

Chapter 21

**STREETS AND SIDEWALKS\***

- Art. I. In General, §§ 21-1--21-15
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\*Cross reference--Motor vehicles and traffic, Ch. 14.

State law reference--General authority over streets and sidewalks, A.R.S. §§ 9-499.01, 9-240(B)(3), (B)(8), (B)(14), (B)(25), 9-276(A)(1), (A)(5)--(A)(7), (A)(20), (A)(22), (A)(23), 48-501 et seq.

**ARTICLE I. IN GENERAL****Secs. 21-1—21-15. Reserved.****ARTICLE II. OBSTRUCTIONS****Sec. 21-16. Blocking streets, etc.**

It is unlawful for any person to obstruct any public street or alley, sidewalk or park or other public grounds within the city by:

- (1) Committing any act of, or doing anything which is injurious to the health, or offensive to the senses.
- (2) Doing in or upon any such streets, alleys, sidewalks, parks or other public grounds, any act or thing which is an obstruction or interference to the free use of property or with any business lawfully conducted by anyone, in or upon, of facing or fronting on any of such streets, alleys, sidewalks, parks, or other public grounds in the city.

(Code 1976, § 11.114)

State law reference—Obstructing a highway, A.R.S. § 13-2906.

**Sec. 21-17. Selling or displaying merchandise on streets.**

It is unlawful for any person to sell, solicit or receive an order for, to keep or expose for sale, to deliver for value, to peddle, to keep with intent to sell, or to traffic in, any goods, wares or merchandise on any public street or alley of the city or unless such goods are maintained in a rolling motorized vehicle which is not parked or left standing on the street.

(Code 1976, § 11.122)

**Sec. 21-18. Obstructing sidewalks.**

(a) It is unlawful for any person to obstruct any public sidewalk in the city by placing, depositing, or allowing to remain thereon, any boxes, cartes, goods, wares, things or to prevent in any manner, the full, free and unobstructed public use of any of the public sidewalks.

(b) After approval by the mayor and council, suitable benches for the convenience of the city residents and visitors may be located upon the public sidewalks with the written approval of the director of public works. Such approval shall be filed with the clerk, shall be cancelable for good cause shown and may be subject to such requirements and conditions as to the type of bench, the location upon the sidewalk and otherwise, as the director of public works may deem necessary and desirable.

(c) Where it is deemed necessary by the mayor and council to place garbage in trash containers upon the public sidewalk to allow the removal of such garbage and trash, such containers may be placed upon a public sidewalk for a reasonable amount of time necessary for such removal.

(Ord. No. 85-09, § 7(6.106), 9-16-85; Ord. No. 98-05, § 7(6.106), 6-8-98)

**Sec. 21-19. Trees, bushes or plants extending over streets, alleys or sidewalks.**

It is unlawful for the owner, occupant or agent in charge of any lot, piece or parcel of land, within the limits of the city to permit any tree, bush or plant of any kind upon such property or upon the street or alley adjoining the same to extend over or under the sidewalk space or roadway in such street or alley in such a manner as to interfere with the reasonable use of such street or alley for pedestrian or vehicular traffic of any kind. Every such owner, occupant or agent in charge shall keep such trees, bushes or plants trimmed in such a manner that the same shall not interfere with the reasonable use of such street or alley for pedestrian or vehicular traffic.

(Ord. No. 85-09, § 7(6.107), 9-16-85; Ord. No. 98-05, § 7(6.107), 6-8-98)

**Sec. 21-20. Maintenance of area between curb and property line.**

It is unlawful for any property owner or owner of property within the city to allow the space between the property line adjacent to the street and the curbline of the street to grow with rank grass or weeds at any time.

(Ord. No. 85-09, § 7(6.108), 9-16-85; Ord. No. 98-05, § 7(6.108), 6-8-98)

**Sec. 21-21. Maintenance of gutters and sidewalks.**

It is unlawful for any owner, lessee, tenant or occupant of any building within the city to allow the gutter and sidewalk in front of each building to become obstructed by any dirt, rubbish, water or stones or any other thing dangerous to health, life, limb or free use and enjoyment of property. (Ord. No. 85-09, § 7(6.109), 9-16-85; Ord. No. 98-05, § 7(6.109), 6-8-98)

**Sec. 21-22. Placing flower pots, tree pots or planters on sidewalks—Generally.**

It is unlawful for any person to permit the placing of flower pots, tree pots or planters and other objects of beautification upon the public sidewalks without a license. (Ord. No. 98-05, § 7(6.110), 6-8-98)

**Sec. 21-23. Same—License required.**

Any person applying for a license to place flower pots, tree pots or planters on sidewalks shall submit a written application to the office of the director of public works. The director of public works shall then approve or deny such application. If denied, the applicant may request a review of such denial by the mayor and council. Upon approval of the proposed application, a license for such use shall be issued by the department of public works. (Ord. No. 98-05, § 7(6.111), 6-8-98)

**Sec. 21-24. Same—Revocation of license.**

(a) If at any time hereafter any portion of the sidewalk occupied and used by the licensee may be needed or required by the city, or if the licensee fails to maintain such use as hereinafter prescribed and as prescribed by such specific terms and conditions as set forth by the director of public works, any license granted pursuant to this section may be revoked by the city.

(b) The licensee shall promptly remove all property belonging to said licensee from the said sidewalk area upon receipt of written notice of revocation. If removal is not accomplished by the

licensee within thirty (30) days the city shall cause such flowers, trees or other items to be removed.

(Ord. No. 98-05, § 7(6.112), 6-8-98)

**Sec. 21-25. Same—Issuance of license.**

No license shall be issued except under the following general terms and conditions:

- (1) The applicant shall have filed the proper application with the director of public works.
- (2) The applicant shall maintain at all times public liability insurance to indemnify the city against claims for damages which may result from the installation, maintenance and use of such flower pots and tree pots or planters and other objects of beautification in not less than the following amounts:
  - a. Public liability and bodily injury insurance of twenty thousand dollars (\$20,000.00) for each person; and fifty thousand dollars (\$50,000.00) for each accident;
  - b. Property damage insurance of one thousand dollars (\$1,000.00) for each accident and ten thousand dollars (\$10,000.00) aggregate.
- (3) The applicants shall furnish all such flowers, trees and containers and bear the costs of installation, maintenance and repair thereof, according to the standards established by the director public works.
- (4) The department of public works shall exercise supervision of all requirements as to size, type, maximum and minimum heights, watering and upkeep, of such flowers and trees, color, type of construction, location upon the sidewalk area and spacing of the pots and planters and other related particulars of such flowers, trees and containers.

(Ord. No. 98-05, § 7(6.113), 6-8-98)

**Secs. 21-26—21-50. Reserved.**

## ARTICLE III. CONSTRUCTION AND EXCAVATIONS

### DIVISION 1. GENERALLY

**Secs. 21-51—21-60. Reserved.**

### DIVISION 2. PERMIT

**Sec. 21-61. Required.**

It is a misdemeanor for any person to make, build, construct or remove any pavement or pavement widening, driveway, sidewalk, curb, gutter, pipeline or to grade, oil or gravel any public street of the city without first having received a written permit from the building official. No permit shall be issued until a plan has been approved by the director of public works.

(Ord. No. 85-09, § 8(6.114), 9-16-85; Ord. No. 98-05, § 8(6.114), 6-8-98)

**Sec. 21-62. Application.**

All applications for a permit to construct driveways, streets, sidewalks, curbs, gutters, pipelines, to widen the paved roadway, to cut pavements, sidewalks, curbs, gutters or to repave pavement cuts, shall be in writing on forms provided by the city, and shall be accompanied by at least two (2) copies of a plot plan showing the size of the property, the location with copies of a plot plan showing the size of the property, the location with reference to lot and street lines of existing proposed buildings, driveways, curbs, sidewalks, trees, poles or other objects that might affect the work.

(Ord. No. 85-09, § 8(6.114, 6.115), 9-16-85; Ord. No. 98-05, § 8(6.115), 6-8-98)

**Sec. 21-63. Qualifications of applicants.**

Applicants for permits may be either an owner or a contractor. The work may be performed only by a properly licensed Arizona contractor, a utility company, a governmental agency or owner of residential property.

(Ord. No. 85-09, § 8(6.118), 9-16-85; Ord. No. 98-05, § 8(6.118), 6-8-98)

**Sec. 21-64. Fee.**

The applicant shall deposit with the director of public works before any permit is issued, a permit fee. Such permit fee shall be as determined by resolution of the mayor and council.

(Ord. No. 85-09, § 8(6.117), 9-16-85; Ord. No. 98-05, § 8(6.117), 6-8-98)

**Sec. 21-65. Inspections.**

The building official shall inspect the work on behalf of the city to ensure compliance with all city codes, ordinances and regulations.

(Ord. No. 85-09, § 8(6.114), 9-16-85; Ord. No. 98-05, § 8(6.114), 6-8-98)

**Sec. 21-66. Bond.**

(a) On all such work estimated to cost less than five hundred dollars (\$500.00), each applicant shall deposit an amount in cash or a surety bond equal to fifteen (15) percent of the total cost of construction with the director of public works prior to issuance of the permit.

(b) On all such work estimated to cost over five hundred dollars (\$500.00), each applicant shall deposit an amount in cash or a surety bond equal to the total cost of construction with the director of public works prior to issuance of the permit. The estimated total cost of construction and the sufficiency of the bond shall be determined by the planning department.

(c) Surety bonds shall be executed by the applicant as principal with a corporation duly authorized to transact surety business in this state. Surety bonds shall be payable to the city, shall be continuous in form, and shall be conditioned that the total aggregate liability of the surety for all claims shall be limited to the face amount of the bond irrespective of the number of years the bond is in force. Upon satisfactory performance and acceptance of the work, the surety bond shall be released by the city, or such bond may be canceled upon deposit of other security by the applicant which is satisfactory to the city, which will cover any obligations that remain.

(d) In the event an applicant is issued a number of small permits throughout the year, he may, at the discretion of the planning department post a continuing bond to cover any and all work under construction by the permittee at any one time.

(e) The bond is subject to cancellation as above mentioned, or may be terminated after all obligations are fulfilled which were under permit prior to receipt of cancellation notice from surety by the city.

(Ord. No. 98-05, § 8(6.116), 6-8-98)

**Secs. 21-67—21-75. Reserved.**

**DIVISION 3. SIDEWALK CONSTRUCTION**

**Sec. 21-76. Definitions.**

[The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

*City* shall mean the City of South Tucson in the County of Pima and the State of Arizona.

*Sidewalks, commercial* shall be hereinafter referred to as those located along the city thoroughfare.

*Sidewalks, neighborhood* shall refer to those sidewalks located in predominantly residential areas.

*Thoroughfares* are streets which, for the purpose of this ordinance, shall be South 4th Avenue, South 6th Avenue, South 10th Avenue, East and West 29th Street and East 36th Street.

(Ord. No. 85-09, § 9(6.119), 9-16-85; Ord. No. 98-05, § 9(6.119), 6-8-98)

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

**Sec. 21-77. Administration generally; rules.**

The director of community development or the authorized assistant shall carry out the administration for the construction of sidewalks, formulate rules and regulations, ensure property location of sidewalks, enforce specifications of sidewalks therein, and report from time to time as to the progress of the city manager and mayor and

council. No less than three (3) copies of all the rules and regulations shall be kept on file and shall be available for use by all persons affected by this division.

(Ord. No. 85-09, § 9(6.120), 9-16-85; Ord. No. 98-05, § 9(6.120), 6-8-98)

**Sec. 21-78. Permit.**

Any property owner desiring to install, remove or replace a sidewalk along the frontage of his property shall apply for a permit.

(Ord. No. 85-09, § 9(6.121(1)), 9-16-85; Ord. No. 98-05, § 9(6.121(1)), 6-8-98)

**Sec. 21-79. Inspection.**

The constructed sidewalk shall be inspected by the building official to ensure compliance with city regulations.

(Ord. No. 85-09, § 9(6.121(2)), 9-16-85; Ord. No. 98-05, § 9(6.121(2)), 6-8-98)

**Sec. 21-80. Specifications.**

Sidewalks in general shall be a uniform distance from property lines. Neighborhood sidewalks shall be four (4) feet in width. Specifications for sidewalks shall be detailed in the rules and regulations manual.

(Ord. No. 85-09, § 9(6.121(3)), 9-16-85; Ord. No. 98-05, § 9(6.121(3)), 6-8-98)

**Sec. 21-81. Appeals to board of adjustment.**

If any physical improvement criteria creates a hardship for a person to contract for sidewalk construction, [the person] shall have the right to have any extenuating circumstance resolved by the board of adjustment. The person shall make available to the board all pertinent information concerning the sidewalk. The board of adjustment shall meet once a month unless no review is needed.

(Ord. No. 85-09, § 9(6.122), 9-16-85; Ord. No. 98-05, § 9(6.122), 6-8-98)

**Sec. 21-82. Neighborhood sidewalks.**

(a) Persons owning property in residential areas, or residents occupying property in the same area and having a written waiver from the prop-

erty owner are eligible to apply for sidewalks to be installed by the city and material costs to be assumed by the applicant.

(b) The administrator is hereby compelled to determine methods of payments and collection, establish fixed costs for materials and other necessary procedures to conduct this project. Upon resolution by the mayor and council the procedures shall become part of the rules and regulations.

(c) All other rules and regulations of this division shall apply to the installation of the neighborhood sidewalks.

(Ord. No. 85-09, § 9(6.123), 9-16-85; Ord. No. 98-05, § 9(6.123), 6-8-98)

**Sec. 21-83. Construction on default of property owner.**

(a) The mayor and council may require the proprietor of any block, lot or part of lot within the city, to construct a sidewalk in front thereof of a width and type of construction as it may direct and may, by ordinance, provide that upon failure of the proprietor to construct the sidewalk, within a time to be prescribed, after notice to do it, may be constructed by the city and the expense thereof assessed against the block, lot or any part thereof. The mayor and council may provide the manner of making the assessment, may approve the same and provide the manner of collecting the assessment by sale of the premises.

(b) In the event that the mayor and council requires construction of sidewalks pursuant to subsection (a) of this section, directly above, the city shall assess the property for the costs involving construction of the sidewalk plus interest at ten (10) percent per annum.

(Ord. No. 85-09, § 9(6.124, 6.125), 9-16-85; Ord. No. 98-05, § 9(6.124), 6-8-98)

**State law reference**—Authority to require property owner to construct sidewalks and levy special assessments for sidewalk construction, A.R.S. §§ 9-243, 48-572.

**Sec. 21-84. Penalties.**

Any person, firm or corporation who constructs, alters or replaces a sidewalk or causes the same to be done without first having complied with the provisions herein, shall be guilty of a

misdemeanor and shall be subject to a fine of not more than one hundred dollars (\$100.00) nor more than ten (10) days in jail or both.

(Ord. No. 98-05, § 9(6.126), 6-8-98)

Chapter 22

**FLOODPLAIN, STORMWATER, AND EROSION HAZARD MANAGEMENT**

**Art. I.**

**Stormwater Management, §§ 22-1—22-29**

Div. 1. Purpose and Definitions, §§ 22-1—22-10

Div. 2. Powers and Duties, §§ 22-11—22-20

Div. 3. Prohibitions, Non-Prohibited Discharges, and Requirements, §§ 22-21—22-27

Div. 4. Enforcement, §§ 22-28, 22-29

## ARTICLE I. STORMWATER MANAGEMENT

### DIVISION 1. PURPOSE AND DEFINITIONS

#### Sec. 22-1. Purpose.

It is the purpose of this chapter to comply with the City of South Tucson's Municipal Stormwater Permit and applicable federal (40 CFR § 122.26) and state (ARS Title 49, Chap. 2 Article 3.1; A.R.S. §§ 49-255 and 49-255.01 ) regulations for stormwater discharges, to be consistent with the stormwater quality provisions of the Federal Clean Water Act (33 U.S.C. § 1342), and to enable the City of South Tucson to comply with all applicable stormwater quality provisions of federal, state, and local laws and regulations to ensure the future health, safety, and general welfare of the citizens of South Tucson, as well as the protection and preservation of the local environment.  
(Ord. No. 06-04, § 2, 4-14-06)

#### Sec. 22-2. Consistency.

This chapter shall be interpreted to be consistent with the Federal Clean Water Act and applicable state law and all provisions of the City of South Tucson's Municipal Stormwater Permit.  
(Ord. No. 06-04, § 2, 4-14-06)

#### Sec. 22-3. Severability.

If any provision, clause, sentence, or paragraph of this chapter is held invalid by a court of competent jurisdiction, such invalidity will not affect the other provisions or application of this chapter. To this end, the provisions of this chapter are declared to be severable.  
(Ord. No. 06-04, § 2, 4-14-06)

#### Sec. 22-4. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Authorized representative* means a person delegated powers or duties by the manager pursuant to this chapter.

*AZPDES* means Arizona Pollutant Discharge Elimination System.

*BMP* means best management practice.

*Certified industrial hygienist* means a professional industrial hygienist certified by the American Board of Industrial Hygiene.

*City* means the City of South Tucson, a municipal corporation and subdivision of the State of Arizona.

*Clean Water Act* means the Federal Water Pollution Control Act amendments of 1972, as amended (P.L. 92-500; Stat. 816; 33 United States Code §§ 1251 through 1376).

*Connection* means the juncture/location at which discharge may enter the municipal separate storm sewer system.

*Corrective action plan* is a plan required under this chapter and approved by an authorized representative that consists of structural and nonstructural best management practices to prevent stormwater pollution or remediate impacts to the storm drain system. Based on site conditions, the authorized representative will determine whether the corrective action plan will be prepared and certified by a qualified person registered with the State of Arizona as a professional engineer, or professional landscape architect; or a qualified person certified by the American Board of Industrial Hygiene, as a certified industrial hygienist.

*De minimus discharge* means a discharge that is a low flow and/or low frequency event of relatively pollutant free water that is discharged with appropriate BMPs to reduce any pollutants to below the applicable surface water standard (A.A.C. Title 18, Chapter 11, Article 1).

*Discharge* means any generated or naturally occurring runoff or flow into, or through the city's municipal separate storm sewer system or waters of the U.S.

*Discharger* means any person who causes or allows a discharge or who owns property from which a discharge originates.

*Engineer* means a professional civil engineer, registered with the State of Arizona.



*Environment* means navigable waters, any other surface waters, groundwater, drinking water supply, land surface, subsurface strata, ambient air, biotic community, or wildlife habitat within or bordering the city.

*Illicit connection* means a connection that causes, or otherwise allows, illicit discharges.

*Illicit discharge* means any discharge that is not composed entirely of stormwater except: discharges pursuant to and in compliance with an applicable NPDES or AZPDES permit or other written authorization from the environmental protection agency or the Arizona Department of Environmental Quality; not including the city's municipal stormwater permit; and discharges that are considered to be non-significant sources of stormwater pollution.

*Industrial facility* means the site of any industrial activity regulated under federal NPDES or state AZPDES stormwater permit requirements.

*Land disturbance activity* means any activity that is regulated under the federal NPDES or state AZPDES stormwater permit requirements for construction sites.

*Landscape architect* means a professional landscape architect registered with the State of Arizona.

*Manager* means the City of South Tucson Manager or the manager's authorized representative.

*Municipal separate storm sewer system (MS4)* means a system of conveyances, consisting of all structures, basins, and natural or manmade channels that can collect, detain/retain, receive, or convey stormwater or other liquid that is discharged to a water of the United States from, or through, private property, public property, common areas, easements or rights-of-way, infrastructure, including but not limited to swales, watercourses, channels, streets, culverts, storm drains, curbs and gutters. For the purposes of this chapter, the municipal separate storm sewer system does not include the following waters of the United States: the Santa Cruz River, and the West Branch Santa Cruz River Diversion Channel

*NPDES* means National Pollutant Discharge Elimination System.

*No-exposure certification* is a document certifying that federal and/or state no-exposure requirements have been met.

*Notice of intent (NOI)* is a document describing the intent to operate an industrial facility or land disturbance activity in accordance with a general stormwater AZPDES/NPDES permit.

*Notice of termination (NOT)* is a document certifying one of the following conditions:

- (1) A change of ownership or responsible party;
- (2) Final site stabilization following a land disturbance activity;
- (3) Discharge has permanently ceased; or
- (4) Discharges are covered under another AZPDES/NPDES permit.

*Person* means an individual, resident, property owner, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate, broker, the federal government, State of Arizona, or any political subdivision or agency of this state.

*Pollutant* means any solid, liquid, or gaseous substances that may have an adverse impact on human health, the environment, or the property of others, or which otherwise causes or contributes to a violation of any stormwater quality provision of federal, state, or local laws.

*Qualified person* means a person who is knowledgeable and possesses the skills to assess conditions at the site that could impact stormwater quality and the effectiveness of the BMPs selected to control the quality of stormwater discharges. Based on site conditions, the manager will determine whether the qualified person must also be registered with the State of Arizona as a professional civil engineer, or professional landscape architect; or whether the qualified person must be certified by the American Board of Industrial Hygiene, as a certified industrial hygienist.

*Stormwater* means precipitation runoff, to which no pollutant has been added by human activity.

*Stormwater pollution prevention plan* is a document required under AZPDES/NPDES regula-

*Environment* means navigable waters, any other surface waters, groundwater, drinking water supply, land surface, subsurface strata, ambient air, biotic community, or wildlife habitat within or bordering the city.

*Illicit connection* means a connection that causes, or otherwise allows, illicit discharges.

*Illicit discharge* means any discharge that is not composed entirely of stormwater except: discharges pursuant to and in compliance with an applicable NPDES or AZPDES permit or other written authorization from the environmental protection agency or the Arizona Department of Environmental Quality; not including the city's municipal stormwater permit; and discharges that are considered to be non-significant sources of stormwater pollution.

*Industrial facility* means the site of any industrial activity regulated under federal NPDES or state AZPDES stormwater permit requirements.

*Land disturbance activity* means any activity that is regulated under the federal NPDES or state AZPDES stormwater permit requirements for construction sites.

*Landscape architect* means a professional landscape architect registered with the State of Arizona.

*Manager* means the City of South Tucson Manager or the manager's authorized representative.

*Municipal separate storm sewer system (MS4)* means a system of conveyances, consisting of all structures, basins, and natural or manmade channels that can collect, detain/retain, receive, or convey stormwater or other liquid that is discharged to a water of the United States from, or through, private property, public property, common areas, easements or rights-of-way, infrastructure, including but not limited to swales, watercourses, channels, streets, culverts, storm drains, curbs and gutters. For the purposes of this chapter, the municipal separate storm sewer system does not include the following waters of the United States: the Santa Cruz River, and the West Branch Santa Cruz River Diversion Channel

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- (1) A change of ownership or responsible party;
- (2) Final site stabilization following a land disturbance activity;
- (3) Discharge has permanently ceased; or
- (4) Discharges are covered under another AZPDES/NPDES permit.

*Person* means an individual, resident, property owner, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate, broker, the federal government, State of Arizona, or any political subdivision or agency of this state.

*Pollutant* means any solid, liquid, or gaseous substances that may have an adverse impact on human health, the environment, or the property of others, or which otherwise causes or contributes to a violation of any stormwater quality provision of federal, state, or local laws.

*Qualified person* means a person who is knowledgeable and possesses the skills to assess conditions at the site that could impact stormwater quality and the effectiveness of the BMPs selected to control the quality of stormwater discharges. Based on site conditions, the manager will determine whether the qualified person must also be registered with the State of Arizona as a professional civil engineer, or professional landscape architect; or whether the qualified person must be certified by the American Board of Industrial Hygiene, as a certified industrial hygienist.

*Stormwater* means precipitation runoff, to which no pollutant has been added by human activity.

*Stormwater pollution prevention plan* is a document required under AZPDES/NPDES regula-

tions or imposed pursuant to this chapter describing the stormwater quality controls in place at a site.

*Waters of the United States or waters of the U.S.* means a water body that is claimed under the jurisdiction of the U.S. government, including rivers and streams (intermittent, ephemeral), dry washes, acequias, arroyos, natural ponds and wetlands.

(Ord. No. 06-04, § 2, 4-14-06)

**Secs. 22-5—22-10. Reserved.**

**DIVISION 2. POWERS AND DUTIES**

**Sec. 22-11. Authorized representative.**

The manager may delegate any or all of the powers and duties set out in this chapter to any persons, as the manager deems necessary. Any person who has been delegated any power or duty described under this chapter is an authorized representative.

(Ord. No. 06-04, § 2, 4-14-06)

**Sec. 22-12. General.**

The manager may adopt and enforce such rules, regulations, standards, processes and forms, as the manager deems necessary for the efficient administration and enforcement of this chapter. The manager may interpret and enforce this chapter. Upon request of the manager any other department of the city has the authority to assist in the exercise of powers and performance of duties under this chapter.

(Ord. No. 06-04, § 2, 4-14-06)

**Sec. 22-13. Authority to enter.**

For the purposes of determining compliance with, and enforcement of, the provisions of this chapter, authorized representatives shall, at reasonable times, be admitted to any property from which a discharge is known, or is suspected. When security measures requiring identification and clearance before entry are in place on such property, the owner or agent of the owner, or a lawful occupant of the property shall make all necessary arrangements to allow authorized rep-

resentatives, upon presentation of official identification, to enter the property without delay. If such entry is refused or cannot be obtained, the manager shall have recourse to every remedy provided by law to secure lawful entry and take necessary action.

If authorized representatives have reason to believe that discharge conditions on, or emanating from, the property require immediate action to safeguard the public health or safety, they shall have the right to immediately enter, inspect the property and take such action, after making reasonable efforts to locate and obtain permission from the owner or an agent of the owner, or a lawful occupant of the property.

(Ord. No. 06-04, § 2, 4-14-06)

**Sec. 22-14. Warrants, restraining orders, and injunctive relief.**

The manager is, for purposes of enforcing this chapter, empowered to seek restraining orders, other injunctive relief, or search warrants as necessary to enforce this chapter.

(Ord. No. 06-04, § 2, 4-14-06)

**Sec. 22-15. Authority to inspect.**

Authorized representatives may inspect properties that discharge or are suspected of discharging. Inspections may include reviewing records, reports and test results, conducting site surveys, and examining any wastes, chemicals, storage areas, storage containers, waste generating processes, treatment facilities, and discharge locations. Inspection methods may include photographing, videotaping, or collecting samples for analytical analysis, from any part of the site or from any materials present on the site.

(Ord. No. 06-04, § 2, 4-14-06)

**Sec. 22-16. Authority to monitor.**

Authorized representatives may conduct all monitoring and sampling necessary to ensure compliance with this chapter and may establish such devices as are necessary to conduct such sampling or monitoring. Such devices shall be installed and operated so as to minimize impact to the owner and occupant of the property.

(Ord. No. 06-04, § 2, 4-14-06)

**Sec. 22-17. Authority to abate.**

If a person in violation of this chapter fails to comply with an order to abate or a notice of violation with a requirement to immediately abate, the city may abate the problem itself or by private contractor, and assess the responsible party for the cost of such abatement including expenditure of city resources.

(Ord. No. 06-04, § 2, 4-14-06)

**Secs. 22-18—22-20. Reserved.**

DIVISION 3. PROHIBITIONS,  
NON-PROHIBITED DISCHARGES, AND  
REQUIREMENTS

**Sec. 22-21. Prohibited discharges.**

The following are prohibited:

- (1) Any discharge that is a source of pollutants;
- (2) Allowing or causing any discharge that contributes a pollutant to stormwater;
- (3) Any discharge that contributes to a violation of the city's municipal stormwater permit, regardless of whether that discharge is covered under, and is in compliance with, an AZPDES/NPDES permit;
- (4) Establishing, using, and/or maintaining any connection that allows a discharge that contributes a pollutant to stormwater;
- (5) Depositing, dumping or storing any materials in a manner that may contribute a pollutant to, or obstruct the flow of, stormwater;
- (6) Failing to comply with any applicable AZPDES/NPDES permit, including any permit requirements to develop, implement, or comply with a stormwater pollution prevention plan (SWPPP);
- (7) Failing to provide required information to the city including:
  - a. Copies of the notice of intent, notice of termination, and/or no exposure certification as appropriate;

- b. Upon request, copies of the SWPPP, water quality monitoring results and/or hydrologic reports certifying compliance with discharge or retention requirements;

- (8) Failing to develop, implement, or comply with a stormwater pollution prevention plan or a corrective action plan utilizing best management practices that is either required under an AZPDES/NPDES permit or imposed by the city pursuant to this chapter, including requirements to implement good housekeeping, spill control and response, employee training, record keeping, proper material and waste management, practices for non-stormwater flows, and structural stormwater controls;
- (9) Misrepresentation in any document pertaining to an approved plan, permit, or certification relating to a discharge activity; and
- (10) Disabling or rendering inaccurate any sampling or monitoring device required under this chapter.

(Ord. No. 06-04, § 2, 4-14-06)

**Sec. 22-22. Non-prohibited discharges.**

The following types of discharges are not prohibited under this chapter unless they are found to be a source of pollutants:

- (1) Discharges in compliance with an AZPDES/NPDES permit;
- (2) Discharges in compliance with an approved corrective action plan utilizing best management practices.
- (3) Discharges of the following types of naturally occurring water are not prohibited:
  - a. Stormwater;
  - b. Rising groundwater;
  - c. Springs and ponds;
  - d. Diverted stream flow;
  - e. Flows from riparian habitats and wetlands; and
  - f. Pumped unpolluted groundwater.

- (4) Discharges that qualify for the AZPDES de minimus general permit are not prohibited as long as these discharges are in compliance with the permit. Qualifying discharges include:
- a. Discharges from installation and maintenance of potable water supply systems;
  - b. Discharges from subterranean dewatering;
  - c. Discharges from well development and maintenance and/or aquifer testing;
  - d. Discharges of groundwater, surface water or potable water from hydrostatic testing;
  - e. Discharges of groundwater, surface water or potable water associated with installation and maintenance of reclaimed water system transport discharges;
  - f. Discharges from residential non-contact cooling water (including overflow from air conditioning condensate and evaporative coolers);
  - g. Discharges from charitable noncommercial car washes when only the exterior of vehicles are being washed with water only or when biodegradable soap is used;
  - h. Discharges from building or street washing where only water or biodegradable soaps are used;
  - i. Discharges of dechlorinated pool water; and
  - j. Other de minimus discharges as specifically approved by ADEQ.
- (5) Additional types of discharges, which do not contribute to a violation of the city's municipal stormwater permit, may be allowed upon submittal of a copy of the discharger's written authorization from the Arizona Department of Environmental Quality or the Environmental Protection Agency. Such authorization shall be submitted to the city prior to the time of

discharge, and must be retained for at least three (3) years after the last discharge made pursuant to the authorization.

(Ord. No. 06-04, § 2, 4-14-06)

### **Sec. 22-23. Requirements.**

(a) Any person who is determined by the manager to have the potential to be a discharger of pollutants can be required to develop and implement a corrective action plan utilizing best management practices (BMPs) to prevent stormwater pollution. Based on site conditions, the manager will determine whether the corrective action plan must be prepared and certified by a qualified person registered with the State of Arizona as a professional engineer, or professional landscape architect; or a qualified person certified by the American Board of Industrial Hygiene, as a certified industrial hygienist.

For land disturbing activities that fall under the jurisdiction of this chapter, a stormwater pollution prevention plan must be prepared and certified by an engineer, or a landscape architect and submitted along with application for a grading permit to the City of South Tucson Planning Department. Proof of all applicable city, state, and federal permits including supporting documents such as the stormwater pollution prevention plan, the notice of intent, the notice of termination, and the no-exposure certification shall be maintained on site for inspection by authorized representatives.

(b) Any industrial facility or land disturbing activity seeking exemption from AZPDES/NPDES permitting requirements by retaining stormwater discharges on site must submit a hydrologic report certifying adequate containment in a one hundred-year storm event.

(c) Any person that is required to have a stormwater pollution prevention plan or a corrective action plan utilizing best management practices must post notices to employees containing information about whom to contact and what procedures to follow in the event of an accidental discharge or spill. Dischargers shall have a trained

employee or staff member who will be responsible for oversight of any necessary clean up or remediation.

(d) In the event of a spill or release, the owner, operator, or the person who has control of the source or location of any spill or release, which may result in a discharge that is not in compliance with this chapter, shall immediately take all reasonable safety precautions including, if appropriate, calling 911 and completing the following steps:

- (1) Proceed with containment and clean up in accordance with:
  - a. The orders of an involved health and safety agency, or if no such orders have been issued;
  - b. The orders of an authorized representative, or if no such orders have been issued;
  - c. The stormwater pollution prevention plan or approved corrective action plan utilizing best management practices for the involved facility.
- (2) Report any violations of the City of South Tucson Fire Code or other such applicable safety or health codes in the manner required by such code;
- (3) Notify the manager and the City of South Tucson Public Works Department and Planning Department and the Arizona Department of Environmental Quality of the release by telephone before noon of the next working day;
- (4) Provide written notification, within five (5) working days, to the manager and the city of public works department, and planning department of the type, volume, cause of the discharge, corrective actions taken, and measures to be taken to prevent future occurrences.

(e) Compliance with these requirements shall not relieve the discharger of any fines, penalties, or liability incurred, or that may be imposed by this chapter or other applicable laws as a result of the discharge. In addition, compliance with these

requirements shall not relieve the discharger from the reporting requirements of 40 CFR 110, 40 CFR 117 and 40 CFR 302.  
(Ord. No. 06-04, § 2, 4-14-06)

**Secs. 22-24—22-27. Reserved.**

DIVISION 4. ENFORCEMENT

**Sec. 22-28. Violation notices.**

(a) Upon discovery of a violation of this chapter, authorized representatives may issue to the violator a written notice stating the nature of the violation, the corrective action required, the time frame for corrective action, and the penalties for continued non-compliance. The notice shall be served either by personal service or certified mail, upon the owner, the owner's agent, the occupant, or the lessee. The notice may also require the violator to:

- (1) Submit a corrective action plan utilizing best management practices to an authorized representative indicating the cause of the violation, corrective actions to prevent recurrence, and a proposed compliance schedule;
- (2) Allow installation and operation of sampling and monitoring devices and pay all costs of installation, as well as costs for laboratory sample analysis, and submit results to the authorized representative;
- (3) Clean up any material that has left the property or has the potential to impact stormwater runoff, ensure that the clean up has been completed, and make changes in operations to prevent future violations;
- (4) Obtain and pay for the services of a qualified person to provide oversight and certify that corrective actions needed to resolve the violation have been completed;
- (5) Prepare and implement a corrective action plan utilizing best management practices to prevent stormwater pollution, regardless of AZPDES/NPDES requirements. Depending on site conditions, the manager may require that the corrective ac-

tion plan be prepared by a qualified person or prepared and certified by an engineer;

- (6) Stop work on clearing, dredging, grading, excavating, storing, transporting, and/or filling of land, new construction, improvements, alterations, or additions;
- (7) Stop any activity that is in violation of this chapter;
- (8) Abate, within the time specified in the notice, any condition that is in violation of this chapter; and
- (9) Abate immediately any condition in violation of this chapter, if the city manager determines that such condition presents an immediate threat to public health, safety, or the environment.

(b) Authorized representatives may approve the compliance schedule or corrective action plan utilizing best management practices submitted by the violator, or may require an alternative compliance schedule or corrective action plan utilizing best management practices. This shall be done within the period specified in the notice.

(c) If the manager discovers a condition that the manager determines is likely to cause or is causing a discharge that is in violation of the city's municipal stormwater permit or that threatens public health, safety or the environment, the manager may require an immediate cessation of activity and abatement.  
(Ord. No. 06-04, § 2, 4-14-06)

### **Sec. 22-29. Penalties and corrective actions.**

(a) The remedies provided in this section are cumulative and the city may seek one (1) or more such remedies.

- (1) It is a civil infraction for any person to violate this chapter or fail to comply with a notice of violation issued under this chapter.
- (2) It is a misdemeanor for any person to violate this chapter or fail to comply with a notice of violation issued under this chapter.

- (3) Any person violating this chapter shall be liable to the city for all damages, costs, fines and penalties incurred by the city as a result, and shall defend, indemnify, and hold harmless the city against any resulting claims, liabilities or damages.

(b) Upon a finding that any person has violated this chapter, the court shall issue an order or, in the case of a criminal conviction, terms of probation, requiring the violator to do any or all of the following as appropriate:

- (1) Submit a plan to an authorized representative indicating the cause of the violation, corrective actions to prevent recurrence, and a proposed compliance schedule;
- (2) Allow installation and operation of sampling and monitoring devices and pay all costs of installation and laboratory sample analysis, and submit results to the authorized representative;
- (3) Clean up any material that has left the property, or has the potential to impact stormwater runoff, ensure that the clean up has been completed, and make changes in operations to prevent future violations;
- (4) Obtain and pay for the services of a qualified person to provide oversight and certify that corrective actions needed to resolve the violation have been completed;
- (5) Prepare and implement a corrective action plan utilizing best management practices to prevent stormwater pollution, regardless of AZPDES/NPDES requirements. Based on site conditions, the manager will determine whether the corrective action plan must be prepared and certified by a qualified person registered with the State of Arizona as a professional engineer, or professional landscape architect; or a qualified person certified by the American Board of Industrial Hygiene, as a certified industrial hygienist;
- (6) Stop work on clearing, dredging, grading, excavating, storing, transporting, and/or filling of land, new construction, improvements, alterations, or additions;

- (7) Stop any activity that is in violation of this chapter;
- (8) Abate, within the time specified, any condition that is in violation of this chapter; and
- (9) Abate immediately any condition in violation of this chapter, if the condition presents an immediate threat to public health, safety, or the environment.

(c) The City Court of the City of South Tucson shall have jurisdiction to issue to any person violating this chapter the orders specified in this section, and any other orders necessary to insure compliance with this chapter. The City Court of the City of South Tucson shall have jurisdiction to impose upon any person violating this chapter the terms of probation specified in this section, or any other terms of probation necessary to insure compliance with this chapter.

(d) If more than one person is identified as the owner of record, such persons shall be presumed to be jointly and severally in lawful possession and control of the activity or property. The transfer of ownership, possession, or control of real property to another person does not relieve the transferor of the responsibility for violations of this chapter that occurred before the transfer.

(Ord. No. 06-04, § 2, 4-14-06)



Chapter 23

**RESERVED**