

ORDINANCE 675-18(b)

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, AMENDING CHAPTER 10, HEALTH AND SANITATION OF THE TOWN CODE BY ADDING A NEW SECTION 10-10 STORMWATER MANAGEMENT.

WHEREAS, Arizona Revised Statutes § 9-802 provides a procedure whereby a municipality may enact the provisions of a code or public record by reference, without setting forth such provisions, providing that the adopting ordinance is published in full; and

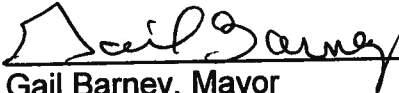
WHEREAS, the Town Council has determined that it is in the best interest of the residents of Queen Creek to make certain changes to the Town Code Chapter 10, as further set forth in Exhibit "A", which is attached hereto and incorporated herein by reference.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, AS FOLLOWS:

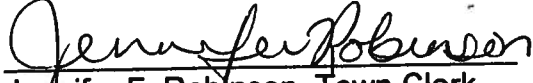
- Section 1. The Queen Creek Town Code Chapter 10 is amended as set forth in Exhibit "A,"
- Section 2. If any section, subsection, clause, phrase or portion of this ordinance or any part of these amendments to Chapter 10, Town Code, is for any reason held invalid or unconstitutional by the decision of any court or competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.
- Section 3. Any person, firm, or corporation violating this ordinance or any part thereof, is subject to a civil penalty in the amount of \$250.00 to \$2000.00 per day and upon subsequent violations is guilty of a petty offense or class one misdemeanor, as further set forth in Exhibit "A."
- Section 4. At least one paper copy and one electronic copy of this ordinance and exhibits are to be filed in the office of the Town Clerk.

PASSED AND ADOPTED BY the Mayor and Common Council of the Town of Queen Creek, Arizona, this 5th day of September 2018.

FOR THE TOWN OF QUEEN CREEK:


Gail Barney, Mayor

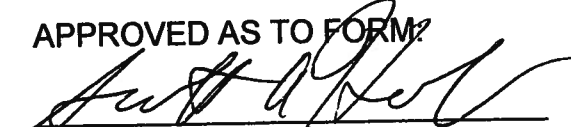
ATTESTED TO:


Jennifer F. Robinson, Town Clerk

REVIEWED BY:


John Kross, Town Manager

APPROVED AS TO FORM:


Dickinson Wright PLLC
Attorneys for the Town

ARTICLE 10-10 Stormwater Quality Management and Discharge Control Ordinance

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Section 10-10-1 Introduction

The Town of Queen Creek (Town) meets the minimum federal requirements for designation by the United States Environmental Protection Agency (EPA) as a small Municipal Separate Storm Sewer operator or MS4. As a small MS4, the Town is required by the Federal Water Pollution Control Act of 1972, 33 U.S.C. Sec. 1251 et seq. commonly known as the "Clean Water Act" (as amended), to implement and enforce a program to improve to the maximum extent practicable the quality of Stormwater in the Town's Stormwater conveyance system.

A. Statutory Authorization

The Town may enact a Stormwater ordinance pursuant to A.R.S. §§ 11-251.66 and 49-371. The Town, as an MS4 under Phase II of the National Pollutant Discharge Elimination System (NPDES) Stormwater program of the EPA, is empowered to regulate Stormwater by the authority of the Clean Water Act.

B. Title

This ordinance shall be known as the "Town of Queen Creek Stormwater Quality Management and Discharge Control Ordinance."

C. Required Permit for Town

This ordinance ensures that the Town is compliant with its Arizona Pollutant Discharge and Elimination System (AZPDES) General Permit for Stormwater Discharges from Small Separate Storm Sewer Systems (Stormwater Permit) requirements by establishing methods for controlling the introduction of pollutants into the Town's MS4.

The Town's Stormwater Permit and federal regulations (40 CFR 122.34) require the Town to implement and maintain six minimum control measures (MCMs). They are:

1. Public education and outreach on Stormwater impacts;
2. Public involvement and participation;
3. Illicit drainage detection and elimination;
4. Construction site Stormwater runoff control;
5. Post-construction Stormwater management in new development and redevelopment;
6. Pollution prevention/good housekeeping for municipal operations.

This ordinance addresses the Stormwater Permit requirements for MCMs three, four and five. MCMs one, two, and six are related to the Town's Stormwater Management Plan and addressed therein.

Section 10-10-2 Purpose

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Town by prohibiting the introduction of non-Stormwater drainages to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance will also protect Waters of the U.S. (as defined herein) within the Town by improving the quality of the Stormwater runoff from urbanized areas to the Town-owned MS4 system by implementing best management practices (BMPs) by the Town and its citizens.

The objectives of this ordinance are:

- A. To regulate the contribution of pollutants to the Town MS4 by Stormwater drainage in urbanized areas by any user.
- B. To prohibit illicit connections and drainages to the Town MS4.
- C. To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with the Stormwater Permit.

Section 10-10-3 Definitions

For the purposes of this ordinance, the following shall mean:

- A. **"ADEQ"** – means the Arizona Department of Environmental Quality.
- B. **"Administrator"** – means the Town Manager of the Town, or his designee or designees, who shall represent the Town in the administration of this Article.

- C. **"AZPDES"** – means the Arizona Pollutant Discharge Elimination System program as adopted under section 402(b) of the Clean Water Act.
- D. **"AZPDES Permit"** – means a permit issued by the Arizona Department of Environmental Quality pursuant to 33 U.S.C. § 1342(b) that authorizes the discharge of pollutants to Waters of the U.S.
- E. **"Best Management Practices" or "BMPs"** – means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, other management practices to prevent or reduce the introduction of pollutants directly or indirectly to the Town MS4 or Storm Drainage Systems connected to the MS4 and the prohibition of specific activities, practices, and procedures and such other provisions as the Enforcement Officer determines appropriate for the control of pollutants. BMPs also include treatment practices, operating procedures, and practices to control the following; site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- F. **"Civil Hearing Officer"** – a Civil Hearing Officer shall be appointed by the Town Manager and may hear all civil code infractions and make such orders as may be proper and necessary to dispose of such cases. Such cases shall be heard without a jury. The Civil Hearing Officer shall adopt such local rules of procedure as may be necessary to implement the hearing of civil code infraction cases. The Civil Hearing Officer shall be the person with authority to hear complaints related to violations and to issue penalties for violations of Chapter 10, Health and Sanitation and for violations of the Zoning Ordinance."
- G. **"Clean Water Act"** – means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- H. **"CFR"** – means Code of Federal Regulations.
- I. **"Construction Activity"** – means activities subject to NPDES and/or AZPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- J. **"Discharge"** – means any addition of any pollutant to navigable waters from any point source.
- K. **"Disturbance"** – means the result of altering soil from its native or stabilized condition thereby rendering it subject to movement or erosion by water to potentially become, or becoming a pollutant in site Stormwater runoff; also means soil disturbance.
- L. **"Drainage System"** – means all facilities and natural features used for the movement of Stormwater through and from a drainage area, including, but not limited to, any and all of the following: conduits; pipes and appurtenant features; channels; ditches; flumes; culverts; streets; swales; gutters as well as all watercourses, water bodies, and wetlands.
- M. **"EPA"** – means the United States Environmental Protection Agency.

- N. **“Erosion”** – means the wearing away of land surface by water or wind that occurs from weather or runoff, but is often intensified by human activity.
- O. **“Enforcement Officer”** – means any person, who is either an employee, agent or independent contractor, authorized by the Town Manager to administer, implement and enforce the provisions of this ordinance and who has authority to enforce the Town of Queen Creek rules, regulations, resolutions and ordinances. The “Enforcement Officer” may include more than one person including a civil hearing officer acting in compliance with A.R.S. § 9-500.21.
- P. **“Facility”** – means any land, building, installation, structure, equipment, device, conveyance, area, source, activity or practice from which there is, or with reasonable probability may be, the introduction of Stormwater to the Town MS4 or Storm Drainage Systems connected to the MS4.
- Q. **“Hazardous Materials”** – means any material, including any substance, waste, or combination thereof, that because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- R. **“Illegal Drainage”** – means any direct or indirect non-Stormwater drainage to the County MS4 or a Storm Drainage System connected to the MS4, except as exempted in Section 10.9.6 this ordinance.
- S. **“Illicit Connection”** – means either of the following:
1. Any drain or conveyance, whether on the surface or subsurface that allows illegal drainage to enter any Storm Drainage System including but not limited to any conveyances that allow any non-Stormwater drainage including sewage, process wastewater, and wash water to enter the Town MS4 or any Storm Drainage System and any connections to the Town MS4 or any Storm Drainage System from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency, or
 2. Any drain or conveyance connected from a commercial or industrial land use to the Town MS4 or any Storm Drainage System that has not been documented in plans, maps, or equivalent records and approved by an authorized regulatory or enforcement agency.
- T. **“Illicit Discharge”** – means any discharge to an MS4 that is not composed entirely of Stormwater, except discharges pursuant to an NPDES permit (other than the NPDES Stormwater Permit) and discharges resulting from fire fighting activities.
- U. **“Impervious Surface”** – means a surface that has been compacted or covered with a layer of material so that it is resistant to infiltration by water. It includes semi-pervious surfaces such as compacted clayey soils, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar surfaces. “Net Increase of Impervious

Surface” refers to the difference between the existing impervious coverage and the total impervious surface proposed.

- V. **“Industrial Activity”** – means activities subject to NPDES Industrial Stormwater Permits as defined in 40 CFR, Section 122.26 (b) (14).
- W. **“Urbanized Area”** – means the area depicted by the most recent U.S. Census published “urbanized” area (UA) map and as may be identified by future Decennial Census.
- X. **“Land Disturbance”** – means soil disturbance or any site disturbance.
- Y. **“Land Surveyor”** – means a land surveyor licensed to practice land surveying in the State of Arizona.
- Z. **“Maintenance”** – means the action taken to restore or preserve the as-built functional design of any facility or system.
- AA. **“Municipal Separate Storm Sewer System” or “MS4”** – means the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, natural conveyances or storm drains) owned or operated by the Town and designed or used for collecting or conveying Stormwater, and that is not used for collecting or conveying sewage. Also the Town MS4.
- BB. **“National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit”** – means a permit issued by the EPA, or by a State under authority delegated pursuant to 33 U.S.C. § 1342(b), that authorizes the discharge of pollutants to Waters of the U.S., whether the permit is applicable on an individual, group, or general area-wide basis.
- CC. **“Non-Stormwater Drainage”** – means any drainage to the County MS4 or a Storm Drainage System that is not composed entirely of Stormwater.
- DD. **“Nuisance”** – means the unreasonable or unlawful use of real or personal property that may obstruct or injure the right of another or the public and producing such material annoyance, inconvenience, discomfort, or hurt, that the Enforcement Officer presumes such use will result in damage. This definition includes the conditions listed in A.R.S. 36-601 as public nuisances dangerous to public health.
- EE. **“Operator”** – means an operator of a construction site, such as the developer, is one who maintains overall operational control over construction plans and specifications, including the ability to change these plans and specifications. An operator can also be one who maintains day-to-day operational control over activities that will ensure compliance with the Stormwater Pollution Prevention Plan (SWPPP), such as the general contractor or subcontractor.
- FF. **“Outfall”** – means a point source as defined by 40 CFR 122.2 at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two MS4s or pipes, tunnels or other conveyances that connect segments of the same stream of other waters of the United States and are used to convey waters of the United States.

- GG. **“Owner”** – means the person, persons, or entity whose name appears on the title or deed to the subject property or properties.
- HH. **“Permit”** – means a written permit to operate or discharge, issued by the Town of Queen Creek or other regulatory authority.
- II. **“Permittee”** – means the person, agency or entity authorized to conduct the work specified in accordance with the conditions of the Stormwater permit(s) and as described in the application, approved drawings, plans, and other documents on file with the Town.
- JJ. **“Person”** – means any individual, organization, public or private corporation or other entity recognized by law, company, partnership, firm, association or society of persons, the Federal Government and any of its departments or agencies, or the State and any of its departments or agencies, or political subdivisions.
- KK. **“Pollutant”** – means any agent introduced to Stormwater or non-Stormwater through human activity that may cause, potentially cause, or contribute to the degradation of water quality. Pollutants may include, but are not limited to: 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, ordnances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; dredged spoil, rock, sand or silt; and noxious or offensive matter of any kind.
- LL. **“Post-construction”** – means, for purposes of this ordinance, that regulated category of construction for new developments and redevelopments that results in the establishment of permanent Stormwater pollution prevention devices, or structural BMPs, built in compliance to the Town’s design standards and also includes long-term operations and maintenance (O&M) programs, or non-structural BMPs, to be permanently associated with the Stormwater pollution devices or controls at the new development upon completion of the land disturbing activity.
- MM. **“Premises”** – means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.
- NN. **“Redevelopment”** – Projects that alter the “footprint” of an existing site or building in such a way that there is a disturbance of equal to or greater than one (1) acre of land. Redevelopment projects do not include such activities as exterior remodeling, which would not be expected to cause adverse Stormwater quality impacts and offer no new opportunity for Stormwater controls.
- OO. **“Sewage”** – means wastes from toilets, baths, sinks, lavatories, laundries, and other plumbing fixtures in residences, institutions, public and business buildings, mobile homes, watercraft, and other places of human habitation, employment, or recreation.
- PP. **“Storm Drainage System”** – means public and private drainage facilities other than sanitary sewers within the urbanized area of the Town by which Stormwater is collected

and/or conveyed to the Town MS4, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

- QQ. **“Stormwater”** – means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- RR. **“Stormwater Management Plan” or “SWMP”** – means a document that describes the BMPs and activities and measures to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions and measures to eliminate or reduce the introduction of pollutants to Stormwater, the Town MS4, or Storm Drainage Systems connected to the MS4 to the maximum extent practicable (MEP).
- SS. **“Stormwater Pollution Prevention Plan” or “SWPPP”** – means the Stormwater Pollution Prevention Plan associated with the permit for a site.
- TT. **“Town”** – means the Town of Queen Creek, Arizona.
- UU. **“Urbanized Area”** – means a portion of the Town that has a population density of at least 1,000 people per square mile and/or meets other criteria set by the U.S. Bureau of Census in the latest Decennial Census.
- VV. **“Wastewater”** – means liquid and water-carried industrial waste and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are conveyed to the Town collector system and publicly owned treatment works.
- WW. **“Waters of the U.S.”** – As defined in 33 CFR 328.3(a) and 40 CFR 230.3(s).

Section 10-10-4 Enforcement, Violations, Notices and Penalties

A. Responsibility for Administration

1. The Enforcement Officer, acting through and designated by the Town Manager, shall administer, implement and enforce the provisions of this ordinance involving Stormwater. The Enforcement Officer may enforce the provisions of this ordinance when reasonable cause exists to believe that any person has violated or is in violation of any provision of this ordinance.
2. The Administrator or his designee or designees represent the Town in the administration of this ordinance.

B. Violations, Notices and Penalties of General Applicability

1. Except as otherwise specifically provided, civil offenses shall be punished by imposition of a civil penalty in the amount of \$250.00 for the first offense; \$500.00 for a second offense within a 12-month period, and \$2,000.00 for a third offense within said 12-month period. For purposes of calculating the 12-month period, such period shall begin on the date of the first offense.

2. Civil matters shall be tried before the civil hearing officer in accordance with the provisions of Chapter 5, Section 7 of the Town code. When appropriate, civil matters may also be tried before a justice of the peace or a county hearing officer.
- C. This ordinance shall not apply during a period of public emergency as declared by the Town, state authorities or federal authorities, or if the operation is directed by a peace officer or other public authority.

Section 10-10-5 Applicability

This ordinance applies to all urbanized areas of the Town, as defined herein and depicted by the most recent U.S. Census published "urbanized" area (UA) map and as may be identified by future Decennial Census.

This ordinance applies to all water entering the Town MS4 or Storm Drainage System connected to the MS4 in the urbanized areas of the Town and generated on any developed and undeveloped lands unless explicitly exempted in this ordinance.

Section 10-10-6 Illicit Non-Stormwater Drainage and Connections

A. Prohibition of Non-Stormwater Drainage

1. No person shall throw, drain, or otherwise introduce, cause, or allow others under its or their control to throw, drain, or otherwise introduce into the Town MS4 or into the Storm Drainage System connected to the Town MS4 any pollutants or waters containing any pollutants, other than Stormwater.
2. The commencement, conduct or continuance of any illegal drainage to the Town MS4 or any Storm Drainage System is prohibited except as described as follows:
 - a. The following types of drainage are exempt from prohibitions established by this ordinance:
 - i. Water line flushing, irrigation water, landscape irrigation, lawn watering, return flow from irrigated agriculture, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, drainages from potable water sources, foundation drains, air conditioning condensation, springs, water from crawl space pumps, footing drains, individual residential car washing, flows from riparian habitats and wetlands, de-chlorinated swimming pool drainages, and street wash water.
 - ii. Drainage or flow from firefighting (including fire fighting training).
 - iii. Drainage associated with dye testing (e.g., for leak detection).
 - iv. Other drainages specified in writing by the Enforcement Officer as being necessary to protect public health and safety.

- b. This drainage prohibition shall not apply to any non-Stormwater drainage permitted under an NPDES permit, waiver, or waste drainage order issued to the discharger and administered under the authority of the EPA, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any drainage to a Storm Drainage System.
- c. The Administrator may evaluate and remove any of the above exemptions if it is determined that they are significant sources of pollutants pursuant to 40 CFR 122.34.b.3.ii.

B. Prohibition of Illicit Connections

- 1. The construction, use, maintenance or continued existence of illicit connections to the Town MS4 or any Storm Drainage System is prohibited.
- 2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- 3. A person is in violation of this ordinance if the person connects a line conveying non-Stormwater to the Town MS4, or allows such a connection to continue.
- 4. Illicit connections must be disconnected and redirected to an appropriate approved waste disposal system.
- 5. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the Storm Sewer System, shall be located by the owner or occupant of that property upon receipt of written Notice of Violation from the Enforcement Officer requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other drainage point be identified. Results of these investigations are to be documented and provided to the Enforcement Officer.

Section 10-10-7 Construction Site Stormwater Runoff Pollution Control

A. Introduction

- 1. Runoff from construction sites may be a major source of pollution and is subject to federal, state and local requirements to improve Stormwater quality. With few exceptions, these requirements include the development and implementation of a SWPPP for every construction activity as defined herein within the urbanized areas of the Town. That SWPPP may be reviewed by the State. SWPPPs may be reviewed at the construction site by the Enforcement Officer. Stormwater treatment measures (BMPs) may be required along with inspections by the Town or State to

determine compliance with the SWPPP and the installation and management of the BMPs.

2. In accordance with its own Stormwater Permit requiring it to reduce construction site Stormwater pollution in its urbanized area, the Town has established a Subdivision Ordinance and a companion Design Standards and Procedures Manual, which document the procedures and review process for construction site stormwater runoff control.

B. Construction Site Regulation

1. An owner or operator who intends to disturb an area of land that is equal to or greater than one acre, or that is less than one acre but is part of a larger plan of development shall obtain permit coverage from the ADEQ. A copy of the Notice of Intent (NOI) to be bound by the State's general construction permit, including the number and date of application, or evidence of the State's construction permit obtained by the owner or operator, must be filed with the Enforcement Officer prior to the start of the land disturbance as required by ADEQ.
2. The SWPPP for the construction site is to remain at the site and is to be made available to the Enforcement Officer. At the start of and during construction the Enforcement Officer may inspect any site to determine that the SWPPP for the site is being followed and that the indicated BMPs have been properly installed and satisfactorily maintained. If the SWPPP has not been implemented and/or if the BMPs onsite have not been satisfactorily installed or maintained, the Department will notify the owner or operator of the deficiencies. If the owner or operator fails to satisfactorily address these issues within 7 days of notification of the deficiencies, a compliance order will be issued by the Enforcement Officer and a complaint shall be referred to the County Attorney as provided herein and in A.R.S. § 49-261. The Enforcement Officer has the authority to issue a stop work order, seek an injunction to stop the work as provided herein, and pursue civil or criminal penalties.

C. Exemptions

Coverage under a Town Stormwater approval for construction is not required for sites over one acre for:

1. Regular maintenance activities performed within the original line, grade or capacity of a facility.
2. Construction projects where the operator can prove that there is no reasonable probability that Stormwater can leave the site.
3. A site that qualifies for an erosivity waiver for activities in low-risk soil conditions.
4. A site already covered by an individual NPDES permit with Stormwater provisions.
5. Emergency construction activities required to protect public health and safety.

D. Transfers of Approvals

An approval may be transferred by the submittal of a Town transfer of coverage form that includes assurances by the new owner that the approved SWPPP and BMP requirements will be met.

E. Termination of Coverage

Coverage under the construction approval will end when a Notice of Termination (NOT) is filed with the Town and an inspection by the Enforcement Officer has confirmed that the entire site has been stabilized and landscaping and paving complete (as described in the Design Standards and Procedures Manual).

F. Compliance Monitoring

1. Right of Entry for Inspections and Observations

- a. Inspections shall be conducted in accordance with the rules and regulations provided in A.R.S. § 41-1009. An Enforcement Officer conducting an inspection shall, unless otherwise provided by law, present photo identification on entry of the premises, state the purpose of the inspection and the legal authority for conducting the inspection, disclose any applicable inspection fees, and allow the Owner, Operator, or an authorized representative to accompany the Enforcement Officer, except during confidential interviews.
- b. If an Owner or Operator holding an approval has security measures in force that require proper identification and clearance before entry into its premises, the Owner or Operator shall make the necessary arrangements to allow the Enforcement Officer access to the premises.
- c. Owners or Operators holding an approval or their designated representatives shall allow the Enforcement Officer ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES and/or AZPDES permit to discharge Stormwater, and to determine performance of any additional duties required by the approved plans or by applicable state and federal Stormwater regulations.
- d. Any temporary or permanent obstruction to safe and easy access to the site or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the Enforcement Officer and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- e. Unreasonable delay in allowing the Enforcement Officer access to an approved facility is a violation of this ordinance. A person who is the owner or operator of a facility with an NPDES or AZPDES permit to discharge Stormwater associated with industrial activity violates the permit terms if the person denies the Enforcement Officer reasonable access to the

permitted facility for conducting any activity authorized or required by this ordinance.

2. Search Warrants

- a. If the Enforcement Officer has been refused access to the premises, then the Enforcement Officer may seek issuance of a search warrant from any court of competent jurisdiction in addition to issuing a compliance order, seeking an injunction, and assessing appropriate civil or criminal penalties under Title 49, Arizona Revised Statutes.

Section 10-10-8 Post-construction Stormwater Management

A. Introduction

The goal of this post-construction Stormwater management program is to protect public safety and public infrastructure, reduce erosion on private properties and stream channels, and protect the quality of Waters of the U.S. to the maximum extent practicable. The goals are achieved by maintaining and/or restoring natural drainage patterns, minimizing grading and disturbance, and minimizing the extent of impervious cover, as well as encouraging the use of a variety of BMPs for reducing the pollutant loadings from newly developed and redeveloped sites. These goals will be accomplished by requirements to, among other things, reduce the magnitude and extent of impervious cover and site disturbance, remove pollutants from runoff prior to the introduction of Stormwater to the Town MS4, and promote effective operation and maintenance of all Stormwater facilities.

1. Applicability

The Town will develop, implement, and enforce a program to address post-construction Stormwater runoff from new development and redevelopment projects that disturb one (1) or more acres of land (or less than one (1) acre if part of a common plan of development) that discharge into the Town's MS4. The post-construction requirements in this Section apply to permanent Stormwater management facilities, systems and/ or devices. Stormwater management during construction activities is regulated separately pursuant to Section 10-10-6 of this ordinance.

B. Objectives

In order to protect the health, safety and general welfare of the residents of the Town, as well as to protect, sustain and enhance the quality of the Waters of the U.S. in and adjacent to the Town, drainage and Stormwater management practices shall be utilized as directed herein to achieve the following objectives:

1. Accommodate site development and redevelopment in a manner that protects public safety and that is consistent with federal and state water quality requirements and the requirements of the Phase II Stormwater permit for the Town.

2. Protect water quality to the maximum extent practicable by removing and/or treating pollutants prior to the introduction of Stormwater to the Town MS4 or any Storm Drainage System connected to the MS4 throughout the Town.
3. Promote effective long-term operation and maintenance of all permanent Stormwater management facilities.
4. Treat and release Stormwater as close to the source of runoff as possible using a minimum of structures and maximizing reliance on natural processes.
5. Address certain requirements of the Phase II Stormwater Permit regulations.
6. Reduce the environmental impacts of Stormwater pollution from existing developed sites undergoing redevelopment while encouraging development and redevelopment in urban areas and areas designated for growth.

C. General Requirements

1. The management of Stormwater onsite, both during and upon completion of the land disturbances described above shall be accomplished in accordance with the standards and criteria of this ordinance and the requirements of the Town of Queen Creek Design Standards and Procedures Manual, the Queen Creek Subdivision Ordinance, and any applicable county floodplain regulations. The design of any temporary or permanent facilities and structures and the utilization of any natural drainage systems shall be in full compliance with this ordinance and any other applicable regulation.

D. Construction and Operation Responsibilities

1. "As Built" Plans. When construction is complete the applicant shall submit to the Department an actual "as built" plan for all Stormwater management facilities required per the approved Stormwater permit. The "as built" plan shall show all final design specifications for all permanent Stormwater facilities and if necessary shall be prepared and certified by a licensed professional engineer or land surveyor registered in the State of Arizona. The "as built" plan shall be based on an actual field survey. The "as built" plan shall be submitted to the Department for review and final inspection by the Department. Any performance and/or financial securities established for the project by the Department shall include requirements for submittal of "as built" plans.

E. Ownership and Maintenance

1. All Stormwater management facilities, systems and/or devices identified within an approved Stormwater permit shall be owned and maintained by one, or a combination of, the following entities:
 - a. An individual for his or her own on-lot Stormwater management facilities not constructed as part of a subdivision and/or land development plan.

- b. Where individual on-lot Stormwater management facilities, systems and/ or devices are proposed in a subdivision or other development greater than one acre, the subdivision and/or land development plan and plat shall contain a note in a form satisfactory to the Department designating the entity responsible for operation and maintenance of the on-lot facilities consistent with an approved operation and maintenance plan.
- c. An entity that owns or has a perpetual right to access the land on which the Stormwater management facilities, system and/ or devices are located. The operation and maintenance obligation runs with the land and is binding upon the initial grantees of each lot and his, her, or their heirs, administrators, successors or assigns. Stormwater management facilities, systems and/ or devices or the ownership of the land on which they are located may not be deeded or dedicated to the County or the Flood Control District.

Section 10-10-10 Industrial Activity Discharges

A. Submission of NOI or Other Proof of Compliance to the Town

- 1. Any person subject to an industrial activity individual or general NPDES or AZPDES discharge permit, upon request, may be required to provide a copy in a form acceptable to the Administrator, prior to the allowing of discharges to the Town MS4.
- 2. The owner or operator of a facility required to have an individual NPDES or AZPDES permit to discharge Stormwater associated with industrial activity shall obtain proof of the permit, or if under a general permit, a copy of the NOI.
- 3. Any person found owning or operating a facility or owning a site that is not exempt, that does not have an NPDES or AZPDES permit, and is discharging Stormwater associated with industrial activity within the Town MS4 may be reported to the EPA and/or the ADEQ.

Section 10-10-10 Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices

- A. Any activity, operation, or facility that may cause or contribute to pollution or contamination of Stormwater that discharges to any Storm Drainage System connected to the Town MS4 must implement BMPs for managing Stormwater. The owner or operator of such activity, operation, site or facility shall provide, at their own expense, reasonable protection from accidental introduction of prohibited materials or other wastes into any Storm Drainage System using BMPs. These BMPs shall be part of SWPPP as necessary for compliance with requirements of the AZPDES permit.
- B. Any person responsible for a property or premise that is, or may be, the source of illegal non-Stormwater drainage as described in Section 10-10-6(A), may be required to implement, at said person's expense, additional BMPs to prevent the further drainage of pollutants.

Section 10-10-11 Notification of Spills

- A. Notwithstanding other requirements of law, as soon as any person responsible for a facility, site or operation, including construction sites, or responsible for emergency response for a facility, site or operation has information of any known or suspected release of materials that are resulting or may result in the illegal introduction of pollutants into a Storm Drainage System connected to the MS4 or the Town MS4 shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Administrator in person, by phone, or by e-mail no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town within ten calendar days of the phone notice. If prohibited materials emanate from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the release and the actions taken to prevent its recurrence. Such records shall be retained for at least one year or as may otherwise be required by applicable state or federal law.
- B. Failure to provide notification of a release as provided above is a violation of this ordinance.

Section 10-10-12 Compliance Monitoring

The Town shall be permitted to enter and inspect property subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

- A. Inspections shall be conducted in accordance with the rules and regulations provided in A.R.S. 41-1009.
- B. If the owner or operator of a facility has security measures in force, which require proper identification and clearance before entry into its premises, the property owner shall make the necessary arrangements to allow access to representatives of the Town, including the Enforcement Officer.
- C. Any temporary or permanent obstruction to safe and easy access to the property to be inspected shall be promptly removed by the property owner at the written or oral request of the Town, including the Enforcement Officer, and shall not be replaced. The costs of such access shall be borne by the property owner.

Section 10-10-13 Violations Deemed A Public Nuisance

In addition to the enforcement process and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily 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.

Section 10-10-14 Remedies Not Exclusive

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Town to seek cumulative remedies.

The Town may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this ordinance, including monitoring expenses.

Section 10-10-15 Compatibility with Other Regulations

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards of human health or the environment shall control.

Section 10-10-16 Severability

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provision or application of this ordinance.

Section 10-10-17 Disclaimer

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized drainage of pollutants.

Neither submission of a plan or permit under the provisions herein, nor compliance with the provisions of this ordinance, shall relieve any person from responsibility for damage to any person or property otherwise imposed by law.

Section 10-10-18 Other Regulatory Requirements

Permits and approvals issued pursuant to this ordinance shall not relieve the applicant of the responsibility to comply with or to secure other required permits or approvals for activities regulated by any other applicable code, rule, regulation, act, statute or ordinance. This ordinance shall not preclude the inclusion in such other permit of more stringent requirements concerning regulation of Stormwater and erosion.

Section 10-10-19 Town Permits and Approvals

An application for any discretionary permits or approvals issued by the Town shall be accompanied by plans demonstrating how the development project will comply with the requirements of this ordinance. The permit or approval shall not be granted unless the decision maker determines that the development project complies with the applicable requirements of this ordinance. If a person applies for any one permit from the Town, that person is not relieved from the obligation to obtain any other applicable Town permit or permits.

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