

PHOENIX CITY CODE

Chapter 32C

STORMWATER QUALITY PROTECTION

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**City of Phoenix
Water Services Department**

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Chapter 32C

STORMWATER QUALITY PROTECTION¹

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1 Cross references—Sewers, ch. 28; grading and drainage, ch. 32A; environmental protection, ch. 40.

Sec. 32C-1—32C-99. Reserved.

Sec. 32C-100. General powers and purpose.

A. The City Manager will regulate the use, grading, paving, maintenance, and operation of public rights-of-way and public storm drain systems so as to reduce the discharge of pollutants, to the maximum extent practicable, that may cause or contribute to either a violation of any applicable surface water quality standard or any condition of a NPDES/AZPDES permit issued to the City, or any other act that causes or contributes to obstruction of or damage to a public storm drain system. The City Manager may regulate the use of the public storm drain system through administrative rules, permits, and other written forms of approval for activities that could release pollutants or stormwater to a public storm drain system.

B. Compliance with this chapter does not relieve, modify, or otherwise affect a person's obligation to comply with any other applicable federal, state, or local legal requirement.

C. The City Manager will provide implementation guidance to assist the public in complying with this chapter. This guidance may consist of fact sheets, policy and procedure manuals, and other pertinent information relating

to the development and implementation of best management practices for stormwater quality protection. (Ord. No. G-3589, § 1; Ord. No. G-5707, 2012; Ord. No. G-7116, § 3, 2023)

Sec. 32C-101. Definitions.

As used in this chapter, the following terms shall have the designated meanings.

Best management practice (BMP) means schedules of activities, prohibition of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of protected surface waters. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

City Manager means the City Manager for the City of Phoenix or the City Manager's designee.

Direct connection means any pipe, conduit or other conveyance that is inserted into any part of the public storm drain system either temporarily or permanently.

Discharge means any release, spill, leak, pump, flow, escape, leaching (including subsurface migration or deposition to groundwater), dumping or disposal of any liquid, semi-solid or solid substance to a public right-of-way or public storm drain system.

Discharge permit means a City-issued document (permit) authorizing the release of uncontaminated stormwater or non-stormwater to the public storm drain system for a specified period of time.

Firefighting activities means all emergency response activities that control or extinguish fires. The phrase does not include the release of significant materials that occur after an emergency situation has ended.

Green stormwater infrastructure means infrastructure constructed with a range of measures that use plant or soil systems, permeable pavement or other permeable surfaces or substrates, stormwater harvest and reuse, or landscaping to store, infiltrate, or evapotranspire stormwater and reduce flows to the public storm drain system or to surface waters. These features are also sometimes referred to as low impact development (LID).

Illicit connection means any man-made conveyance or drainage system, pipeline, conduit, inlet or outlet, through which the discharge of any pollutant to the public storm drain system occurs or may occur. The term "illicit connection" does not include legal nonconforming connections.

Nonresidential property means any real property that is actually or intended to be used for commercial, industrial, agricultural, or recreational purposes, including but not limited to the immediate vicinity of five or more connected residential dwelling units, and residential subdivisions or dwellings that have not been occupied by a bona fide purchaser or tenant.

NPDES/AZPDES permit means an authorization to discharge stormwater issued under the NPDES/AZPDES program.

NPDES/AZPDES program means the Federal National Pollutant Discharge Elimination System (NPDES) Program administered nationally pursuant to 33 U.S.C. Section 1342 and the Arizona Pollutant Discharge Elimination System (AZPDES) Program administered in Arizona pursuant to Arizona Revised Statutes, Title 49, Chapter 2, Article 3.1.

Owner means a property owner or any person or entity that has physical control, authority, or responsibility for a business, property, or stormwater management device.

Permit means written authorization to engage in specific conduct or an activity that is issued pursuant to and in accordance with the particular laws, rules, or ordinances governing that conduct or activity.

Pollutant means fluids, contaminants, toxic wastes, toxic pollutants, dredged spoil, solid waste, substances and chemicals, pesticides, herbicides, fertilizers and other agricultural chemicals, incinerator residue, sewage, garbage, sewage sludge, munitions, petroleum products, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and mining, municipal, and agricultural waste, or any other liquid, solid, gaseous or hazardous substances.

Pollution means the presence of pollutants on land or in stormwater.

Pollution prevention means operational procedures and processes and improvements in housekeeping or management techniques that reduce potential or actual releases of pollutants to the environment including all air, water and land resources affected by those pollutants.

Post-construction stormwater control means any device or feature permanently installed and designed to manage or treat stormwater, including but not limited to retention, detention, storage, infiltration, or treatment systems.

Public storm drain system means all or any part of the publicly owned stormwater conveyance system, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains located within easements, rights-of-way, parks, streets, roads, or highways, or in common areas of real property leased from the City of Phoenix, that are used for collecting, retaining, or conveying stormwater.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, placing, leaching, dumping, or disposing into or on any land in a manner that significant materials, pollutants, or stormwater has the reasonable potential to be introduced into the public storm drain system.

Significant materials means any solid, liquid, or gaseous substance other than uncontaminated stormwater, that can release pollutants, including but not limited to: raw materials; fuels; solvents; detergents; finished materials; hazardous substances designated under Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601(14); any chemical for which a report must be filed pursuant to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. Section 11023; fertilizers; pesticides; herbicides; and waste materials, including garbage, trash, ashes, slag, yard waste, animal waste, and sludge.

Stormwater means rainfall runoff, snow melt runoff, and surface runoff and drainage.

Stormwater management plan (SWMP) means a document, tailored to the facility's site-specific conditions and activities, identifying the facility's plan for eliminating, minimizing or reducing the amount of pollution in stormwater discharged from the site.

Stormwater pollution prevention plan means a site-specific, written document that identifies potential sources of stormwater pollution at a site; describes practices to reduce pollutants in stormwater discharges from a site; and identifies procedures the site operator will implement to comply with the terms and conditions of a NPDES/ AZPDES permit.

Surface water quality standard means a standard adopted for a protected surface water pursuant to Section 49-221, Arizona Revised Statutes and, in the case of waters of the United States, pursuant to Section 49-222, Arizona Revised Statutes.

Untamined means the absence of pollutants. (Ord. No. G-3589, § 1; Ord. No. G-5707, 2012; Ord. No. G-7116, § 3, 2023)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 32C-102. Declaration of nuisance.

A. A public nuisance is anything that is injurious or obnoxious to health or the environment, or is offensive to the sense, or is an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by any considerable number of persons, or which obstructs the free passage or use, in any customary manner, of any street, alley, sidewalk, or other public right-of-way.

B. It is hereby declared to be a public nuisance for any person to store, use, manufacture, process, handle or release significant materials, pollutants, or stormwater in a manner that causes or contributes to any of the following:

1. The conditions or circumstances as defined in subsection A of this section;
2. Damage to a public right-of-way or public storm drain system;
3. A violation of a surface water quality standard;
4. A violation of any applicable condition of a NPDES/AZPDES permit.

C. An act is not a public nuisance if it is authorized in any of the following:

1. This chapter;
2. An administrative rule, permit, plan approval, or other authorization issued in compliance with this chapter;
3. A NPDES/AZPDES permit. (Ord. No. G-3589, § 1; Ord. No. G-5707, 2012; Ord. No. G-7116, § 3, 2023)

Sec. 32C-103. Prohibited and permitted practices.

- A. A person may not use, store, treat or dispose of stormwater, pollutants, or significant materials in a manner that creates a public nuisance as defined in Section 32C-102.
- B. A person may not release to a publicly owned right-of-way, retention or detention basin, or public storm drain system any substance that is not composed entirely of stormwater, except for the following:
1. Releases pursuant to a NPDES/AZPDES permit;
 2. Releases resulting from emergency firefighting activities;
 3. Releases of materials as provided in subsection F, G or H of this section.
- C. A person may not install or use a direct connection to the public storm drain system without written permission of the City Manager.
- D. A person shall maintain best management practices and post-construction stormwater controls, including but not limited to stormwater retention and detention basins, drywells, and storage structures. Maintaining post-construction stormwater controls and BMPs means achieving and maintaining the original design intent for detention, retention, and treatment. The person shall keep written records and documentation of all inspections, cleaning, repair, calibration, and maintenance required demonstrating compliance with this subsection. The owner shall keep the records for a minimum of five years from the date the record is created and shall make the records available to the City upon request.
- E. A person may not interfere with or prohibit any City employee from conducting any activities in furtherance of the requirements of this chapter, including conducting inspections and collecting samples.
- F. This section does not prohibit releases of stormwater from stormwater retention or detention basins if a permit or approval is first obtained from the City Manager. A person seeking such a permit or approval shall demonstrate that the release is not reasonably expected to contain pollutants or cause or contribute to a public nuisance as defined in this chapter.
- G. This section does not prohibit releases from the following sources, provided those releases are not a significant source of pollutants and are discharged in a manner that does not create a public nuisance as defined in this chapter:
1. Water line flushing.
 2. Landscape irrigation.
 3. Diverted stream flows.
 4. Rising ground waters.
 5. Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(b)(20)) to separate storm sewers.

6. Uncontaminated pumped groundwater.
7. Discharges from potable water sources.
8. Foundation drains.
9. Air conditioning condensation.
10. Irrigation water.
11. Springs.
12. Water from crawl space pumps.
13. Footing drains.
14. Lawn watering.
15. Individual residential car washing.
16. Flows from riparian habitats and wetlands.
17. Dechlorinated swimming pool discharges.
18. Street wash water.
19. Discharges or flows from emergency firefighting activities.

H. This section does not prohibit releases to the public storm drain system that are authorized pursuant to a NPDES/AZPDES permit; provided, that all conditions of that permit are met and the City has been provided a copy of the applicable authorization to discharge or other written proof of permit coverage. Examples of this include releases authorized under the NPDES/AZPDES general permits for de minimis discharges or stormwater discharges associated with industrial activity. An authorization under a separate NPDES/AZPDES permit, however, does not exempt a person from preparing a stormwater management plan and submitting it to the City, if required under Section 32C-104. (Ord. No. G-3589, § 1; Ord. No. G-5707, 2012; Ord. No. G-7116, § 3, 2023)

Sec. 32C-104. Stormwater management plan.

A. A person who conducts an activity on nonresidential property or conducts an activity for a fee or charge on residential property that has the reasonable potential to affect the quality or volume of stormwater impounded upon or released from the property, regardless of whether it is raining at the time, shall prepare a written stormwater management plan as described in this section. There is a rebuttable presumption that a stormwater management plan is not required for activities conducted within completely enclosed structures and in other areas that are permanently inaccessible to contact with stormwater or other sources of water, including run-on

and run-off. A person required by this subsection to prepare a stormwater management plan shall provide the plan to the City upon the City's request.

B. A person applying pursuant to any chapter of the Phoenix City Code for authorization, permission, or a permit to perform or engage in an activity that has the reasonable potential to affect the quality or volume of stormwater impounded upon or released from their property as a result of the activity for which approval is sought shall prepare and submit to the City a stormwater management plan.

C. A stormwater management plan must include all of the following:

1. A description of the types of all significant materials that will be on the property;
2. A description of the land use and materials management practices that could lead to the pollution of stormwater during all phases of existing and proposed land use;
3. A description of the manner in which significant materials will be used, stored, treated or disposed of; the methods to minimize, to the maximum extent practicable, the pollution of stormwater;
4. All best management practices to be utilized for the following:
 - a. Managing litter.
 - b. The use, storage, treatment, and disposal of significant materials.
 - c. The use, storage, and disposal of pesticides and herbicides.
 - d. Reducing the volume and/or velocity of discharges to a public storm drain system.
 - e. The use of landscape features to reduce the quantity and/or velocity of stormwater or a pollutant that may be released off site.
 - f. Maintenance of retention basins and other post-construction stormwater controls and facilities.
 - g. Underground storage and other treatment devices.
 - h. Maintenance and cleaning of storage areas, work areas, drives, parking lots, vehicles, and buildings.
 - i. Ensuring that significant materials are not exposed to direct contact with stormwater.
 - j. Spill prevention and remediation.
5. Any additional information concerning stormwater management and pollution prevention efforts that are or will be prepared or used to comply with any Federal, State, or local rules, regulations, or permits that relate to discharges of stormwater.

D. A stormwater management plan may apply to more than one parcel of property so long as the activities on the properties are sufficiently similar that a single plan is appropriate. A stormwater management plan must apply to all contiguous land under common ownership or control and must specifically state the address of each parcel

of property subject to the plan. A stormwater management plan is not transferable to new property owners and/or operators.

E. The City Manager will not issue permits, approvals or other authorizations that require stormwater management plans as provided in subsection B of this section until the City Manager has received the applicable stormwater management plan. The City Manager may modify or revoke the City permit, approval, or authorization if significant materials are not managed in accordance with the applicable stormwater management plan.

F. The persons identified in subsections A and B of this section shall fully implement their stormwater management plan. If the affected property or activities at the property are modified in a manner that may cause a material change in the volume, velocity, or quality of stormwater released off site, the person must promptly revise and implement the person's stormwater management plan to maintain compliance with this chapter.

G. The City Manager may require amendments to a stormwater management plan as the City Manager determines necessary to reduce or eliminate pollutant sources from reaching the public storm drain system or environment.

H. A stormwater pollution prevention plan (SWPPP) that complies with a NPDES/AZPDES permit and applicable requirements of 40 CFR Part 122 may be used as part or all of the stormwater management plan required by this section (Ord. No. G-3589, § 1; Ord. No. G-5707, 2012; Ord. No. G-7116, § 3, 2023)

Sec. 32C-105. City authorized discharges.

A. The City Manager may permit a person to release uncontaminated non-stormwater to the public storm drain system or public right-of-way if the City Manager determines that the release will not cause a violation of a surface water quality standard or a condition of a NPDES/AZPDES permit. The City Manager may condition the release as necessary to ensure compliance with this chapter. The permittee shall comply with all surface water quality standards.

B. The fee for a permit approved under this section is at least \$1,000.00 per year. The duration of the permit may not exceed five years. There is no permit fee if the uncontaminated stormwater or nonstormwater discharges are no more frequent than twice per calendar year and less than 50,000 gallons per discharge. Discharges authorized under and in compliance with a NPDES/AZPDES permit are not required to obtain a City discharge permit or pay a permit fee.

C. Compliance with this section does not relieve, modify, or otherwise affect a person's obligation to comply with any other applicable Federal, State, or local legal requirement. (Ord. No. G-5707, 2012; Ord. No. G-7116, § 3, 2023)

Sec. 32C-106. Inspections.

A. The City Manager is authorized to enter and inspect real property, structures, and buildings at reasonable times and in a reasonable manner as necessary to assess compliance with this chapter or a NPDES/AZPDES

permit. These inspections will be conducted in accordance with applicable constitutional or statutory requirements. A person subject to the requirements of this chapter shall allow all inspection, monitoring, and access to records, documents, and other information reasonably needed by the City Manager for the purposes of administering this chapter. A person subject to the requirements of this chapter that denies a City representative reasonable access to its premises is in violation of this chapter.

B. Inspections conducted pursuant to this chapter may include items covered by other chapters of the Phoenix City Code that relate to the quality or management of stormwater and associated stormwater devices and controls.

C. The City Manager may collect and analyze samples of stormwater and significant materials, install and require the installation of stormwater sampling and measurement devices, and examine records concerning significant materials and stormwater activities. (Ord. No. G-3589, § 1; Ord. No. G-5707, 2012; Ord. No. G-7116, § 3, 2023)

Note—Formerly, § 32C-105

Sec. 32C-107. Violations and penalties.

A. The remedies specified in this chapter are cumulative, and the City Manager, or the City Attorney, may proceed under these or any other remedies authorized by law. In addition to any other authorized remedies, a person who violates any provision of this chapter shall be guilty of a Class 1 misdemeanor. Each day of violation shall be a separate offense.

B. A person having control over an activity or any real property, or who causes, authorizes, facilitates, aids or assists any violation of any provision of this chapter, or who fails to abate any nuisance or prohibited practice for which the person is responsible, is guilty of a Class 1 misdemeanor.

C. The City Manager may issue a notice of violation, compliance order, or other compliance and enforcement documentation to any person who has violated or is in violation of this chapter. Failure to perform any act required in the notice of violation, compliance order, or other compliance and enforcement documentation shall be a separate violation for each day the violation continues beyond the date of the notice of violation compliance order, or other compliance and enforcement documentation.

D. The City Manager may enter into consent orders, assurances of voluntary compliance, negotiated settlement agreements or other similar documents establishing an agreement with any person responsible for noncompliance. These documents have the same force and effect as any other orders issued under this article and may be enforced by a court of competent jurisdiction.

E. The transfer of ownership, possession, or control of real property to another person does not relieve the transferor of responsibility for violations of this chapter, as provided in subsection B of this section, which occurred before the transfer unless the transferee accepts responsibility in writing for the violations.

F. A person who violates this chapter is subject to a civil sanction of not more than \$2,500.00 for each violation. Each day of each violation shall constitute a separate violation. The City Manager may request the City Attorney commence an action in a court of competent jurisdiction to recover the civil penalties.

G. The owner of record of the property upon which a violation of this chapter occurs is presumed to be a person having lawful control over an activity or real property, unless the owner establishes that another person has knowingly and in good faith accepted responsibility for the activity or property at issue. If more than one person is identified as the owner of record, those persons are jointly and severally in lawful possession and control of the activity or land.

H. Any person causing or contributing to a violation of this chapter or a permit issued pursuant to this chapter shall notify the City immediately upon learning of the events that resulted in the violation. Within five days of submitting this notification, the person shall submit to the City a detailed written statement describing the cause of the violation and the measures being taken to prevent reoccurrence. Neither the submission to the City of the original notification nor the detailed written statement relieves the person of liability for any expense, loss or damage to the public storm drain system, or for any fines imposed on or by the City for a violation of this chapter or a NPDES/AZPDES permit. (Ord. No. G-3589, § 1; Ord. No. G-5707, 2012; Ord. No. G-7116, § 3, 2023)

State law reference—Penalty for ordinance violations, A.R.S. §§ 9-499.01, 9-240(B)(28).

Note—Formerly, § 32C-106

Sec. 32C-108. Requirement to monitor, analyze and remediate.

A. Where a reasonable basis exists to conclude that a person engaged in any activity and/or owning or operating any property has violated this chapter, the City Manager may require by written notice that the person undertake, at their expense, such monitoring and analysis and furnish the resulting reports to the City as necessary to determine compliance with this chapter.

B. Where a person engaged in any activity and/or owning or operating any property has violated this chapter, the City Manager may require by written notice that the person remediate or restore, within a specified period of time, any property, conveyance or equipment contaminated by or otherwise adversely affected by the activities giving rise to the violation. (Ord. No. G-5707, 2012; Ord. No. G-7116, § 3, 2023)

Sec. 32C-109. Stormwater treatment devices.

A. The City Manager may require a person that seeks to use a direct connection to the public storm drain system to provide, at the person's sole expense, such treatment devices, facilities or interceptors as may be necessary to comply with the limits provided for in this chapter. The person shall submit plans, specifications, and any other pertinent information relating to proposed treatment devices, facilities or interceptors to the City Manager for approval. The person may not construct the treatment devices, facilities or interceptors until the written approval

from the City is obtained. City approval of the plans and inspection of the construction does not relieve the owner from complying with the release limits set forth in this chapter.

B. Where treatment devices, facilities or interceptors are used in direct connection to the public storm drain system, the owner shall maintain continuously at their own expense those devices, facilities or interceptors in satisfactory and effective operation consistent with the original design and intent of the devices, facilities, or interceptors.

C. All treatment devices, facilities and interceptors must be of a type and capacity approved by the City Manager and must be located as to be readily and easily accessible for cleaning and inspection. Additionally, interceptors must be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature and must be of substantial construction, watertight, and equipped with easily removable covers when a bolted cover is required.

D. The owner shall keep written records and documentation of all inspections, cleaning, repair, calibration, and maintenance required demonstrating compliance with this section. The owner shall keep the records for a minimum of five years from the date the record is created and shall make the records available to the City upon request. (Ord. No. G-5707, 2012; Ord. No. G-7116, § 3, 2023)

Sec. 32C-110. Green stormwater infrastructure.

Through the administration of this chapter, the City Manager will encourage the use of green stormwater infrastructure to control the release of pollutants into the public storm drain system. (Ord. No. G-5707, 2012; Ord. No. G-7116, § 3, 2023)

Sec. 32C-111. Fees.

(Ord. No. G-5707, 2012)

The Phoenix City Code is current through Ordinance G-7116, passed May 31, 2023.

Disclaimer: The City Clerk's Office has the official version of the Phoenix City Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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