the United States shall be deemed to be traditionally navigable waters and their tributaries which have at a minimum continuous seasonal flow or have a significant nexus regarding the chemical, physical, or biological integrity of the navigable water. Generally roadside ditches and small washes and gullies characterized by low, infrequent, or low duration flows will not be considered Waters of the United States.

#### § 8.28.040 APPLICABILITY

The provisions of this Chapter are applicable to all water entering the public storm drain system, Waters of the United States, and watercourses within the City limits, whether generated on any developed or undeveloped lands, unless explicitly exempted by an AZPDES General Permit.

#### § 8.28.050 REGULATIONS

All development must adhere to the regulations contained in the Lake Havasu City Stormwater Management Plan, The Residential (Single Family/Duplex) Grading Permit Requirements & Guidelines, and the Development & Permitting Policies & Procedures, as amended. As an additional resource, the Drainage Design Manual for Mohave County may be referenced as a guide for public and private stormwater management activities and infrastructure design.

#### § 8.28.060 RESPONSIBILITY FOR ADMINISTRATION

The Community Services Department shall administer, implement, and enforce the provisions of this Chapter. The Community Services Director or designee may designate other employees to exercise powers and perform duties under the provisions of this Chapter. In the case of overlapping authority regarding wastewater discharge as defined in Lake Havasu City Code Chapter 8.05 and the authority regarding discharge under this Chapter, the more stringent provisions prevail.

#### § 8.28.070 SEVERABILITY

The provisions of this Chapter are severable. If any provision, clause, sentence, or paragraph of this Chapter or the application of this Chapter to any person, establishment, or circumstances is held invalid, the invalidity shall not affect the other provisions or application of this Chapter.

#### § 8.28.080 DISCHARGE PROHIBITIONS

A. All illicit discharges to the public storm drain system are prohibited. These include, but are not limited to the following:

1. Discharges that are a source of pollutants, including discharges through connections that are a source of pollutants.
2. Discharge of soil, rock, trash, garbage and other waste.
3. Maintaining, establishing, or using a connection that allows a discharge.
4. Discharge from commercial car washing, mobile car washing, or impervious surface pressure washing operations.
5. Discharge from concrete washing and truck washout.
6. Discharge of oils, fuels, paints, greases.
7. Discharge of grit and sand from grinding.
8. Discharge from carpet cleaning.
9. Discharge of chlorinated water from spas, swimming pools, and similar facilities.
10. Discharge resulting from misrepresentation of the nature of discharge on an application, a plan, permit, or certification.
11. Discharge not disclosed on an application, plan, permit, or certification
12. Discharge of wastewater as defined in Lake Havasu City Code Chapter 8.05 and this Chapter.
13. Continuing a discharge that has not been permitted by the City. The prohibition regarding illicit discharge 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 construction.

#### § 8.28.090 PERMITTED NON-STORMWATER DISCHARGES

A. The following discharges are not significant contributors of pollutants to the municipal MS4s and are considered allowable non-stormwater discharges, unless the City determines in specific instances that the discharge contributes to a violation of the AZPDES General Permit or other permits under which the City is permitted to operate its MS4:

1. Water line flushing
2. Landscape irrigation
3. Diverted stream flows
4. Rising ground waters
5. Uncontaminated ground water infiltration
6. Uncontaminated pumped groundwater
7. Discharges from potable water sources
8. Foundation drains
9. Air conditioning condensate (residential)
10. Springs
11. Footing drains
12. Individual residential car washing
13. Discharges from riparian habitats and wetlands
14. De-chlorinated swimming pool and spa discharges
15. Discharges of flows from emergency fire fighting activities

B. The City permits discharges allowed under the AZPDES De Minimus General Permit, and the City will rely on the State of Arizona to enforce the provisions regarding these discharges under that permit. The City may, however, require a person to demonstrate that a discharge is subject to that permit. Discharge allowed under separate permits issued by ADEQ are allowed provided that the permit conditions are adhered to.

C. Discharges which have been managed using BMP that are appropriate to the facility at the time of the discharge and properly maintained shall be considered allowable. It is the responsibility of the person discharging to demonstrate through testing, records, plans, and other documents that the discharge is allowable under this Chapter. The City may require such demonstration for any facility connected to the MS4 directly or indirectly.

#### § 8.28.100 PLAN REVIEW, INSPECTIONS, ACCESS, AND REPORTS

A. All development must establish stormwater management practices to control stormwater in compliance with Section 8.28.050 of this Chapter

B. The City shall require that any person submitting a grading, building, or other improvement plan disclose if illicit discharge, stormwater, or permitted non-stormwater discharge of any type to the MS4 may occur as a result of, or in conjunction with the implementation of the plan. To the extent that the discharge would be an illicit discharge, if connected to the MS4, the plan shall include BMP measures to remove or prevent the illicit discharge during and after construction of the improvement or project. The BMP shall be subject to approval of the City.

C. Persons shall maintain the BMP during and after construction until such time as final stabilization of the site has been performed. This shall apply to persons initiating a project and to heirs and assigns. Changes to the BMP approved at the time of a project implementation shall be sent to the City in writing. The revised BMP shall be at least as effective in preventing pollution as the original BMP or as then currently required by the City. The City reserves the right to require changes in BMP as necessary to assure that discharges to the MS4 are of a quantity and quality that the City will not be in violation of the permits under which it is allowed to discharge stormwater. Sites requiring Post Construction (permanent) BMPs shall require an Operations and Maintenance Agreement be provided to the City identifying responsibility for operation and maintenance of the facility and for providing perpetual access to the City for inspection of the facility.

D. The City shall be granted access to all facilities and lands discharging any water or other material to the MS4.

E. Persons further developing parcels and/or lots that are part of a larger development, regardless of the time elapsed, shall utilize current BMP methods that are at least as effective as those identified in the stormwater pollution prevention plan

for the larger development or necessary to comply with regulations, laws, and codes current at the time of further developing, whichever is more stringent. Appropriate permits required by the state shall be acquired by further developers.

F. Site-specific stormwater pollution prevention plans shall be developed for all construction projects one (1) acre or greater in size and a Notice of Intent (NOI) shall be filled with ADEQ. The site-specific plan shall identify the minimum BMPs to be utilized upon further development of the project area, when the person submitting the plan will not develop the entire project though building occupancy or other full development intent. Smaller areas may develop a site-specific plan.

G. The City may develop, publish, and update from time to time general stormwater pollution guidelines. These guidelines shall at minimum address pollution caused by soil erosion, motor oil, trash, and landscape debris.

#### § 8.28.110 SUSPENSION OF MS4 ACCESS

The City may, without prior notice, suspend MS4 discharge access when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4. If the violator fails to comply with a suspension order issued in an emergency, the City may take such steps as deemed necessary to prevent or minimize damage to the MS4, or to minimize danger to persons.

#### § 8.28.120 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

Any person subject to an industrial or construction activity AZPDES or NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit shall be required. An authorized representative of the City shall be permitted to enter and inspect facilities subject to regulation under Industrial or Construction Activity permits at reasonable times and as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in effect which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the City.

#### § 8.28.130 SUSPENSION DUE TO THE DETECTION OF ILLICIT DISCHARGE

Any person discharging to the MS4 in violation of this Chapter may be subject to MS4 access termination if such termination would abate or reduce an illicit discharge. The City will notify a violator of the proposed termination date of its MS4 access. The violator may petition the City for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the City .

## § 8.28.140 WATERCOURSE PROTECTION

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, fill materials, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. All maintenance activities must be in compliance with federal, state, and City regulations.

## § 8.28.150 NOTIFICATION OF SPILLS

A. The owner, operator, or the person who has control of the source or location of any potential spill or release, which may result in a discharge that is not in compliance with this Chapter, shall do the following:

1. Have a written Stormwater Pollution Plan or a written corrective action plan utilizing BMP for the involved facility.

2. Post notices to employees containing information about whom to contact and what procedures to follow in the event of an accidental discharge or spill.

3. In the event of a spill, promptly take all reasonable safety precautions including, if appropriate, calling 911 and completing the following steps:

a. Proceed with containment and clean up in accordance with the following:

i. the orders of an involved health and safety agency, or if no such orders have been issued;

ii. the orders of an authorized representative, or if no such orders have been issued;

iii. the Stormwater Pollution Prevention Plan or approved corrective action plan utilizing Best Management Practices for the involved facility.

b. Notify the City and the Arizona Department of Environmental Quality of the release by telephone not later than noon of the next working day;

c. Provide written notification, within five (5) working days, to the City of the type, volume, cause of the discharge, corrective actions taken, and measures to be taken to prevent future occurrences.

## § 8.28.160 ENFORCEMENT

A. Notice of Violation (Civil). Whenever the Community Services Department finds that a person has violated a prohibition or failed to meet a requirement of this Chapter, Community Services shall forward its report to any authorized enforcement agency which may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of illegal connections or discharges;
3. That violating discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
5. Payment of an assessment to cover administrative and remediation costs; and
6. The implementation of source control or treatment BMPs.

B. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. The notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense will be charged to the violator and may be filed as a lien upon the property in accordance with appropriate legal procedures.

C. In lieu of enforcement proceedings, penalties, and remedies authorized by this Code, the authorized enforcement agency may impose upon violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

#### § 8.28.170 APPEAL OF VIOLATION

A. Any person receiving a Notice of Violation may appeal the determination of the Community Services Director to the City Manager. The notice of appeal must be received within ten (10) business days from the date of the Notice of Violation and must be in writing and state the objection to the Notice of Violation. Hearing on the appeal before the City Manager shall take place within ten (10) business days from the date of receipt of the notice of appeal. The decision of the City Manager or designee shall be final.

B. If the violation has not been corrected as required in the Notice of Violation, or, in the event of an appeal, within five business (5) days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then

representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

#### § 8.28.180 COST OF ABATEMENT OF THE VIOLATION

Within thirty (30) calendar days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within five (5) business days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

The assessment shall be recorded in the office of the Mohave County Recorder, including the date, amount of the assessment, and the legal description of the property against which the assessment is made. From the date of its recording, the assessment shall be a lien on the property and shall accrue interest at the rate prescribed by Arizona Revised Statutes Section 44-1201. The City shall have the right to bring an action to enforce the lien in the Mohave County Superior Court at any time after the recording of the assessment, but failure to enforce the lien by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording of the assessment.

#### § 8.28.190 INJUNCTIVE RELIEF

It shall be unlawful for any person to violate any provisions or to fail to comply with any of the requirements of this Chapter. If a person has violated or continues to violate any provisions of this Chapter, the City may petition the Mohave County Superior Court for a preliminary or permanent injunction restraining the person from activities that would create further violations or compelling the person to perform abatement or remediation of the violation.

#### § 8.28.200 VIOLATIONS DEEMED A PUBLIC NUISANCE

In addition to the enforcement processes and penalties provided herein, if any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance by the City, such condition may be immediately abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken. Nuisances under this Chapter are also subject to enforcement under Chapter 8.08 of this Code.

#### § 8.28.210 CRIMINAL PROSECUTION

A. Any person that has violated or continues to violate this Chapter shall be liable to criminal prosecution to the fullest extent of the law and any violations of this Chapter may be punished as a class 1 misdemeanor, and shall be subject to a criminal penalty of not more than \$2,500 dollars per violation per day and may be punishable by incarceration or jail for a period of up to six months. Each day a violation continues may constitute a separate violation, punishable as state law.

B. The authorized enforcement agency may recover all attorneys' fees court costs and other expenses associated with enforcement of this Chapter, including sampling and monitoring expenses.

#### § 8.28.220 REMEDIES NOT EXCLUSIVE

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the City to seek cumulative remedies. The City may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this Chapter, including sampling and monitoring expenses.