



# MARICOPA COUNTY STORMWATER QUALITY MANAGEMENT AND DISCHARGE CONTROL REGULATION

---

[C-88-09-008-7-00](#)

**PROPOSED MARICOPA COUNTY STORMWATER QUALITY MANAGEMENT AND  
DISCHARGE CONTROL REGULATION AMENDMENTS**

<b><u>1. Sections Affected</u></b>	<b><u>Rulemaking Action</u></b>
Table of Contents	Amended
Introduction	Amended
101	Amended
102	Amended
103	Amended
104	Amended
202	Amended
206	Amended
Definitions	Amended and New
Chapter 4	Amended
501	Amended
502	Amended
601	Amended
602	Amended
603	Amended
604	Amended
701	Amended
Chapter 8	Amended
901	Amended
1001	Amended
1002	Amended
1003	Amended
1004	Amended
1005	Deleted
1006	Amended
1007	Amended
1008	Amended
1009	Amended
1010	Deleted
1011	Amended
1101	Amended
1102	Amended
1103	Amended
1104	Amended
1105	Amended
1106	Amended
1107	Amended
1108	Amended
1109	Amended
Chapter 12	Amended

Table of Contents

<b>CHAPTER 1 – INTRODUCTION</b> .....	4
<u>Section</u>	
101 – Statutory Authorization.....	4
102 – Title.....	5
103 – Required Permit for County.....	5
104 – Statement of Purpose and Objectives.....	5
<b>CHAPTER 2 – RULES OF CONSTRUCTION AND INTERPRETATION</b> .....	5
<u>Section</u>	
201 – General Rules for Construction of Language.....	5
202 – Responsibility for Administration.....	5
203 – Compatibility with other Regulations.....	6
204 – Severability.....	6
205 – Disclaimer.....	6
206 – Other Regulatory Requirements.....	6
<b>CHAPTER 3 – DEFINITIONS</b> .....	7
<b>CHAPTER 4 – APPLICABILITY</b> .....	10
<b>CHAPTER 5 – ILLICIT NON-STORMWATER DRAINAGE AND CONNECTIONS</b> .....	10
<u>Section</u>	
501 – Prohibition of Non-Stormwater Drainage.....	10
502 - Prohibition of Illicit Connections.....	10
<b>CHAPTER 6 – CONSTRUCTION SITE STORMWATER RUNOFF POLLUTION CONTROL</b> .....	11
<u>Section</u>	
601 – Introduction.....	11
602 – Construction Site Regulation.....	11
603 - Exemptions.....	12
604 - Transfers of Approvals.....	12
605 - Termination of Coverage.....	12
606 – Compliance Monitoring.....	12
<b>CHAPTER 7 - INDUSTRIAL ACTIVITY DISCHARGES</b> .....	12
<u>Section</u>	
701 - Submission of NOI or Other Proof of Compliance to Department.....	12
<b>CHAPTER 8 – REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES</b> .....	13
<b>CHAPTER 9 – NOTIFICATION OF SPILLS</b> .....	13
<b>CHAPTER 10 – VIOLATIONS, ENFORCEMENT, PENALTIES AND AUTHORITY</b> .....	14

<u>Section</u>	
1001 - Violations.....	14
1002 – Letter of Outstanding Violation .....	14
1003 – Consent Order .....	14
1004 – Compliance Order.....	15
1005 - Cease and Desist Orders .....	16
1006 – Injunctive Relief.....	16
1007 - Suspension and Revocation of Approvals or Permits.....	17
1008 - Civil Penalties.....	19
1009 - Criminal Violations .....	19
1010 – Abatement Assessment and Lien .....	19
1011 – Remedies Not Exclusive .....	20
<b>CHAPTER 11 – POST-CONSTRUCTION STORMWATER MANAGEMENT.....</b>	<b>20</b>
<u>Section</u>	
1101 - Introduction .....	20
1102 - Objectives .....	20
1103 – Regulated Activities.....	21
1104 – General Requirements.....	22
1105 – Permanent Stormwater Management Design Standards .....	23
1106 – Construction and Operation Responsibilities.....	23
1107 – Ownership and Maintenance.....	25
1108 – Operation and Maintenance Plans.....	26
1109 – Drainage Provisions and Flood Control Regulations.....	28
<b>CHAPTER 12 – FEES .....</b>	<b>28</b>
<b>CHAPTER 13 – EFFECTIVE DATE AND ADOPTION OF REGULATION.....</b>	<b>29</b>

**CHAPTER 1 – INTRODUCTION**

Maricopa County (County) meets the minimum federal requirements for designation by the United States Environmental Protection Agency (EPA) as a small Municipal Separate Storm Sewer System Operator or MS4. As a small MS4, the County is required by the Federal Water Pollution Control Act of 1972, commonly known as the Clean Water Act (as amended), to implement and enforce a program to improve to the maximum extent practicable the quality of Stormwater in the County’s Stormwater ~~conveyance~~ Management System within the Unincorporated Urbanized areas of the County.

**101 – Statutory Authorization**

~~The Maricopa~~ County may enact a Stormwater regulation pursuant to A.R.S. 11-251.66, and A.R.S. 49-371 and A.R.S. 49-372. ~~The Maricopa~~ County, as a Municipal Separate Storm Sewer System under Phase II of the National Pollutant Discharge Elimination System

(NPDES) Stormwater program of the Environmental Protection Agency (EPA) is empowered to regulate Stormwater by the authority of the Clean Water Act, 33 U.S.C. Sec. 1251 et seq.

**102 – Title**

This Regulation shall be known as the Maricopa County Stormwater Quality Management and Discharge Control Regulation (Regulation).

**103 – Required Permit for County**

~~There are~~ The following six minimum Stormwater control criteria are required in the Phase II program by the federal regulations found at 40 CFR 122.34 and in the Arizona Phase II Permit: ~~They are:~~

1. No Change
2. No Change
3. ~~Illicit drainage~~ Discharge detection and elimination;
4. No Change
5. No Change
6. No Change

This Regulation meets Phase II Permit requirements three, four and five. Requirements one, two and six ~~are applicable~~ apply to the Maricopa County and do not require the adoption of language to regulate activities by others within ~~the~~ County areas covered by the Phase II Permit.

**104 – Statement of Purpose and Objectives**

The purpose of this Regulation is to provide for the health, safety, and general welfare of the citizens of the Maricopa County through the prohibition of the introduction of Non-Stormwater drainages to the Stormwater Drainage System to the maximum extent practicable as required by federal and state law. This Regulation will also protect Waters of the U.S. within the Maricopa County by improving the quality of the Stormwater runoff from Urbanized areas to the County-owned System by means of the use of Best Management Practices (BMPs) by the County and its citizens.

This Regulation ensures that the County is compliant with its Arizona Pollutant Discharge and Elimination System (AZPDES) Permit requirements by establishing methods for controlling the introduction of Pollutants into the County’s municipal separate storm sewer System (MS4). The objectives of this Regulation are:

1. No Change
2. No Change
3. No Change

**CHAPTER 2 – RULES OF CONSTRUCTION AND INTERPRETATION**

**201 – No Change**

**202 – Responsibility for Administration**

~~The Maricopa~~ County shall administer, implement, and enforce the provisions of this Regulation. Any powers granted or duties imposed upon ~~the Maricopa~~ County may be delegated in writing by the County Board of Supervisors of ~~Maricopa County~~ to entities acting in the beneficial interest of or in the employ of the County. ~~The Maricopa~~ County has designated the Director of the Environmental Services Department (Department) or his/her authorized agent to administer this program.

**203** – No Change

**204** – No Change

**205** – No Change

**206 – Other Regulatory Requirements**

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

**206.1 County Permits and Approvals**

An application for any discretionary Approvals or Permits ~~or Approvals~~ issued by the County shall be accompanied by plans demonstrating how the development project will comply with the requirements of this Regulation. The Approval or Permit ~~or Approval~~ shall not be granted unless the decision maker determines that the development project complies with the applicable requirements of this Regulation. If a Person applies for any one Permit from ~~the Maricopa~~ County, that Person is not relieved from the obligation to obtain any other applicable County Permit or Permits. The following list is not exhaustive and additional programs may be included by the Department.

- A. No Change
- B. No Change
- C. No Change
- D. No Change
- E. No Change
- F. No Change
- G. No Change
- H. No Change
- I. No Change
- J. No Change
- K. No Change
- L. No Change
- M. No Change
- N. No Change

- O. No Change
- P. No Change
- Q. No Change
- R. No Change
- S. No Change
- T. No Change
- U. No Change
- V. No Change

### CHAPTER 3 – DEFINITIONS

For the purpose of this Regulation, the following definitions shall apply:

- 1. No Change
- 2. No Change
- 3. No Change
- 4. No Change
- 5. No Change
- 6. No Change
- 7. No Change
- 8. No Change
- 9. No Change
- 10. No Change
- 11. No Change
- 12. No Change
- 13. No Change
- 14. No Change
- 15. No Change
- 16. **ILLEGAL DRAINAGE:** (Also means Illicit Discharge). Any direct or indirect Non-Stormwater Drainage to the County MS4 or a Storm Drainage System connected to the MS4 except as exempted in Section 501 of this Regulation.
- 17. No Change
- 18. No Change
- 19. No Change
- 20. No Change
- 21. No Change
- 22. No Change

**23. MAXIMUM EXTENT PRACTICABLE (MEP):** As defined in the Arizona Pollutant Discharge Elimination System General Permit for Discharge From Small Municipal Separate Storm Sewer Systems to Waters of the United States, the technology-based discharge standard for Municipal Separate Storm Sewer Systems to reduce Pollutants in Stormwater discharges. A discussion of MEP as it applies to small MS4s is found at 40 CFR 122.34. CWA section 402(p)(3)(B)(iii) requires that a municipal Permit shall require controls to reduce the discharges of Pollutants to the Maximum Extent Practicable, including management practices, control techniques and system design, and engineering methods, and other provisions that the state determines appropriate for the control of such Pollutants.

**24. ~~23.~~MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4):** ~~The system of conveyances (including sidewalks, roads with Drainage Systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, natural conveyances or storm drains) owned or operated by Maricopa County and designed or used for collecting or conveying Stormwater, and that is not used for collecting or conveying Sewage. Also the County MS4.~~ Means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, and storm drains):

1. Owned or operated by a state, city, town, county, district, association, or other public body (created by a pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the Clean Water Act (33 U.S.C. 1288) that discharges to waters of the United States;
2. Designed or used for collecting or conveying stormwater;
3. That is not a combined sewer; and
4. That is not part of a publicly owned treatment works.

**25. ~~24.~~NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT:** No Change

**26. ~~25.~~NON-STORMWATER DRAINAGE:** No Change

**27. ~~26.~~NPDES:** No Change

**28. ~~27.~~NUISANCE:** The unreasonable or unlawful use of real or personal property that results in an unreasonable interference with the rights and enjoyment of the Owner or possessor of adjoining land or with the rights of the general public, such as creating a condition dangerous to public health or obstructing the public in the free use of public property. ~~that may obstruct or injure the right of another or the public and producing such Material annoyance, inconvenience, discomfort, or hurt, that the Director presumes such use will result in damage. This definition~~ The meaning of Nuisance includes the conditions listed in A.R.S. 36-601 (public nuisances dangerous to the public health), 49-141 (environmental as public nuisances dangerous to public health, and 13-2917 (public nuisances).

**29. ~~28.~~OPERATOR:** No Change

**30. ~~29.~~OWNER:** No Change

**31. ~~30.~~PERMIT:** No Change

**32. ~~31.~~PERMITTEE:** No Change

**33. ~~32.~~PERSON:** No Change

**34. ~~33.~~POLLUTANT:** No Change

**35. ~~34.~~POST-CONSTRUCTION:** For purposes of this Regulation is that regulated category of construction for new developments and redevelopments which results in the establishment of permanent Stormwater pollution prevention devices, or structural BMPs, built in compliance to Maricopa County's design standards and also includes long-term operations and maintenance (O&M) programs, or ~~non-~~non-structural BMPs, to be permanently associated with the Stormwater pollution prevention devices or controls at the new development upon completion of the land disturbing activity.

**36. ~~35.~~ POST-CONSTRUCTION PERMIT:** A document issued by the Department evidencing its satisfactory completion of the final inspection of pertinent permanent BMPs and its approval of any Operation and Maintenance (O&M) Plans associated with the subject property after all construction activity is complete and final site stabilization has been achieved. A Post-Construction Permit shall be issued to the Owner of the property as the party responsible for the permanent operational and maintenance aspect(s) of the Post-Construction BMP's. The Owner of the property shall have a Post-Construction Permit in his or her possession prior to recording the O&M Plan and Maintenance Agreement with the County Recorder.

**37. ~~36.~~POST-CONSTRUCTION SITE PLAN:** No Change

**38. ~~37.~~PRE-CONSTRUCTION AND CONSTRUCTION PHASE SITE PLAN:** No Change

**39. ~~38.~~PREMISES:** No Change

**40. ~~39.~~ REDEVELOPMENT:** Projects that alter the "footprint" of an existing site or building in such a way that there is a Disturbance of equal to greater than 1 acre of land. Redevelopment projects do not include such activities as exterior remodeling, which would not be expected to cause adverse Stormwater Quality impacts and offer no new opportunity for Stormwater controls.

**41. ~~40.~~SEWAGE:** No Change

**42. ~~41.~~STORM DRAINAGE SYSTEM:** Public and private Drainage Facilities other than sanitary sewers within the ~~Urbanized~~, Unincorporated area of Maricopa County by which Stormwater is collected and/or conveyed to the County MS4, including but not limited to any roads with Drainage Systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping Facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

**43. ~~42.~~STORMWATER:** No Change

**44. ~~43.~~ STORMWATER APPROVAL:** Also referred to herein as "an" or "the Approval" and the "Pre-Construction Approval of Best Management Practices" issued to the Owner/Operator of the construction site by the Department to indicate the Department's Approval of the installed Pre-Construction BMB's. The Owner/Operator shall obtain this Approval prior to the commencement of any construction activities at the site.

**45. ~~44.~~ STORMWATER MANAGEMENT PLAN (SWMP):** A document submitted on a Department form or in a Department approved format which describes the Best Management Practices and activities and measures to be implemented by a Person or business to identify sources of pollution or contamination at a site and the actions and measures to eliminate or reduce the introduction of Pollutants to Stormwater, the County MS4, or Storm Drainage Systems connected to the MS4 to the maximum extent practicable (MEP).

**45. STORMWATER MANAGEMENT SYSTEM:** A system, device, series of devices or operational procedures singly or in combination designed for water quality improvement and/or conveyance of Stormwater.

**46. ~~41~~SWPPP:** No Change

**47. ~~42~~UNINCORPORATED MARICOPA COUNTY:** That portion of the County which has not been recorded as incorporated.

**48. ~~43~~URBANIZED AREA:** No Change

**49. ~~44~~WASTEWATER:** No Change

**50. ~~45~~WATERS OF THE U.S.:** No Change

#### **CHAPTER 4 – APPLICABILITY**

~~This~~ Chapters 6 and 11 of this Regulation ~~applies~~ apply only to ~~all~~ areas of Urbanized Unincorporated Maricopa County as defined herein and depicted by the most recent U.S. Census published “Urbanized” area (UA) map for Maricopa County and as may be identified by future Decennial Census.

~~This~~ Otherwise this Regulation applies to all areas of the Unincorporated Maricopa County where water and/or any Pollutant enter(s) entering the County MS4 or Storm Drainage System connected to the MS4 ~~in the Urbanized areas of in~~ the County and generated on any developed and undeveloped lands unless explicitly exempted in this Regulation. ~~This section is not intended to control pollution from incorporated areas of the County nor is it intended to apply to the non-urbanized areas of the County as defined herein~~ Polluted Stormwater and any non-Stormwater may not be Discharged to the County’s Stormwater Drainage System or MS4.

#### **CHAPTER 5 – ILLICIT NON-STORMWATER DRAINAGE AND CONNECTIONS**

##### **501 – Prohibition of Non-Stormwater Drainage**

No change

##### **502 - Prohibition of Illicit Connections**

**1.** No Change

**2.** No Change

**3.** No Change

**4.** No Change

**5.** Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the Storm ~~Sewer~~ Drainage System, shall be located by the Owner or occupant of that property upon receipt of written Letter of Outstanding Violation (LOV) from the Department requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of Connection to the Storm ~~sewer~~ Drainage System, sanitary sewer System or other drainage point be identified. Results of these investigations are to be documented and provided to the Department.

## CHAPTER 6 – CONSTRUCTION SITE STORMWATER RUNOFF POLLUTION CONTROL

### 601 – Introduction

Runoff from construction sites may be a major source of pollution and is subject to federal, state and local requirements to improve Stormwater quality. With few exceptions, these requirements will include the development and implementation of a ~~Stormwater Pollution Prevention Plan (SWPPP)~~ for every construction activity as defined herein within the Urbanized Unincorporated areas of the County. SWPPPs are to be prepared prior to the NOI filing with ADEQ. That SWPPP may be reviewed by the ~~State~~ ADEQ. SWPPPs may be reviewed ~~at the construction site~~ by the Department. Stormwater treatment measures known as “Best Management Practices” or BMPs may be required along with inspections by the County or ~~State~~ ADEQ to determine compliance with the SWPPP and the installation and management of the BMPs.

In accordance with its own ADEQ Permit requiring it to reduce construction site Stormwater pollution in its Urbanized area, ~~the Maricopa~~ County has established a construction site or land Disturbance Pre-Construction and Construction phase Approval process administered by the Maricopa County Environmental Services Department.

### 602 – Construction Site Regulation

1. An Owner or Operator who intends to disturb an area of land that is equal to or greater than one acre, or that is less than one acre but is part of a larger plan of development shall obtain Permit coverage from the ~~Arizona Department of Environmental Quality~~ ADEQ. A copy of the Notice of Intent (NOI) to be bound by the ~~State~~ ADEQ's general construction Permit, or evidence of the State's construction Permit obtained by the Owner or Operator, must be filed with the Department prior to the start of the land Disturbance as required by ADEQ.
2. An Owner or Operator who intends to disturb an area of land at least partially within the Urbanized Area of the Unincorporated Maricopa County and that is equal to or greater than one acre, or that is less than one acre but is part of a larger plan of development that disturbs one or more acres of soil, must also obtain an Approval from the Department and pay any applicable fees set by the Department. This dual system of regulation is as required by Federal law, 40 CFR122.34.b.4.i, and by the general Permit for the ~~Maricopa~~ County MS4 issued by the ~~Arizona Department of Environmental Quality~~ ADEQ, Part V.B.4.a.
3. No Change
4. A copy of the Stormwater Approval and the SWPPP for the construction must be kept on the site or be available on the site during all work times.
5. To obtain an Approval the Owner or Operator must complete the following:
  - A. No Change
  - B. This pre-construction and construction phase Stormwater Site Plan must consider possible water quality impacts and explain in sufficient detail the construction Best Management Practices to be followed by the Owner or Operator and all who work on the site. The site plan defines the BMPs to ensure that Erosion will be minimized, sediment transport managed and that controls for other wastes are in place during the construction process.
  - C. This Stormwater Site Plan(s) will be reviewed by the Department and returned with any comments or a letter of acceptance of the plans.

D. After changes have been made to the Stormwater Site Plan(s) to address the Department's comments, the revised Plan(s) shall be resubmitted for review.

- ~~6.~~ The SWPPP for the construction site is to remain at the site and is to be made available to the Department. At the start of construction and during construction the Department may inspect any site to determine that the SWPPP for the site is being followed and that the indicated BMPs have been properly installed and satisfactorily maintained. If the SWPPP has not been implemented and/or if the BMPs on site have not been satisfactorily installed or maintained the Department will notify the Owner or Operator of the deficiencies. ~~If the Owner or Operator has failed to address satisfactorily these issues within 7 days of notification of deficiencies a compliance order will be issued by the Department and a complaint shall be referred to the County Attorney as provided herein and in A.R.S. 49-261. The Department may also seek an injunction to stop the work as provided herein and civil penalties or criminal penalties.~~

### **603 - Exemptions**

Coverage under a Department Stormwater Approval for construction is not required for sites over one acre for:

1. Regular maintenance activities disturbing less than five acres and performed within the original line, grade or capacity of a Facility.
2. No Change
3. No Change
4. No Change
5. No Change
6. No Change

### **604 - Transfers of Approvals**

An Approval may be transferred by the submittal of a Department transfer of coverage form that includes assurances by the new Owner/Operator that the approved SWPPP and BMP requirements will be met. A separate administrative fee applies to transfers of ownership.

### **605 - Termination of Coverage**

No Change

### **606 – Compliance Monitoring**

No Change

## **CHAPTER 7 - INDUSTRIAL ACTIVITY DISCHARGES**

### **701 - Submission of NOI or Other Proof of Compliance to Department**

1. No Change
2. The Operator of a Facility required to have an individual NPDES or AZPDES Permit to discharge Stormwater associated with industrial activity shall submit proof of the Permit, or if under a general Permit, a copy of the Notice of Intent (NOI) to the address shown in 701(3) below at the same time the Operator submits the original Notice of Intent to the EPA or ~~Arizona Department of Environmental Quality~~ ADEQ as applicable.

- ~~3.~~ The copy of the Notice of Intent may be delivered to the Department either in Person or by mailing it to the Maricopa County Department of Environmental Services Department, 1001 N. Central Avenue, PHOENIX AZ 85004.
4. Any Owner or Operator of a Facility or Person found owning or operating a Facility or owning a site which is not exempt, does not have an NPDES or AZPDES Permit, and is discharging Stormwater associated with industrial activity within the Unincorporated Urbanized County MS4 shall be reported to the ~~Environmental Protection Agency EPA~~ and/or the ~~Arizona Department of Environmental Quality ADEQ.~~

## **CHAPTER 8 – REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES**

1. Any activity, operation, or Facility that may cause or contribute to pollution or contamination of Stormwater that discharges to any Storm Drainage System connected to the MS4 or the County MS4 in the Unincorporated ~~Urbanized~~ areas of the County must implement ~~Best Management Practices BMPs~~ for Stormwater. The Owner or Operator of such activity, operation, site or Facility shall provide, at their own expense, reasonable protection from accidental introduction of ~~Pollutants prohibited Materials or other wastes~~ into any Storm Drainage System or County MS4 using ~~Best Management Practices BMPs~~. These BMPs shall be part of a Stormwater Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of ~~the any applicable~~ AZPDES Permit.
2. Any Person responsible for a property or premise that is, or may be, the source of illegal Non-Stormwater Drainage as ~~described~~ defined in ~~subsection 1~~ Chapter 3, may be required to implement, at said Person's expense, additional BMPs to prevent the further drainage of Pollutants.
3. Compliance with all terms and conditions of a valid NPDES or AZPDES Permit authorizing the discharge of Stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this ~~section~~ Chapter.

## **CHAPTER 9 – NOTIFICATION OF SPILLS**

1. Notwithstanding other requirements of law, as soon as any Person responsible for a Facility, site or operation, including construction sites, or responsible for emergency response for a Facility, site or operation has information of any known or suspected release of Materials which are resulting or may result in the illegal introduction of Pollutants into a Storm Drainage System connected to the MS4 or the County MS4 shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of Hazardous Materials, said Person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-Hazardous Materials, said Person shall notify the Department in Person, by phone or by e-mail or facsimile no later than the next day. Notifications in Person or by phone shall be confirmed by written notice addressed and mailed to the Department within ten calendar days of the phone notice. If ~~prohibited Materials~~ Pollutants emanate from a commercial or industrial establishment, the Owner or Operator of such establishment shall also retain an on-site written record of the release and the actions taken to prevent its recurrence. Such records shall be retained for at least one year or as may otherwise be required by applicable state or federal law.
2. No Change

## CHAPTER 10 – VIOLATIONS, ENFORCEMENT, PENALTIES AND AUTHORITY

### 1001 - Violations

1. It is unlawful for any Person to violate any provision or fail to comply with any of the requirements of this Regulation. Any Person who violates or continues to violate any provision of this Regulation or A.R.S. 49-371, -372, -261, -262, or -263 is subject to the enforcement actions provided herein.
2. If a violation of this Regulation is a Nuisance or a violation of another law or regulation of the Environmental Health Code, the Director may exercise its rights under A.R.S. 36-601, -602, -183.04, -183.05, -183.06, and any other applicable state, federal, and local law, rule, regulation, and ordinance. If a violation is a nuisance, source of filth, or cause of sickness, the Director may order the Owner or occupant to remove it within 24 hours at the expense of the Owner or occupant. Notwithstanding any other provisions of this Regulation, any condition caused or permitted to exist in violation of any of the provisions of this Regulation is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

### 1002 – Letter of Outstanding Violation (LOV)

1. The LOV is an informal enforcement tool used primarily to notify the Owner/Operator of what the Department considers to be a minor violation.
2. If the Director has reason to believe that any Person has violated or continues to violate any provision of this Regulation, any Stormwater Approval, or any Permit, the Director may serve that Person with an LOV, which shall specify the particular violation and direct the Person to immediately investigate the matter and correct the violation within the time period stated in the LOV. When the Director finds that any Person has violated, or continues to violate, any provision of this Regulation, any order issued hereunder, any Approval, or any condition of a Permit, the Director may serve upon that Person a written Letter Of Outstanding Violation, specifying the particular violation believed to have occurred and requesting the Person to immediately investigate the matter and to seek a resolution whereby any unlawful acts will cease.
3. The investigation and/or correction of the matter in response to an LOV does not relieve or diminish the Person's liability for any violation that occurred before or occurs after receipt of the LOV. Nothing in this subsection limits the authority of the Director to take any action, including an emergency action or any other enforcement action, without first issuing an LOV. Investigation and/or resolution of the matter in response to a Letter of Outstanding Violation in no way relieve the alleged violator of liability for any violations occurring before or after receipt of the Letter of Outstanding Violation. Nothing in this subsection shall limit the authority of the Director to take any action, including emergency action or any other enforcement action, without first issuing a Letter of Outstanding Violation.

### 1003 – Settlement Agreement

The Director may enter into a Settlement Agreement that resolves the Person's liability to the County. A Settlement Agreement may include civil and/or criminal penalties, and the reimbursement of all costs and expenses incurred by the Department in connection with the violation. After a Letter of Outstanding Violation the Director may enter into an order settling the issuance of the Letter of Outstanding Violation. The Director may agree to accept monetary payments as part of the negotiated terms of a consent order. The terms of a consent order shall be determined by the agreement of the parties.

**1004 – Compliance Order (A.R.S. 49-261)**

1. If the Director has reason to believe that a Person has violated any provision of this Regulation, any order issued by the Department hereunder, a Stormwater Approval, or any Permit, the Director may issue a Compliance Order. The Compliance Order shall be served on the Person by Certified Mail, return receipt requested, or by personal service. Whenever the Director finds that a Person has violated a prohibition or failed to meet a requirement of this Regulation, any order issued hereunder, an Approval, or a condition of a Permit, the Director may order compliance by issuance of a Compliance Order. The Compliance Order shall be transmitted to the alleged violator by certified mail, return receipt requested, or by personal service.

A. The Compliance Order shall contain:

1. The name and address of the Person alleged violator;
2. The address or a description of the construction site or other Facility, building, structure, or land where the believed violation is occurring or has occurred. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures the Person shall take in order to resolve the violation and come into compliance with this Regulation and a reasonable period of time to complete the remedial measures. A description of the remedial measures necessary to restore compliance with this Regulation and a reasonable time schedule for the completion of such remedial action;
5. ~~A statement of the penalty amount;~~
5. A statement that the Person may request a hearing before an administrative law judge on the Compliance Order by filing a written request for a hearing with the Department not more than thirty (30) calendar days after service of the Compliance Order. A statement that the Compliance Order may be appealed to Maricopa County by filing a written notice of appeal to Superior Court within 30 days of service of Letter Of Outstanding Violation; and
6. ~~A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work may be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.~~

B. A Compliance Order may require the Person: Such Compliance Order may require without limitation:

1. To perform monitoring, tests, analyses, and reporting. The performance of monitoring, analyses, and reporting;
2. To eliminate Illegal Drainage connections or drainage to the County's MS4 or any Storm Drainage System. The elimination of Illicit Connections or drainage to the County MS4 or any Storm Drainage System connected to the MS4;
3. To cease and desist all Illegal Drainage, practices, and/or operations. That violating drainage, practices, or operations shall cease and desist;
4. ~~Payment of a fine to cover administrative and remediation costs; and~~
4. To implement source control or treatment BMPs. The implementation of source control or treatment BMPs.

2. A Compliance Order becomes final and enforceable in the superior court unless within thirty calendar days after the receipt of the Order the Person requests a hearing before an administrative law judge. If a hearing is requested, the Order does not become final until the administrative law judge has issued a final decision on the appeal. Appeals shall be conducted according to A.R.S. 49-321. ~~A Compliance Order becomes final and enforceable in the Superior Court thirty days after it is served on the alleged violator.~~

#### **1005– Cease and Desist Orders**

1. ~~When the Director finds that any Person has violated, or continues to violate, any provision of this Regulation, any order issued hereunder, the terms of an Approval or Permit, or that the Person's past violations are likely to recur, and that the Person's violation(s) has (have) caused or contributed to an actual or threatened introduction of Pollutants to the County MS4 or any Storm Drainage System connected to the MS4 which reasonably appears to present an imminent or substantial endangerment to the health or welfare of Persons or to the environment, the Director may order the violator to immediately cease and desist all such violations and direct the violator to:~~
- ~~A. Immediately comply with all Regulation requirements; and~~
  - ~~B. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting the violating activity.~~
2. ~~Any Person notified of a Cease and Desist Order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering activity. In the event of a Person's failure to immediately comply with the emergency order, the Director may take such steps as deemed necessary to prevent or minimize harm to the County MS4 or any Storm Drainage Systems connected to the MS4 and/or endangerment to Persons or to the environment. The Director may allow the Person to commence its the activity when it has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless further proceedings are initiated against the discharger under this Regulation. A Person that is responsible, in whole or in part, for any activity presenting imminent endangerment shall submit a SWPPP modification describing the causes of the harmful activity and the measures taken to prevent any future occurrence, to the Director within 48 hours of receipt of the order. Issuance of a Cease and Desist Order shall not be a bar against, or a prerequisite for, taking any other action against the violator.~~

#### **10065 – Injunctive Relief (A.R.S. 49-262)**

1. Whether or not a Person has requested a hearing, the Director, through the County Attorney, may file an action in the superior court requesting a temporary restraining order, a preliminary injunction, a permanent injunction, and/or any other relief if the Director has reason to believe any of the following has occurred: Whether or not a Person has requested a hearing, the Director, through the County Attorney, may request a temporary restraining order, a preliminary injunction, a permanent injunction, or any other relief necessary to protect the public health if the Director has reason to believe of the following:
- A. That a Person is in violation of:
    - 1. Any provision of this Regulation, or This Regulation
    - 2. A Pollutant limitation or any other condition of a Stormwater Approval or any Permit. A pollutant limitation or any other condition of an Approval or a Permit issued.
  - B. That a Person is creating an actual or potential endangerment to the public health or environment because of acts performed in violation of this Regulation. That a Person is

~~creating an actual or potential endangerment to the public health or environment because of acts performed in violation of this Regulation.~~

- ~~2. Notwithstanding any other provision of this Regulation, if the Director has reason to believe that a Person is creating an imminent and substantial endangerment to the public health or environment, or violating this Regulation, a Stormwater Approval, or any Permit, the Director, through the County Attorney, may file an action in the superior court requesting a temporary restraining order, a preliminary injunction, a permanent injunction, and/or any other relief the Director deems appropriate. Notwithstanding any other provision of this Regulation, if the Director through the County Attorney, has reason to believe that a Person is creating an imminent and substantial endangerment to the public health or environment because of acts performed, or violation of this Regulation, an Approval, or a condition of a Permit issued, the County Attorney may request a temporary restraining order, a preliminary injunction, a permanent injunction or any other relief necessary to protect the public health.~~
- ~~3. If a temporary restraining order is sought, the court may require the filing of a bond or equivalent security.~~

### **10076 - Suspension and Revocation of Approvals or Permits**

#### **1. Suspension of Approval or Permit:**

- A. ~~If the Director has reason to believe that a Person who holds a Stormwater Approval or any Permit has failed to comply with a LOV or is engaged in any actual or threatened activity that presents or may present imminent and substantial endangerment to the public health, the environment, to any Person, or to the County's MS4 or any Storm Drainage System, the Director may summarily and immediately suspend the Person's Stormwater Approval or Permit. Notice of a summary suspension shall be served on the Person by personal delivery or sent by registered or certified mail, return receipt requested, to the Person's last known address. When the Director finds that the holder of an Approval or Permit has failed to comply with a Letter Of Outstanding Violation of this Regulation or that an actual or threatened activity presents or may present imminent and substantial danger to the environment, or to the health or welfare of Persons, or to the County MS4 or any Storm Drainage System connected to the MS4, and incorporates a finding to that effect in the order, summary suspension of the Approval or Permit may be ordered pending proceedings for revocation or other action.~~
- B. ~~Within 15 days of being served with a notice of summary suspension, the Person may file a written request to vacate or modify the suspension order with the Department and the Director shall hear the request within 5 days. An order of summary suspension shall remain in effect for not more than 25 days. If the violation is not corrected within the 25 days, the Director may issue subsequent summary suspension orders. Upon suspension of the Approval or Permit, the holder of the Approval or Permit may immediately move to vacate the suspension order and the Director shall hear such motion within five (5) days. In no event may a summary suspension remain in effect for more than twenty five (25) days.~~
- C. ~~Upon suspension of Stormwater Approval or Permit, the Department may post the Department's red closed sign on the Person's construction Site or Facility advising the public that the Person's Stormwater Approval or Permit has been summarily suspended and the Person's access to the County's MS4 or any Storm Drainage System is prohibited. A Person's access to the County's MS4 or any Storm Drainage System shall not be reinstated without the prior written approval of the Director. Upon suspension of the Approval or Permit, the Premises will thereupon be posted to show the Permit suspension and access to the County MS4 will be prohibited. A Person commits an~~

~~offense if the Person reinstates County MS4 access to Premises terminated pursuant to this Section, without the prior Approval of the Director.~~

2. Revocation of Approval or Permit:

- A. ~~If the Director has reason to believe that a Person is violating or has violated this Regulation or its Stormwater Approval or any Permit, the Director may revoke the Person's Stormwater Approval or Permit. The Director may, after providing opportunity for hearing, revoke an Approval or Permit for violation of this Regulation or for interference with the regulatory authority in the performance of its duty.~~
- B. ~~Prior to revocation, the Director shall serve written notice on the Person stating the specific reason(s) for revoking the Stormwater Approval or Permit and that the Stormwater Approval or Permit shall be revoked 20 calendar days following service of the notice, unless the Person files a written request for a hearing with the Department within the 20 day notice period. If a timely request for a hearing is received, the Director shall hold a hearing as soon as practicable. The hearing shall be conducted in the same manner as hearings are conducted under A.R.S. 41-1061 to 1066. After the hearing, the Director shall affirm, modify, or revoke the notice of revocation. If a timely request for a hearing is not filed, revocation of the Approval or Permit is final after the 20 day notice period expires. Prior to revocation, the Director shall notify in writing the holder of the Approval or Permit, or the Person in charge, of the specific reason(s) for which the Approval or Permit is to be revoked and that the Approval or Permit shall be revoked at the end of the twenty (20) days following service of such notice unless a written request for hearing is filed with the regulatory authority by the holder of the merit within such twenty (20) day period, revocation of the Approval or Permit becomes final. If a request for hearing is timely filed, the hearing shall be held within twenty (20) days of receipt of the request.~~
- C. ~~When a notice of revocation is served, the Department may post a yellow public notice sign on the Person's construction Site or other Facility advising the public that the Person's Stormwater Approval or Permit may be revoked and the Person's access to the County's MS4 or any Storm Drainage System may be terminated. If the violator fails to comply with an order the Director may take action as deemed necessary to prevent or minimize damage to the County MS4 or any Storm Drainage System, or to minimize danger to the health and welfare of persons. A Person's access to the County's MS4 or any Storm Drainage System shall not be reinstated without the prior written approval of the Director. Upon delivery of notice of suspension of Approval or Permit revocation, the Premises will thereupon be posted to show the Permit revocation and access to the County MS4 will be prohibited. If the violator fails to comply with an order the Director may take action as deemed necessary to prevent or minimize damage to the County MS4 or any Storm Drainage System connected to the MS4, or to minimize danger to the health and welfare of Persons. An Owner or Operator commits a separate offense if the Person reinstates County MS4 access to Premises terminated pursuant to this Section, without the prior Approval of the Director.~~
- D. ~~A notice of revocation shall be deemed served and received on the date the notice is personally delivered to the Person or on the date the notice is sent by registered or certified mail, return receipt requested, to the Person's last known address. A copy of the notice shall be filed in the records of the Department. The notice shall comply with A.R.S. 41-1061(B). A notice of revocation is properly served when it is delivered to the holder of the Approval or Permit, or the Person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder. A~~

~~copy of the notice shall be filed in the records of the Department. The notice shall comply with the provisions of A.R.S. 41-1061.B.~~

- ~~3. Hearings held pursuant to the provisions of this Regulation shall be conducted in accordance with the requirements of A.R.S. 41-1061 et. seq.~~

**10087 - Civil Penalties (A.R.S. 49-371)**

~~1. This Regulation may provide for a civil penalty of not more than two thousand five hundred dollars (\$2,500) per day for each violation. The Director, through the County Attorney, may file an action in the superior court to recover civil penalties. A Person who violates any provision of this Regulation, an Approval or Permit issued hereunder, a discharge limitation in a Permit or a cease and desist or other order issued, is subject to a civil penalty of not to exceed two thousand five hundred dollars (\$2,500) per day per violation. The Director may request that the County Attorney commence an action in Superior Court to recover the civil penalties.~~

~~2. The court, in issuing any final order in any civil action brought under this section, may award costs of litigation, including reasonable attorney and expert witness fees, to any substantially prevailing party if the court determines such an award is appropriate.~~

**10098 - Criminal Violations (A.R.S. 49-263)**

~~1. It is unlawful to:~~

- ~~A. Discharge Stormwater without a Stormwater Approval, Permit, or appropriate written authority from the Department. Discharge without an Approval or Permit or appropriate authority.~~
- ~~B. Fail to monitor, sample or report discharges as required by under this Regulation.~~
- ~~C. No Change~~
- ~~D. No Change~~

~~2. A Person who with criminal negligence performs an act prohibited under subsection A~~1~~ of this section is guilty of a class 6 felony.~~

~~3. A Person who knowingly performs an act prohibited under subsection A~~1~~ of this section is guilty of a class 5 felony.~~

~~4. A Person who knowingly or recklessly manifests an extreme indifference for human life in performing an act prohibited under subsection A~~1~~ of this section is guilty of a class 2 felony.~~

~~5. No Change~~

~~6. The County Attorney may enforce this section. at the request of the Director.~~

~~7. No Change.~~

**1010 - Abatement Assessment and Lien**

~~1. If abatement of the violation is ordered by the Superior Court or other court with jurisdiction, the Director may at his discretion take actions necessary to abate or remove the nuisance or the source of the violating activity. Within twenty (20) days after abatement of the violation, the Director shall issue an Assessment Statement to the Owner of the property on which such nuisance or violating activity was located.~~

~~2. The Assessment Statement shall include the following information:~~

- ~~A. A description of the assessed costs, which shall include the actual costs of the removal or abatement, incidental costs, and the costs of any additional inspections.~~

- ~~B. Notification that the property Owner must pay the assessed costs within thirty days after receipt of the Assessment Statement or by such other date as may be specified for payment in the Assessment Statement unless an appeal is requested.~~
- ~~C. Notification that the property Owner may appeal the assessment to the Director in writing within thirty days after receipt of the Assessment Statement; and~~
- ~~D. Notification that failure to pay the assessed costs may result in a lien being placed on the property on which the nuisance or source of filth was located.~~
- ~~3. The property Owner may appeal the assessment to the Board of Health by filing a written request for a hearing within thirty days after receipt of the Assessment Statement.~~
  - ~~A. After a hearing, the Director may sustain, modify or revoke the Assessment Statement.~~
  - ~~B. If the Director sustains or modifies a cost assessment following an appeal of an Assessment Statement, the assessed costs must be paid within thirty days of the Director's decision or by such other time as may be specifically provided by the Director.~~
- ~~4. If the property Owner does not pay the assessed costs after the time provided in (2.) (B) or (3.) (B) above has expired, the Director may assess the lots or tracts of land on which the nuisance was abated or removed.~~
  - ~~A. The assessment, for the date of its recording in the office of the Maricopa County Recorder, is a lien on the lot or tract of land until paid.~~
  - ~~B. Any assessment recorded under this Regulation is prior and superior to all other liens, obligations or other encumbrances, except liens for general taxes and prior recorded mortgages.~~

#### **100944 – Remedies Not Exclusive**

The remedies and enforcement actions listed in this Regulation are not exclusive of any other remedies or enforcement actions available under any applicable state, federal, County, and local laws, rules, regulations, and ordinances. The County may seek cumulative remedies.~~The remedies listed in this Regulation are not exclusive of any other remedies available under any applicable federal, state, county or local law and it is within the discretion of Maricopa County to seek cumulative remedies.~~

### **CHAPTER 11 – POST-CONSTRUCTION STORMWATER MANAGEMENT**

#### **1101 - Introduction**

No Change

##### **1101.1 - Applicability**

The Post-Construction requirements in this Chapter apply to permanent Stormwater Management Systems, Facilities, ~~Systems and/or other~~ devices. Stormwater management during construction activities is regulated separately pursuant to Chapter 6 of this Regulation.

#### **1102 - Objectives**

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

- 1.** No Change

2. No Change
3. Promote effective long-term operation and maintenance of all permanent Stormwater Management Systems and Facilities.
4. No Change
5. Address certain requirements of the ~~Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES)~~ Phase II Stormwater regulations.
6. No Change

## **1103 – Regulated Activities**

### **1103.1 – Post-Construction Permits Required**

A Post-Construction Permit is required for land Disturbance equal to or greater than one acre in area except as otherwise provided per Section 1103.2 of this Regulation. Land Disturbances of less than 1 acre constituting a part of a larger development plan are also regulated. Activities for which a Post-Construction Permit is required include land development and redevelopment to include clearing or grubbing, leveling, construction of new or additional Impervious or semi-pervious surfaces such as driveways, roadways, parking lots, recreation features; construction of new buildings or additions to existing buildings; and installation of permanent Stormwater Management Systems, Facilities or appurtenances thereto.

### **1103.2 - Exemptions**

The following activities may be exempted by the Director from on-site Stormwater quality runoff control. An exemption shall apply only to the requirement for on-site permanent Stormwater Management Systems, Facilities, Systems and/ or devices, in the application for a ~~Stormwater Post-Construction~~ Permit. All other Stormwater management design elements, such as a storm sewer System, road culverts, Erosion and sedimentation control and runoff quality, shall be required. All exemption requests must be filed with the Department.

- A. No Change
- B. No Change
- C. No Change
- D. No Change
- E. No Change

### **1103.3 - Waivers**

- A. No Change
- B. If an applicant demonstrates to the satisfaction of the Director that any mandatory provision of this ~~Regulation chapter~~ is unreasonable as it applies to the proposed Project or that an alternate design may result in a superior result within the context of ~~Section C1103.3C~~ of this Regulation, the Director upon obtaining the comments and recommendations of staff may grant a waiver or relief so that substantial justice may be done and public interest is secured; provided that such waiver will not have the effect of nullifying the intent and purpose of this Regulation.
- C. No Change

- D. No Change
- E. No Change
- F. No Change
- G. No Change
- H. No Change

**1104 – General Requirements**

1. No Change
2. No Change
3. Applicants shall refer to the most recent version of the Maricopa County Drainage Policies and Standards and the Maricopa County Drainage Design Manual, Vol. III, Erosion Control Handbook, or other appropriate references for guidance in the design of Stormwater Management Systems, Facilities, ~~System~~ and/ or devices, most appropriate to individual site conditions. The objectives are to achieve water quality improvement at the source or during conveyance, prior to the introduction of Stormwater into the County MS4 or any Storm Drainage System connected to the MS4.
4. The Stormwater management System shall not create an adverse impact on Stormwater quality in either upstream or downstream areas. Offsite areas, which drain to or across a site proposed for development, shall be addressed in the ~~Stormwater Management Plan~~ Post-Construction Site Plan prepared for the development. No ~~Stormwater Management Plan~~ Post-Construction Site Plan shall be approved unless it provides information sufficient to assure that the runoff from the project shall not adversely impact water quality in downstream areas.
5. No Change
6. Any Stormwater Management Systems or Facilities regulated by this Regulation that would be located in or adjacent to Waters of the U.S. or wetlands shall continue to be subject to Approval by the U.S. Army Corps of Engineers (USACOE) or other agencies through their Permit processes. Proof of Approval by the USACOE shall be provided by the applicant prior to the start of construction.
7. Any Stormwater Management System or Facility or part thereof regulated by this Regulation that will be located in Maricopa County Department of Transportation, Flood Control District of Maricopa County, or other County-owned rights-of-way or that will drain across or onto MCDOT, Flood Control District or other County-owned rights-of-way shall be subject to written Approval, licensing or permitting by the appropriate authority. Excluding the USACOE Approval process detailed in ~~paragraph~~ subsection 6 above, documentation of such aforementioned Approval, licensing or permitting shall be provided by the applicant at the time of application.
8. No Change
9. No Change

10. An application for a Post-Construction Permit shall be submitted to the Department at least thirty business days prior to the actual start of construction for standard turnaround times for applications. For those projects requiring fifteen days or less in the Post-Construction Permit application turnaround time, the Department may provide expedited processing of the application for an additional fee. Refer to the Department's current fee table for applicable fees.

#### **1105 – Permanent Stormwater Management Design Standards**

Design standards for post construction design and maintenance are contained in the most recent version of the Maricopa County Drainage Policies and Standards as adopted by the ~~Maricopa~~ County Board of Supervisors and the Board of the Flood Control District of Maricopa County. Standards for the application of Best Management Practices are found in the most recent version of the Maricopa County Drainage Design Manual, Volume III, Erosion Control. Other design requirements are found in the most recent versions of the Maricopa County Drainage Design Manuals Volume I, Hydrology, and Volume II, Hydraulics. Applicants shall refer to the version of the manuals in effect at the time the application is made.

#### **1106 – Construction and Operation Responsibilities**

##### **1106.01 – General Responsibilities**

- A. Large developments shall address Stormwater quality on a unit/phased basis as part of their drainage plans required by the Maricopa County Subdivision Regulations and Section 2.4 of the Maricopa County Drainage Policies and Standards. Large developments include those which require a Development Master Plan per Section 206 of the Maricopa County Subdivision Regulation are typically those greater than 640 acres in size as defined in the Maricopa County Zoning Ordinance, or any significant local developments divided into units or phases which may be considered as a large development, even if less than 640 acres in size. Stormwater quality management shall ~~must not be left for~~ delayed until the final phase of a development.
- B. The Owner of permanent Stormwater Management Systems and Facilities shall be responsible for the proper operation and maintenance of those Systems and Facilities during and after construction. All permanent on-site BMPs shall be operational prior to the use by any development or phase of development dependent on those BMPs. An Operation and Maintenance Plan consistent with the requirements of Section 11098 shall be prepared for review and Approval by the Director and shall be executed and signed by the Department and the Owner.
- C. The Owner of permanent Stormwater Management Systems or Facilities for a ~~tract-site~~ shall be ~~is~~ responsible for the proper installation and function of those Systems or Facilities in accordance with the approved Stormwater Permit. All temporary soil Erosion and sedimentation control measures shall be removed or converted to their permanent configuration in accordance with an approved Erosion control plan. This requirement in no way precludes the authority of the Director to determine when sufficient stabilization has occurred on a site in order to convert to the permanent Stormwater Management Systems or Facilities.

### **1106.02 – Report with Application**

For all Post-Construction activities governed by this Regulation the Applicant shall submit with their Stormwater Permit application a report which shall contain the information necessary to allow the Department to review the application. It may be necessary for some applications covering large areas to have the report prepared by a professional licensed by the State of Arizona. The information in the report may include, but is not limited to, the following:

- A. No Change
- B. No Change
- C. No Change
- D. No Change
- E. No Change
- F. No Change
- G. No Change
- H. A plan of the proposed Stormwater Drainage System attributable to the activity proposed, including runoff calculations, Stormwater management practices to be applied both during and after development, and the expected project time schedule.
- I. The design computations for all proposed Stormwater Drainage Systems, including storm drain pipes, inlets, runoff control measures and culverts, drainage channels, and other features, Facilities, and Stormwater management practices.
- J. No Change
- K. A plan of the Erosion and sedimentation procedures to be utilized as required by the Maricopa County grading and drainage requirements.
- L. No Change
- M. No Change
- N. No Change
- O. No Change
- P. No Change
- Q. No Change

### **1106.03 – “As Built” Plans**

When construction is complete the applicant shall submit to the Department an actual “as built” plan for all Stormwater Management Systems or Facilities required per the approved Post-Construction Stormwater site Plan Permit. The “as built” plan shall show all final design specifications for all permanent Stormwater Management Systems or Facilities and if necessary shall be prepared and certified by a licensed professional engineer registered in the State of Arizona. The “as built” plan shall be based on an actual field survey. The “as built” plan shall be submitted to the Department for review and final inspection by the Department. Any performance and/or financial securities established for the project by the Department shall include requirements for submittal of “as built” plans.

## 1107 – Ownership and Maintenance

### 1107.1 - Ownership

All Stormwater Management Systems Facilities, ~~Systems~~ and/ or devices identified within an approved Stormwater Permit shall be owned and maintained by the Owner of the property. The operation and maintenance obligation runs with the land and is binding upon the initial grantees of each lot and his, her, or their heirs, administrators, successors or assigns. Stormwater Management Systems, Facilities, and/or devices or the Ownership of the land on which they are located may not be deeded or dedicated to the County or the Flood Control District.

All Stormwater Management Systems, Facilities, and/or devices shall be owned and maintained by one, or a combination of the following entities:

- A. An individual for his or her own on-lot Stormwater Management Systems or Facilities not constructed as part of a subdivision ~~and/or land development plan.~~
- B. An individual for his or her own on-lot Stormwater Management Systems or Facilities constructed as part of a subdivision. Where individual on-lot Stormwater Management Facilities, System and/ or devices are proposed in a subdivision or other development greater than one acre, The subdivision and/or land development plan and plat shall contain a note in a form satisfactory to the Department designating the entity responsible for operation and maintenance of the on-lot Facilities consistent with an approved operation and maintenance plan.
- C. An entity that owns or has a perpetual right to access the land on which ~~the~~ common Stormwater Management Systems, Facilities, ~~System~~ and/ or devices are located. (This type of Ownership applies to subdivisions and condominium plats. The entity would typically be a property owners' association.) The subdivision or condominium plat shall contain a note in a form satisfactory to the Department designating the entity responsible for operation and maintenance of the common Stormwater Management Systems, Facilities, and devices consistent with an approved operation and maintenance plan. The operation and maintenance obligation runs with the land and is binding upon the initial grantees of each lot and his, her, or their heirs, administrators, successors or assigns. Stormwater Management Facilities, Systems and/ or devices or the Ownership of the land on which they are located may not be deeded or dedicated to the County or the Flood Control District.

### 1107.2 – Requirements for Covenants, Codes and Restrictions

- A. The subdivision ~~plat and/or land development plan and plat~~ shall contain a note in a form satisfactory to the Department granting to the Department the right, but not the duty, to enter upon the Premises to repair or restore Stormwater Management Systems, Facilities, ~~System~~ and/ or devices in the event that the responsible Person or entity fails to do so, to charge and assess the costs thereof to the Owner and to enforce said charges and assessments by lien upon the property. In addition, the deed for each lot shall contain a covenant binding on the grantee and ~~all~~ his, her, or their heirs,

successors, ~~and assigns in interest~~ designating the Person responsible responsibility for the operation and maintenance of ~~the any~~ on-lot Facilities.

- B. In addition to the above, developers of ~~parcels with more than one (1) dwelling unit that are intended for sale and will not be held by a single Owner~~ subdivisions shall record with the County Recorder a declaration of covenants, conditions, and restrictions in a form satisfactory to the Department describing the responsibility for operation and maintenance of the on-lot Stormwater Management Systems, Facilities, ~~Systems~~ and/ or devices, consistent with an approved Operation and Maintenance Plan, prior to the sale of any individual lots. The ~~terms of this~~ covenants, conditions, and restrictions shall run with the land and be binding upon the initial grantees of each lot within the subdivision and ~~his, her or~~ their heirs, ~~administrators~~, successors, and or assigns.

**1107.3 – Homeowners, ~~or Condominium~~ or Property Owners’ Association Ownership:**

Where a homeowners’ or property owner’s association is ~~created~~ proposed to own and manage common Facilities, the subdivision or condominium plat and/ or land development plan ~~and plat~~ shall contain a note in a form satisfactory to the Department designating the entity responsible for operation ~~construction~~ and/ or maintenance of the Stormwater Management Systems and Facilities consistent with an approved Operation and Maintenance Plan and, in the event that the responsible entity fails to do so, granting to the Department the right, but not the duty, to enter upon the Premises to repair or restore said System or Facilities, to charge and assess the costs thereof to ~~each the~~ Owner of the property ~~within the development~~ and to enforce said charges and assessments by lien upon ~~each the~~ property ~~within the development~~. In addition, the developer shall record with the ~~Maricopa~~ County Recorder a declaration of covenants in a form satisfactory to the ~~County~~ Department setting forth the rights and responsibilities of the homeowners’ or property owners’ association for operation and maintenance of the Stormwater Management Systems, Facilities, ~~System~~ and/ or devices, prior to the initial sale of individual lots or condominium units. The terms of this covenant and restriction shall run with the land and be binding upon the initial grantees of each ~~lot~~ tract or lot containing common facilities within the subdivision and; ~~his, her or~~ their heirs, administrators, successors and assigns.

**1108 – Operation and Maintenance Plans**

An Operation and Maintenance Plan shall be prepared to identify the ownership, operation and maintenance responsibilities and As-Built conditions for all Stormwater Management Systems and Facilities. At a minimum, the Operation and Maintenance Plan shall include the following:

1. Any obligations concerning perpetuation and/ or maintenance of natural drainage or infiltration Facilities, and other Facilities identified within the ~~Stormwater~~ Post-Construction Permit.
2. A description of the permanent Stormwater structural ~~management practices~~ BMP’s on the site, explaining how each practice is intended to function and operate over time.

3. All drainage and access easements shall be depicted and any site restrictions to be recorded against the property shall be identified on the plan. All such easements and restrictions shall be perfected to run with the land and ~~be binding upon~~ the landowner and ~~any~~ its heirs, successors, and assigns in interest.
4. The full names and addresses of each Person that owns and/or is responsible ~~Ownership of and responsibility for~~ the operation and maintenance of the Stormwater Management Systems or Facilities, including names and contact information, shall be required.
5. A description of all Stormwater Management Systems and Facilities, written in a clear manner, consistent with the knowledge and understanding of the intended user.
6. A general description of operation and maintenance activities and responsibilities for the Stormwater Systems or Facilities held in common or on-lot, including but not limited to: lawn care, vegetation maintenance, clean out of accumulated debris and sediment (including from grates, trash racks, inlets, etc.), liability insurance, maintenance and repair of Stormwater Management Systems or Facilities, landscaping and planting, payment of taxes and construction of any kind associated with the use, benefit and enjoyment of the Facilities by the Owners.
7. A description of routine non-structural BMP operation and maintenance actions and schedules necessary to ensure proper operation of Stormwater Management Systems or Facilities.
8. A written statement by the Owner giving the Department assurances that no action will be taken by any lot Owner to disrupt or in any way impair the effectiveness of any Stormwater Management System or Facility ies, setting forth in deed restrictions the ability but not the duty of the Department to take corrective measures if it the Department determines is determined at any time that stipulated the permanent Stormwater Management Systems or Facilities have been eliminated, altered, or improperly maintained, including the ability-right of the Department to cause the work to be done and record a lien against the property upon which the work is conducted for all costs incurred by the Department in conducting against the property should the required corrective measures that were not, but should have been, be taken by the lot Owner, following written notification, and within a period of time set by the Director.
9. An explanation of how the parties responsible for the long-term operation and maintenance of Stormwater Management Systems or Facilities shall make records of the installation and of all maintenance and repairs, and shall retain the records until the site use changes and new Permits and operation and maintenance plans are requested and approved. These records shall be submitted to the Department as established by the Operation and Maintenance Plan or if otherwise required by the Department.

#### **1108.1 – Recording of Operation and Maintenance Plans**

The Owner of any land upon which permanent Stormwater management Facilities and/or BMPs will be placed, constructed or implemented as described in an approved ~~Stormwater Post-Construction~~ Permit and the Operations and Maintenance Plan, shall record the following documents with the ~~Maricopa~~ County Recorder within 15 days of Approval of the Operations and Maintenance Plan by the ~~County~~ Department:

- A. The Operations and Maintenance Plan, or a summary notice thereof;
- B. Any necessary Operations and Maintenance Agreement(s); and
- C. Necessary access and/or drainage easements.

Items and/or conditions may be required to be included in any Operation and Maintenance Agreement where determined necessary by the Department to guarantee the satisfactory operation and maintenance of all permanent Stormwater Management Systems, Facilities, System and/ or devices. The Agreement shall be subject to the review and Approval of the Department.

**1109 – Drainage Provisions and Flood Control Regulations**

1. Provisions for on-site Stormwater retention/drainage and off-site Stormwater drainage both entering and leaving the property may be required by the ~~Maricopa~~ County Department of Planning and Development and Flood Control District of Maricopa County. This ~~Stormwater~~ Regulation and all amendments hereto shall be consistent with and subject to the regulations and provisions of the Drainage Regulation for Maricopa County and the Floodplain Regulations adopted by the Flood Control District of Maricopa County.
2. No Change
3. No Change
4. No Change

**CHAPTER 12 – FEES**

**Fee list** for Stormwater ~~Approval and Permitting~~ Permitting and Approval Activities

<b>Stormwater Pre-Construction Phase</b>	<b>Fee</b>
Pre-Construction Plan Review ( <del>Pre-Construction Plan Acceptance and Approval of Pre-Construction BMPs for work that has not commenced within one year of the date of acceptance (or Approval) by MCESD, automatically become invalid</del> )	\$1050.00( <del>First 10 ac</del> ) Plus \$250.00 for every 10 ac additional
Pre-Construction Site Inspections ( <del>required every 6 months, minimum: minimum of two per project or phase of construction – one before construction and one during construction.</del> )	<del>\$325.00</del> 550.00 each (First 10 ac) Plus \$130.00 for every 10 ac additional
One Additional Review of Post-Construction Plans with Minor Revisions and ( <del>One Additional Inspection of the Site Revisions will be required</del> ).	<del>\$670.00</del> 50% of the original plan review fee plus Inspection fee
Re-Inspection of site when corrections to the site have been made following a failed initial site inspection	<del>\$325.00</del> 550.00 (Fist 10 ac) Plus \$130.00 for every 10 ac additional
Expedited plan reviews and inspections are available at twice the standard fee	No Change
Note: Applicant will have to re-apply for the pre-construction <del>Permit Approval</del> if the revised plan or site inspection resulting from a revision <del>or re-inspection of the site</del> fails to get Approval by the	

<p>Department.</p> <p><u>Pre-Construction Plan Acceptance and Approval of Pre-Construction BMPs for work that has not commenced within one year of the date of acceptance (or Approval) by MCESD, automatically become invalid.</u></p> <p><u>Revisions (addressing plan review comments) submitted more than one year after the original submittal date will be treated as new plans.</u></p> <p><u>Should approval of a project be required after the plans become invalid, a new plan submittal with the appropriate plan review fee shall be submitted to start a new review process.</u></p> <p><u>An Approval of plans and specifications can be renewed for one year if an application for renewal is submitted within 180 days of expiration. A fee equal to one-half (1/2) of the initial plan review fee is required. The Approval will be effective for one year from the date of expiration.</u></p>	
<b>Stormwater Post-Construction Phase</b>	<b>Fee</b>
Post-Construction Plan Review	\$1050.00(First 10 ac) Plus \$250.00 for every 10 ac additional
Post-Construction Site Inspections (two required per project or phase of construction – one at project completion and on within one year after completion).	\$325.00550.00 each (Fist 10 ac) Plus \$130.00 for every 10 ac additional
One Additional Review of Post-Construction Plans with Minor Revisions and (One Additional Inspection of the Site Revisions will be required).	\$670.000050% of the original plan review fee plus Inspection fee
Re-Inspection of Site when Corrections to the Site have been made following a failed Initial Site Inspection.	\$325.00550.00 (Fist 10 ac) Plus \$130.00 for every 10 ac additional
Expedited Plan Reviews and Inspections are available at twice the standard fee	No Change
Note: Applicant will have to re-apply for the Post-Construction Permit if the Revised Plan or Site Inspection resulting from a Revision or Re-Inspection of the Site fails to get Approval by the Department.	
<b>Miscellaneous</b>	<b>Fee</b>
Inspections by Request	\$325.00550.00 (Fist 10 ac) Plus \$130.00 for every 10 ac additional
<b>Waivers</b>	<b>Fee</b>
Fee Includes Document Reviews and Site Inspection	\$2425.00
<b>Permit-Pre-Construction Approval Transfers</b>	
The fees presented are for Permits and Permit related activity Approvals issued to a newly listed Owner-Operator of the site.	\$200.00
<b>Refunds</b>	
The client will be granted a 60% refund if the plan has not yet been assigned to Department plan review staff. No refunds will be made after the Department has started review of the client's plans.	

**CHAPTER 13 – EFFECTIVE DATE AND ADOPTION OF REGULATION.**

This Regulation shall be in full force and effect thirty (30) days after its final passage and Adoption.

PASSED AND ADOPTED this    of    , by the following vote: