

PHOENIX CITY CODE
Chapter 32C
Storm Water Quality Protection
(Ord. No. G-3589, § 1.)

Distributed by
City of Phoenix
Water Services Department

Adopted by City Council on November 4, 1992

CHAPTER 32C

Storm Water Quality Protection

- § 32C- 100. General powers and purpose
- § 32C- 101. Definitions
- § 32C- 102. Declaration of nuisance
- § 32C- 103. Prohibited practices
- § 32C- 104. Storm water management plans prepared by permit applicants
- § 32C- 105. Inspections
- § 32C- 106. Violations and penalties

Sec. 32C-100. General Powers and Purpose.

(a) The City Manager or his designee may regulate the use, grading, paving, maintenance, and operation of public rights-of-way and public storm drain systems so as to reduce, to the maximum extent practicable, the addition of pollutants to storm water in quantities or concentrations that could reasonably be expected to cause or contribute to either a violation of an applicable water quality standard or any condition of a storm water NPDES permit issued to the City; or any other act that causes or contributes to damage to a public storm drain system. The City Manager or his designee 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 storm water to a public storm drain system.

(b) Nothing in this Chapter shall be construed as an assumption by the City of Phoenix of any other person's duties or responsibilities arising under any applicable law, including the common law. Any activities of the City Manager authorized by this Chapter are permissive rather than mandatory.

(c) The City Manager or his designee 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. (Ord. No. G-3589, § 1.)

Sec. 32C-101. Definitions.

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

(a) *Applicable Water Quality Standard* means a numeric or narrative water quality criterion that limits the quantity or concentrations of pollutants that may be present in navigable waters defined in 33 United States Code Section 1362(7).

(b) *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.

(c) *NPDES Permit* means an authorization to discharge pollutants issued pursuant to 33 United States Code Section 1342.

(d) *Pollutant* means solid, liquid, gaseous or other substances that can alter the chemical or physical properties of water, including but not limited to: fluids, solid wastes, pesticides, herbicides,

fertilizers, solvents, sludge, petroleum and petroleum products, biological materials, radioactive materials, sand, dirt, animal wastes, acids and bases.

(e) *Pollution* means the presence of pollutants on land or in storm water.

(f) *Public Storm Drain System* means all or any part of the publicly-owned storm drains, basins, ditches, pipes, graded areas and gutters 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 storm water.

(g) *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 storm water may come to be located in a public storm drain system.

(h) *Significant Materials* means any solid, liquid or gaseous substance other than storm water 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 United States Code 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 United States Code Section 11023; fertilizers; pesticides; herbicides; and waste materials, including garbage, trash, ashes, slag, yard waste, animal waste and sludge.

(i) *Storm Water* means rainfall runoff. (Ord. No. G-3589, § I.)

Sec. 32C-102. Declaration of nuisance.

It is hereby declared to be a public nuisance for any person to directly or indirectly release significant materials, pollutants or storm water without proper authorization in quantities, velocities or concentrations that may reasonably be expected to cause or contribute to: damage to a public right-of-way or public storm drain system; a violation of an applicable water quality standard; or a violation of any condition of a storm water NPDES permit. As used in this section, proper authorization exists if an activity affecting storm water is specifically authorized in (i) this Chapter, (ii) an administrative rule, permit, plan approval or other authorization issued in compliance with this Chapter, or (iii) a storm water NPDES permit. (Ord. No. G-3589, § 1.)

Sec. 32C-103. Prohibited practices.

(a) It shall be unlawful for any person to use, store, treat or dispose of storm water, pollutants or significant materials in a manner that creates a public nuisance as defined in Section 32C- 102 of this Chapter.

(b) It shall be unlawful for any person to release to a publicly-owned right-of-way or public storm drain system any substance that is not composed entirely of storm water except (i) releases pursuant to a NPDES permit, (ii) releases resulting from fire fighting and street maintenance activities, and (iii) releases of materials as provided in paragraphs (d) or (e) of this section.

(c) It shall be unlawful for any person to, without good cause, interfere with or prohibit any City employee from conducting any activities in furtherance of the requirements of this Chapter, including conducting inspections and taking samples.

(d) This section does not prohibit releases of storm water from storm water retention or detention basins if a permit or approval is first obtained from the City Manager or his designee. A person seeking

such a permit or approval shall demonstrate that the release is not reasonably expected to cause or contribute to a public nuisance as defined in Section 32C-102 of this Chapter.

(e) This section does not prohibit releases from: fire hydrant flushing; potable water systems, including water line flushing; foundation or footing drains that are not contaminated by pollutants; naturally occurring seeps, springs, wetlands or riparian areas; non-agricultural irrigation water; vehicle washing for no charge in residential areas, or for not-for-profit fundraisers for education or public service groups; residential evaporative coolers; air conditioner condensate; and dust control watering. (Ord. No. G-3589, § 1.)

Sec. 32C-104. Storm Water Management Plans Prepared by Permit Applicants.

(a) Any person applying pursuant to any Chapter of the Phoenix City Code for authorization, permission, or a permit to construct improvements or conduct activities on non-residential property that have the reasonable potential to affect storm water shall prepare a detailed written storm water management plan for the management of the volume, velocity and quality of storm water that has the reasonable potential to be released off site. Storm water management plans shall apply to all contiguous land under common ownership or control, and shall specifically state the address of each parcel of property subject to the plan. The plan shall include a description of the types of all significant materials that will be on the property: the land use and materials management practices that could lead to the pollution of storm water during all phases of existing and proposed land use; 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 storm water; and any additional information concerning storm water management and pollution prevention efforts that are or will be prepared to comply with any rules or NPDES permits promulgated pursuant to the portions of 40 Code of Federal Regulations Part 122, that relate to discharges of storm water. The storm water management plan shall be provided to the City Manager or his designee.

(b) A storm water management plan may cover more than one parcel of property so long as the activities on the property are sufficiently similar that the plan is appropriate. Storm water management plans need not be resubmitted where the new permits relate to activities that will not affect the applicability of a previously submitted plan.

(c) Permits, approvals or other authorizations that require storm water management plans as provided in this section shall not be issued until the City Manager or his designee has received the applicable storm water management plan. It shall be cause for modification or revocation of the permit, approval or other authorization if significant materials are not at all times managed in substantial compliance with the applicable storm water management plan, or if the authorized activity causes or contributes to violations of this Chapter. There shall be an enforceable commitment that the persons described in section 32C-106(b) of this Chapter will update the storm water management plan as necessary if activities at the affected property are modified in a manner that may cause a material detrimental change in the volume, velocity, or quality of storm water released off site.

(d) Storm water management plans shall include, to the extent applicable, practicable measures for: managing litter; the use, storage, treatment and disposal of significant materials; the use and disposal of pesticides and herbicides; reducing the velocity of releases to a public storm drain system; the use of landscape features to reduce the quantity and velocity of storm water that may be released off site; maintenance of retention basins and other storm water management devices; maintenance and

cleaning of parking lots and buildings; and ensuring that significant materials are not exposed to direct contact with storm water. Storm water pollution prevention plans that comply with a storm water NPDES permit and applicable requirements of 40 Code of Federal Regulations Part 122 may be used as part of all of the storm water management plan required by this section. (Ord. No. *G-3589*, § 1.)

Sec. 32C-105. Inspections.

(a) The City Manager or his designee is authorized to inspect real property, structures and buildings as necessary to assess compliance with this Chapter or a storm water NPDES permit. These inspections shall be conducted in accordance with applicable constitutional or statutory requirements.

(b) Inspections conducted pursuant to this Chapter may be expanded to include items covered by other Chapters of the Phoenix City Code that relate to the quality or management of storm water.

(c) The City Manager or his designee may collect and analyze samples of storm water and significant materials, install and require the installation of storm water sampling and measurement devices, and examine records concerning significant materials and storm water.

Sec. 32C-106. Violations and penalties.

(a) The remedies specified herein are cumulative and City Manager or his designee, 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 provisions of this Chapter shall be guilty of a misdemeanor. Each day of violation shall be a separate offense.

(b) Any person having control over an activity or any real property, or who causes, authorizes, facilitates, aids or abets 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 One misdemeanor.

(c) The City Manager or his designee may issue a Notice of Violation to any person who has violated or is in violation of this Chapter. Failure to perform any act required in the Notice of Violation shall be a separate violation for each day beyond the tenth calendar day following the issuance of the Notice of Violation.

(d) 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 paragraph (b) of this section, that occurred before the transfer unless transferee accepts responsibility for the violations.

(e) A person who violates this Chapter is subject to a civil action in any court of competent jurisdiction to collect a civil sanction of not less fifty dollars (\$50) nor more than two thousand five hundred dollars (\$2,500) for each violation. Each day of each violation shall constitute a separate civil offense.

(f) The owner of record of the property upon which a violation of this Chapter occurs shall be presumed to be a person having lawful control over an activity or real property, unless it is demonstrated 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, such persons shall be presumed to be jointly and severally in lawful possession and control of the activity or land. (Ord. No. *G-3589* § I.)