

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATIONS**

cc: 3C
Amend No. _____

Date prepared: January 11, 2010

Council Meeting Date: February 2, 2010

TO: Carl Swenson, City Manager
THROUGH: Susan Thorpe, Deputy City Manager *ST*
FROM: William Mattingly, Public Works-Utilities Director *WJM*
PREPARED BY: Robin Bain, Utilities Water Resource Manager

SUBJECT:

Ordinance amending Chapter 24 of the Peoria City Code pertaining to stormwater pollution management.

RECOMMENDATION:

That the Mayor and Council adopt the ordinance amending Chapter 24 of the Peoria City Code (1992) pertaining to stormwater pollution prevention; illicit discharge detection and elimination; and construction and post-construction stormwater management.

SUMMARY:

In March 2003 the City of Peoria submitted an application for a permit to be covered under the Arizona Department of Environmental Quality (ADEQ) Small Municipal Separate Storm Sewer System (MS4) General Permit. The application included a Notice of Intent and a Storm Water Management Plan (SWMP). The SWMP was approved in June of 2009. Part of the SWMP is to establish the legal authority to enforce the provisions of the SWMP. The Current City Code does not address stormwater quality management.

The proposed code amendment would add sections to Chapter 24 specifically addressing stormwater issues. These issues include stormwater pollution prevention; illicit discharge detection; and construction and post-construction stormwater management. The ordinance gives the City the right to enter property to investigate

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- Consent Agenda
- Carry Over to Date: _____
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- Unfinished Business (Date heard previous: _____)
- New Business
- Public Hearing: No Action Taken

ORD. # 2010-06 RES. # _____
LCON# _____ LIC. # _____
Action Date: _____

complaints, the ability to issue notices of violation and corrective action, and the ability to correct the stormwater issues.

This ordinance will ensure that the City is compliant with the approved SWMP. The ordinance is important because it covers the preventative side such as the design and inspection requirements before and during construction, and the requirement for ongoing maintenance of stormwater facilities. As a last resort it provides legal authority for enforcement against someone who knowingly violates the ordinance.

ATTACHMENT:

1. Proposed Ordinance

ORDINANCE NO. 2010-06

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AMENDING CHAPTER 24 OF THE PEORIA CITY CODE (1992) BY RESERVING SECTIONS 24-116 THROUGH 24-119; AND BY ENACTING SECTION 24-120 PERTAINING TO STORMWATER POLLUTION MANAGEMENT, DEFINITIONS; AND BY ENACTING SECTION 24-121 PERTAINING TO STORMWATER POLLUTION PREVENTION; ADMINISTRATION; AND BY ENACTING SECTION SEC. 24-122 PERTAINING TO STORMWATER POLLUTION PREVENTION; MONITORING OF DISCHARGES; AND BY ENACTING SECTION 24-123 PERTAINING TO STORMWATER POLLUTION PREVENTION; VIOLATIONS, INJUNCTIVE RELIEF; AND BY ENACTING SECTION 24-124 PERTAINING TO STORMWATER POLLUTION PREVENTION; ENFORCEMENT; AND BY ENACTING SECTION 24-125 PERTAINING TO STORMWATER POLLUTION PREVENTION; REMEDIES NOT EXCLUSIVE; AND BY ENACTING SECTION 24-126 PERTAINING TO STORMWATER POLLUTION PREVENTION; EMERGENCY RESPONSE; AND BY ENACTING SECTION 24-127 PERTAINING TO ILLICIT DISCHARGE DETECTION AND ELIMINATION; PURPOSE; AND BY ENACTING SECTION 24-128 PERTAINING TO ILLICIT DISCHARGE DETECTION AND ELIMINATION; SCOPE; AND BY ENACTING SECTION 24-129 PERTAINING TO ILLICIT DISCHARGE DETECTION AND ELIMINATION; APPLICABILITY; AND BY ENACTING SECTION 24-130 PERTAINING TO ILLICIT DISCHARGE DETECTION AND ELIMINATION; DISCHARGE PROHIBITIONS; AND BY ENACTING SECTION 24-131 PERTAINING TO ILLICIT DISCHARGE DETECTION AND ELIMINATION; SUSPENSION OF MS4 ACCESS; AND BY ENACTING SECTION 24-132 PERTAINING TO ILLICIT DISCHARGE DETECTION AND ELIMINATION; AZPDES STORMWATER DISCHARGE PERMIT COMPLIANCE; AND BY ENACTING SECTION 24-133 PERTAINING TO ILLICIT DISCHARGE DETECTION AND ELIMINATION; USE OF BEST MANAGEMENT PRACTICES; AND BY ENACTING SECTION 24-134 PERTAINING TO ILLICIT DISCHARGE DETECTION AND ELIMINATION; WATERCOURSE PROTECTION; AND BY ENACTING SECTION 24-135 PERTAINING TO CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT; PURPOSE; AND BY ENACTING SECTION 24-136 PERTAINING TO CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT; SCOPE; AND BY ENACTING SECTION 24-137 PERTAINING TO CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT; APPLICABILITY; AND BY ENACTING SECTION 24-138 PERTAINING TO CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT; REQUIREMENTS FOR SUBMITTAL OF STORMWATER MANAGEMENT PLANS; AND BY ENACTING SECTION 24-139 PERTAINING TO CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT; CITY REVIEW OF STORMWATER MANAGEMENT

PLAN SUBMITTALS; AND BY ENACTING SECTION 24-140 PERTAINING TO CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT; REQUIREMENT TO INSTALL AND MAINTAIN EROSION AND SEDIMENT CONTROL MEASURES; AND BY ENACTING SECTION 24-141 PERTAINING TO CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT; PERMITTEE CONSTRUCTION SITE INSPECTIONS; AND BY ENACTING SECTION 24-142 PERTAINING TO CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT; OPERATION AND MANAGEMENT OF ALL EXISTING AND NEW POST-CONSTRUCTION STORMWATER STRUCTURES; AND BY ENACTING SECTION 24-143 PERTAINING TO CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT; COMPLETION OF WORK; AND PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

THEREFORE, it is ordained by the Mayor and Council of the City of Peoria as follows:

SECTION 1. Chapter 24 of the Peoria City Code (1992) is amended by reserving Sections 24-116 through 24-119 and enacting Section 24-120 pertaining to Stormwater Pollution Management; Definitions and which shall read as follows:

24-116. through 24-119. Reserved

Stormwater Pollution Management

Sec. 24-120. Stormwater Pollution Management; Definitions.

ADEQ -- Arizona Department of Environmental Quality.

AZPDES -- Arizona Pollutant Discharge Elimination System. A program established by the State of Arizona by provisions in Arizona Revised Statutes Title 49, Chapter 1, Article 3.1 to control the discharge of pollutants to waters in Arizona.

Best Management Practices (BMPs) -- Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

City Manager -- The City Manager is the administrative head of city government for the City of Peoria. The City Manager is authorized and empowered to delegate any of the power granted under this ordinance to a department director.

Code of Federal Regulations (CFR) -- The codification of general and federal rules and regulations (sometimes called administrative law) published in the Federal Register by the executive departments and agencies of the Federal Government of the United States.

Construction Activity -- Activities subject to AZPDES Construction Permits. This activity includes clearing, grading, excavating, stockpiling of fill material, and other similar activities resulting in land disturbance of at least one acre. Construction activity also includes clearing, grading, stockpiling, etc. that occurs in smaller areas if part of a larger common plan of development or sale that will ultimately disturb one or more acres. This definition encompasses both large construction activities defined in 40 CFR § 122.26 (b)(14)(x) and small construction activities defined in 40 CFR § 122.26 (b)(15)(i).

Construction General Permit -- An AZPDES permit issued by ADEQ which authorizes stormwater discharges from construction-related activities. The permit reduces the administrative burden of permitting stormwater discharges through individual (negotiated) permits.

Dye testing -- The use of a non-toxic dye to identify the source of a discharge. Dye is poured into the suspected entry source (i.e., facility, plumbing fixtures), then the downstream MS4 conveyances and/or storm sewer outfalls are monitored for presence of the dye. Presence or absence findings are recorded from the test.

Erosion and Sediment Control -- Refers to actions, measures, or BMPs designed to minimize the accelerated erosion and suspension of sediment by water or wind.

Hazardous Materials -- Any material, including any substance, waste, or combination thereof, which 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.

Illegal Discharge -- Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Section 24-120 of this Chapter.

Illicit Connections -- Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system. Illicit connections may include, but are not limited to: any conveyances which allow non-stormwater discharge (i.e., sewage, process wastewater, wash water) to enter the storm drain system; any connections to the storm drain system from indoor drains and sinks, regardless if the drain or connection had been previously allowed, permitted, or approved by an

authorized enforcement agency; or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity -- Any activity subject to National Pollutant Discharge Elimination System (NPDES) Industrial Permits as defined in 40 CFR § 122.26 (b)(14).

Municipal Separate Storm Sewer System (MS4) -- A publicly-owned conveyance or system of conveyances including but not limited to ditches; curbs; gutters; storm sewers; catch basins; and underground pipes that is designed to collect stormwater runoff that discharges to Waters of the State, do not connect with a wastewater collection system or treatment plant, and may be owned or operated by but not limited to a municipality; a county; utility, drainage, or other specialty districts; prisons; colleges; or a state or federal agency.

Non-Stormwater Discharge -- Any discharge to the storm drain system that is not composed entirely of stormwater.

Notice of Intent (NOI) -- An application (form) that is submitted to ADEQ to notify ADEQ of the intent to be covered by the ruling/active Construction General Permit, and to trigger the review and permit-waiting time associated with the permit. The NOI serves as a law-binding promise to comply with Construction General Permit conditions.

Permittee -- An entity or its successors, agents, employees, or assigns that has applied for and received a permit pursuant to Section 24-139 of this Chapter.

Person -- Any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant -- Any substance which causes or contributes to pollution. 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, ordinances, 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; and noxious or offensive matter of any kind.

Premises -- Any building, lot, parcel of land, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

Post-Construction Stormwater Control Measures -- Those measures, either structural or non-structural, that are implemented and maintained after construction has been completed to manage stormwater runoff.

Storm Drainage System -- Publicly-owned facilities by which stormwater is collected and/or conveyed, 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.

Stormwater -- Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Management Plan (Storm Water Pollution Prevention Plan) -- A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Wastewater -- Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Waters of the State -- Such waters as defined in Arizona Revised Statutes § 49-201.

Waters of the United States -- Surface watercourses and water bodies as defined at 40 CFR § 122.2 including all natural waterways, definite channels, and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry stormwater at and during all times and seasons.

SECTION 2. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-121 pertaining to Stormwater Pollution Prevention; Administration and which shall read as follows:

Sec. 24-121. Stormwater Pollution Prevention; Administration

The City Manager shall administer, implement, and enforce the provisions of Sections 24-120 through 24-143 of this Chapter.

SECTION 3. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-122 pertaining to Stormwater Pollution Prevention; Monitoring of Discharges and which shall read as follows:

Sec. 24-122. Stormwater Pollution Prevention; Monitoring of Discharges

(a) Applicability. This Section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

(b) City Access to Facilities.

(1) The City shall be permitted to enter and inspect facilities subject to regulation under Sections 24-120 through 24-143 of this Chapter as often as may be necessary to determine compliance with those Sections. If the facility has security measures in force which require proper identification and clearance before entry into its premises, the facility shall make the necessary arrangements to allow access to representatives of the City.

(2) The City shall be allowed ready access to all parts of the facility premises for the purposes of inspection, sampling, examination, and copying of records that must be kept under the conditions of an AZPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

(3) The City shall have the right to set up on any permitted facility devices as are necessary in the opinion of the City Manager to conduct monitoring and sampling of the facility's stormwater discharge.

(4) The City shall have the right to require the permitted facility to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the City access to a permitted facility is a violation of a stormwater discharge permit and of Sections 24-120 through 24-143 of this Chapter. A person who is the operator of a facility with an AZPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by Sections 24-120 through 24-143 of this Chapter.

(c) During any inspection as provided herein, the City may take any sample and perform any testing deemed necessary to aid in pursuit of the inquiry or to record site activities.

SECTION 4. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-123 pertaining to Stormwater Pollution Prevention; Violations, Injunctive Relief and which shall read as follows:

Sec. 24-123. Stormwater Pollution Prevention; Violations, Injunctive Relief

(a) Any violation of Sections 24-120 through 24-143 of this Chapter shall be punishable under this Section and Section 1-5 of this Code.

(b) It is unlawful to:

(1) Intentionally, knowingly, or recklessly interfere, prevent, or attempt to interfere or prevent an individual employed by the City or other person contracted for by the City, when the individual is investigating, correcting, or abating a violation Sections 24-120 through 24-143 of this Chapter.

(2) Violations of Subsection (1) shall be punished as a class one misdemeanor. The Court shall order restitution to the City for financial loss incurred in the prosecution and enforcement of the provisions of this Section.

(c) The City may petition for a preliminary or permanent injunction restraining a person from activities which would create further violations or compelling the person to perform abatement or remediation of a violation in either of the following situations:

(1) If the City has been refused access to any part of the premises from which stormwater is discharged and the City is able to demonstrate that one or more of the following conditions exist:

a. Probable cause to believe that there may be a violation of Sections 24-120 through 24-143 of this Chapter.

b. There is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Code or any order issued hereunder.

c. The overall public health, safety, and welfare of the community is at risk.

(2) If a person has violated or continues to violate any of the provisions of Sections 24-120 through 24-143 of this Chapter.

SECTION 5. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-124 pertaining to Stormwater Pollution Prevention; Enforcement and which shall read as follows:

Sec. 24-124. Stormwater Pollution Prevention; Enforcement

(a) Notice of Violation.

(1) Upon examination, if the City finds that a person, whether individual, corporate, associate, partner, or of another entity recognized by law as owning property, or such person's lessee, has violated a prohibition or failed to meet the requirements of Sections 24-120 through 24-143 of this Chapter, the City Manager may order compliance by a written notice of violation to the responsible person.

(2) Such notice may require without limitation any one or more of the following requirements:

a. The response to conduct monitoring, analyses, and reporting;

b. The elimination of illicit connections or illegal discharges;

c. That violating discharges, practices, or operations shall cease and desist;

d. The abatement or remediation of stormwater pollution or contamination;

e. The restoration of any affected property;

f. Assess civil penalties to cover administrative and remediation costs; and

g. The implementation of source control or treatment BMPs.

(3) If an abatement of a violation and/or the restoration of an affected property are required, the notice of violation shall set forth a plan for remediation or restoration where such activities must be completed by a deadline determined by

the City Manager. The notice shall further advise any person in violation of illicit discharge activities that fail to remediate or restore within the established deadline, the work will be completed by a designated governmental agency or a contractor where the City may assess civil penalties by a court of competent jurisdiction or by the City Manager to recover costs and fees incurred as a result of the violation.

(b) Appeal of Notice of Violation.

(1) Any person receiving a notice of violation may appeal such notice.

(2) The notice of appeal must be filed with the City Manager within 30 calendar days from the date of the notice of violation.

(3) A hearing on the appeal before the City Manager shall take place within 30 calendar days from the date of receipt of the notice of appeal.

(4) The decision of the City Manager shall be final.

(5) Any person continuing to violate this Code will be subject to additional violations, where each day of continued violation may constitute a separate offense.

(6) In lieu of enforcement proceedings, penalties, and remedies authorized by this Code, the City Manager may impose alternative compliance actions upon the person in violation of illicit discharge activities, such as but not limited to storm drain stenciling, attendance at compliance workshops, and watercourse cleanup.

(c) Enforcement Measures after Appeal.

(1) If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within 30 days of the decision to uphold the notice of violation, then representatives of the City shall enter upon the subject property and take any and all measures necessary to abate the violation and/or restore the property.

(2) It shall be unlawful for any person, owner, agent, or other person having control over the subject property to refuse the City, the City Manager, or any designated government agent and/or contractor to enter upon the premises for the purposes set forth in subsection (c)(1) of this Section.

SECTION 6. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-125 pertaining to Stormwater Pollution Prevention; Remedies Not Exclusive and which shall read as follows:

Sec. 24-125. Stormwater Pollution Prevention; Remedies Not Exclusive

The remedies listed in Sections 24-120 through 24-143 of this Chapter are not exclusive of any other remedies available under any applicable federal, state, or local law. It is within the discretion of the City to seek cumulative remedies.

SECTION 7. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-126 pertaining to Stormwater Pollution Prevention; Notification of Spills and which shall read as follows:

Sec. 24-126. Stormwater Pollution Prevention; Emergency Response

(a) A person responsible for a facility or operation, or the emergency response of the facility or operation, who has information of any known or suspected release of hazardous materials which will result or may result in illegal discharges or pollutant discharges to a MS4 shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release the person responsible for a facility or operation, or the emergency response of the facility or operation shall immediately notify the ADEQ Emergency Response Duty Office or by contacting emergency dispatch services at 9-1-1.

(b) In the event of a release of non-hazardous materials, the person responsible for a facility or operation or the emergency response of the facility or operation shall notify the City Manager in person or by phone within 24 hours of such a release.

(1) Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City Manager within five calendar days of the initial in person or phone notification.

(2) Additional reporting to other agencies may be required. These agencies may include but are not limited to the National Response Center, Arizona State Emergency Response Commission, Maricopa County Local Emergency Planning Commission, and the City of Peoria Fire Department.

(3) The owner or operator of the establishment from which the discharge emanated shall also retain an on-site written record of the discharge and the

actions taken to prevent its recurrence. Such records shall be retained for at least three years.

SECTION 8. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-127 pertaining to Illicit Discharge Detection and Elimination; Purpose and which shall read as follows:

Sec. 24-127. Illicit Discharge Detection and Elimination; Purpose

(a) The purpose of Sections 24-120 through 24-143 of this Chapter is to provide for the health, safety, and general welfare of the citizens of the City of Peoria through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. Sections 24-120 through 24-143 of this Chapter establish methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the AZPDES permit process. The objectives of Sections 24-120 through 24-143 of this Chapter are all of the following:

- (1) To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user.
- (2) To prohibit illicit connections and illegal discharges to the municipal separate storm sewer system, and
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Code.

(b) All illicit discharge detection and elimination shall be performed pursuant to the provisions of Sections 24-120 through 24-143 of this Chapter but shall not be construed to prevent the enforcement of other laws which prescribe more restrictive limitations, nor shall the provisions of Sections 24-120 through 24-143 of this Chapter be presumed to waive any limitations imposed by other statutes or ordinances.

SECTION 9. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-128 pertaining to Illicit Discharge Detection and Elimination; Scope and which shall read as follows:

Sec. 24-128. Illicit Discharge Detection and Elimination; Scope

(a) Sections 24-120 through 24-143 of this Chapter set forth rules and regulations for detection and elimination of illicit discharges within the City's municipal separate storm sewer system.

(b) Sections 24-120 through 24-143 of this Chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

(c) The standards set forth herein and promulgated pursuant to Sections 24-120 through 24-143 of this Chapter are minimum standards; therefore Sections 24-120 through 24-143 of this Chapter do not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

SECTION 10. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-129 pertaining to Illicit Discharge Detection and Elimination; Applicability and which shall read as follows:

Sec. 24-129. Illicit Discharge Detection and Elimination; Applicability

Sections 24-120 through 24-143 of this Chapter shall apply to all prohibited discharges or releases entering the storm drain system generated on any developed or undeveloped lands lying within the City limits.

SECTION 11. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-130 pertaining to Illicit Discharge Detection and Elimination; Discharge Prohibitions and which shall read as follows:

Sec. 24-130. Illicit Discharge Detection and Elimination; Discharge Prohibitions

(a) Prohibition of Illegal Discharges. No person shall discharge or cause to be discharged into the municipal storm sewer system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards. This prohibition shall not apply to stormwater. The commencement, conduct, or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by Sections 24-120 through 24-143 of this Chapter:

a. Water line flushing.

b. Landscape irrigation.

c. Diverted stream flows.

- d. Rising ground waters.
- e. Uncontaminated groundwater infiltration.
- f. Uncontaminated pumped groundwater.
- g. Discharges from potable water sources.
- h. Foundation drains.
- i. Air conditioning condensate.
- j. Irrigation water.
- k. Springs.
- l. Water from crawl space pumps.
- m. Footing drains.
- n. Lawn watering.
- o. Individual residential car washing.
- p. Discharges from riparian habitats and wetlands.
- q. Street wash water.
- r. Discharges or flows from fire fighting activities.

(2) Discharges specified in writing by the City Manager as being necessary to protect public health and safety.

(3) Dye testing is an allowable discharge, but requires a verbal notification to the City Manager prior to the time of the test.

(4) The prohibition shall not apply to any non-stormwater discharge permitted under an AZPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Arizona Department of Environmental Quality or the United States Environmental Protection Agency, 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 discharge to the storm drain system.

(b) Prohibition of Illicit Connections.

(1) The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.

(2) The prohibition contained in Subsection (i) 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 considered to be in violation of Section 20-120 through 20-143 of this Chapter if the person connects a line conveying sewage to the MS4 or allows such a connection to exist.

SECTION 12. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-131 pertaining to Illicit Discharge Detection and Elimination; Suspension of MS4 Access and which shall read as follows:

Sec. 24-131. Illicit Discharge Detection and Elimination; Suspension of MS4 Access

(a) Suspension Due to Illicit Discharges in Emergency Situations.

(1) The City may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, the health or welfare of persons, the MS4, or Waters of the United States.

(2) If a person in violation of illicit discharge activities fails to comply with a suspension order issued in an emergency, the City Manager or an appropriate designee assigned by the City Manager, may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

(b) Suspension Due to the Detection of Illicit Discharge.

(1) Any person discharging to the MS4 in violation of Sections 24-120 through 24-143 of this Chapter may have MS4 access terminated if such termination would

abate or reduce an illicit discharge. The City will notify a person in violation of illicit discharge activities of the proposed termination of its MS4 access.

(2) Pursuant to this Section, an offense will be committed if a person reinstates an illegal connection to an MS4 without the prior approval from the City Manager.

SECTION 13. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-132 pertaining to Illicit Discharge Detection and Elimination; AZPDES Stormwater Discharge Permit Compliance and which shall read as follows:

Sec. 24-132. Illicit Discharge Detection and Elimination; AZPDES Stormwater Discharge Permit Compliance

Any person subject to an industrial or construction activity AZPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with such a permit shall be submitted to the City prior to the discharges to a MS4 in a format approved by the City Manager.

SECTION 14. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-133 pertaining to Illicit Discharge Detection and Elimination; Use of Best Management Practices and which shall read as follows:

Sec. 24-133. Illicit Discharge Detection and Elimination; Use of Best Management Practices

(a) Any person who owns or operates a commercial or industrial facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of structural and non-structural best management practices (BMPs).

(b) Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required by the City Manager to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system.

(c) Compliance with all terms and conditions of a valid AZPDES permit authorizing the discharge of stormwater associated with industrial activity shall be deemed compliant with the provisions of Section 24-120 through 24-143 of this Chapter. These BMPs shall be part of a stormwater management plan (SWMP) as necessary for compliance with requirements of the AZPDES permit.

SECTION 15. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-134 pertaining to Illicit Discharge Detection and Elimination; Watercourse Protection and which shall read as follows:

Sec. 24-134. Illicit Discharge Detection and Elimination; Watercourse Protection

(a) Any person whether individual, corporate, associate, partner, or of another entity recognized by law as 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, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or impede the flow of water through the watercourse.

(b) In addition, every person whether individual, corporate, associate, partner, or of another entity recognized by law as owning property, or its 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.

SECTION 16. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-135 pertaining to Construction and Post-Construction Stormwater Management; Purpose and which shall read as follows:

Sec. 24-135. Construction and Post-Construction Stormwater Management; Purpose

(a) A purpose of Sections 24-120 through 24-143 of this Chapter is to control or eliminate soil erosion and sedimentation within the City. The City has established standards and specifications for conservation practices and planning activities which minimize soil erosion and sedimentation in order to accomplish all of the following goals:

- (1) Protect public health, welfare, and the environment;**
- (2) Enable the City to comply with stormwater pollution prevention provisions of the AZPDES;**
- (3) Properly manage and reduce erosion and the discharge of pollutants from construction sites to the City's stormwater system, and in turn, to surface waters and groundwater;**
- (4) Reduce the discharge of pollutants by ensuring the installation and maintenance of post-construction stormwater management measures; and**

(5) Reduce stormwater runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained.

(b) All stormwater management shall be performed in accordance with the provisions of Sections 24-120 through 24-143 of this Chapter but shall not be construed to prevent the enforcement of other laws which prescribe more restrictive limitations, nor shall the provisions of Sections 24-120 through 24-143 of this Chapter be presumed to waive any limitations imposed by other statutes or ordinances.

SECTION 17. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-136 pertaining to Construction and Post-Construction Stormwater Management; Scope and which shall read as follows:

Sec. 24-136. Construction and Post-Construction Stormwater Management: Scope

Sections 24-120 through 24-143 of this Chapter set forth rules and regulations for erosion and sediment control and stormwater management during and following construction activities; establish the administrative procedures of Sections 24-120 through 24-143 of this Chapter; and provide for approval of plans, specifications, and inspection of construction activities and stormwater management controls.

SECTION 18. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-137 pertaining to Construction and Post-Construction Stormwater Management; Applicability and which shall read as follows:

Sec. 24-137. Construction and Post-Construction Stormwater Management: Applicability

(a) To prevent the adverse impacts of stormwater runoff, the City requires that certain performance standards must be met at new development or redevelopment sites.

(b) Sections 24-120 through 24-143 of this Chapter shall be applicable to all subdivision or site plan applications that meet the minimum applicability criteria for coverage under the AZPDES Construction General Permit, unless eligible for a waiver as described in the Permit.

(c) The Construction General Permit applies to construction activities that disturb one or more acres of land and to the disturbance of less than one acre of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb one acre of land or more, even though multiple

separate and distinct land development activities may take place at different times on different schedules.

(d) Unless the City Manager determines that there is a federal/state mandate addressing these activities or there will be an impact to the City's storm water system, the following activities are exempt from these stormwater performance criteria.

(1) Agricultural activity.

(2) Activities related to oil and gas exploration.

(3) Additions or modifications to existing single family structures.

(4) Developments that disturb less than one acre of land, provided they are not part of a larger common development plan.

(5) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a roadway or drainage facility.

SECTION 19. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-138 pertaining to Construction and Post-Construction Stormwater Management; Requirements for Submittal of Stormwater Management Plans and which shall read as follows:

Sec. 24-138. Construction and Post-Construction Stormwater Management; Requirements for Submittal of Stormwater Management Plans

(a) Any person ("applicant") applying for a permit, authorization, license, or permission for construction activity that will disturb one or more acres of land shall prepare a Stormwater Management Plan (SWMP) for the management of stormwater discharges.

(b) The applicant shall refer to the Drainage Design Manual for Maricopa County Volume III Erosion Control for guidance in BMP selection and SWMP development.

(c) The SWMP must indicate the addresses and legal description of the project location.

(d) Along with the SWMP, the applicant shall submit to the City a copy of an accurate and complete (including signature and authorization number) NOI issued to ADEQ to seek coverage under the Construction General Permit.

(e) In addition to the requirements of the AZPDES Construction General Permit, the SWMP submitted to the City shall include, at a minimum, all of the following information:

(1) Cover sheet on plans of more than two sheets.

(2) Site information containing all of the following information (to be included on the first/cover sheet):

a. Project title block with name and address of project.

b. Address and legal description of project location.

c. Total site area.

d. Vicinity map with north arrow.

e. Index of plan sheets if more than one plan sheet.

f. Owner's/developer's name, address, and telephone number.

g. Engineer's name, address, and telephone numbers.

h. Contractor's name, address, and telephone number. If contractor is not known, leave this area blank for future completion.

(3) Two sets of plans (sheets to be 24" x 36") satisfying all of the following standards:

a. Original plan sheets shall be sufficiently clear to allow legible prints to be reproduced. The size of lettering and symbols shall be 1/8 inch minimum.

b. All sheets shall have the qualified Arizona registrants seal and original signature prior to approval.

c. All sheets shall have the qualified Arizona registrants seal and original signature prior to approval.

(4) The contractor's certification.

- (5) Appropriate City Plan Review numbers from the City Manager.
- (6) Maricopa County Rule 310 permit number.
- (7) A legend identifying grades, symbols, lines, and other information.
- (8) Separate stormwater management plans shall be submitted with the grading and drainage plan at the time of second review.
- (9) Additional notes, as required by the City Stormwater Pollution Prevention Plan guidance document, available from the City Manager.
- (10) The SWMP certification per the Construction General Permit and the City Stormwater Pollution Prevention Plan guidance document.
- (11) A construction activity description.
- (12) Final slope grades.
- (13) Final drainage patterns.
- (14) Locations and size of disturbed areas.
- (15) Locations of undisturbed areas.
- (16) Drainage patterns.
- (17) Offsite flows.
- (18) Erosion and sediment controls.
- (19) BMP information and details.
- (20) Location of sediment basins.
- (21) Description of Other Controls.
- (22) Description of post-construction management measures.
- (23) Description of future activities.
- (24) Locations of controls.

(25) Inspection and maintenance plan.

(26) Description of controls.

(27) The sequence of major activities.

SECTION 20. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-139 pertaining to Construction and Post-Construction Stormwater Management; City Review of Stormwater Management Plan Submittals and which shall read as follows:

Sec. 24-139. Construction and Post-Construction Stormwater Management; City Review of Stormwater Management Plan Submittals

(a) The applicant shall provide an accurate and complete SWMP to the City for review.

(b) The City Manager will review the submitted SWMP using a standard checklist to identify whether all required elements for the SWMP have been submitted.

(c) If the City Manager determines that the submitted SWMP is inadequate to prevent sediment from reaching Waters of the State, adjacent property, or the public right-of-way, the City Manager may authorize and require additional Best Management Practices (BMPs) in order to conclude that all required elements for the SWMP have been met. The City Manager may reject the submitted SWMP if the applicant is unable to meet the required elements.

(d) The City Manager shall not issue any permits until the SWMP has been approved.

SECTION 21. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-140 pertaining to Construction and Post-Construction Stormwater Management; Requirement to install and Maintain Erosion and Sediment Control Measures and which shall read as follows:

Sec. 24-140. Construction and Post-Construction Stormwater Management; Requirement to install and Maintain Erosion and Sediment Control Measures

(a) All land-disturbing activities at a construction site shall be completed in accordance with a permitted SWMP.

(b) The permittee shall implement all BMPs as described in the SWMP and shall periodically conduct site inspections to ensure that the BMPs are operating correctly and have not been damaged and/or altered.

SECTION 22. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-141 pertaining to Construction and Post-Construction Stormwater Management; Permittee Construction Site Inspections and which shall read as follows:

Sec. 24-141. Construction and Post-Construction Stormwater Management; Permittee Construction Site Inspections

(a) The permittee shall make regular inspections of all control measures in accordance with the inspection schedule outlined in the approved SWMP, as required by AZPDES regulations.

(1) The purpose of such inspections will be to determine the overall effectiveness of the SWMP and the need for additional control measures.

(2) All inspections shall occur at the time interval specified in the SWMP and shall be documented in written form and maintained with the SWMP in chronological order within 24 hours of the inspection.

(b) This Section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

SECTION 23. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-142 pertaining to Construction and Post-Construction Stormwater Management; Operation and Management of All Existing and New Post-Construction Stormwater Structures and which shall read as follows:

Sec. 24-142. Construction and Post-Construction Stormwater Management; Operation and Management of All Existing and New Post-Construction Stormwater Structures

(a) All stormwater management practices shall be designed to convey stormwater to allow for the maximum removal of pollutants and reduction in flow velocities. This shall include but not be limited to all of the following goals:

- (1) Maximizing of flowpaths from inflow points to outflow points.
- (2) Protection of inlet and outfall structures.
- (3) Elimination of erosive flow velocities.
- (4) Providing of underdrain systems, where applicable.

(b) All existing and new drywells located within the City shall be registered, per State law, with ADEQ.

- (1) The drywell owner shall provide the City with the drywell registration information.
- (2) No sooner than one year and within three years of the drywell in operation, the drywell owner shall submit to the City the appropriate administration fee and documentation of an inspection of the drywell.
- (3) The inspection shall be conducted by a professional engineer or landscape architect properly registered with the Arizona Board of Technical Registration or licensed contractor by the Registrar of Contractors, identified to conduct drywell inspections.
- (4) Upon inspection of a drywell, if repair and/or maintenance of the drywell are necessary, proof of the repair and/or maintenance of the drywell must be provided to the City within four months of the inspection.
- (5) Subsequent drywell inspections and applicable administrative fees and submittals to the City shall be completed every five years.

(c) Drainage basins shall be designed based on the Drainage Design Manual for Maricopa County Volume III Erosion Control and shall be drained within 36 hours of a storm event. In the case that the drainage basin does not meet the appropriate standards, the City will determine the appropriate actions deemed necessary to meet

the standard outlined in the Drainage Design Manual for Maricopa County Volume III Erosion Control.

SECTION 24. Chapter 24 of the Peoria City Code (1992) is amended by enacting Section 24-143 pertaining to Construction and Post-Construction Stormwater Management; Completion of Work and which shall read as follows:

Sec. 24-143. Construction and Post-Construction Stormwater Management: Completion of Work

When construction activities have been completed and the site has met the final stabilization requirements of the Construction General Permit, the authorized site representative may file a Notice of Termination (NOT) with ADEQ, with a copy submitted to the City Manager, to terminate coverage under the SWMP permit.

SECTION 25. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 26. This Ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 2nd day of February, 2010.

Dated: _____

Bob Barrett, Mayor

ATTEST:

Mary Jo Waddell, City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

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