

# **City of Lake Quivira Ordinance No.291**

**AN ORDINANCE REGULATING STORMWATER MAINTENANCE AND ILLICIT DISCHARGES WITHIN THE CITY OF LAKE QUIVIRA, KS**

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAKE QUIVIRA, KANSAS**

**SECTION ONE:** The Code of the City of Lake Quivira, Kansas is hereby amended to add a new Title X regulating stormwater maintenance and illicit discharge, to read as follows:

## **Title 10 General Provisions Stormwater Maintenance**

- **Chapter 1 Purpose and Intent of Stormwater Management Program**
- **Chapter 2 Definitions and Abbreviations**
- **Chapter 3 Illicit Discharge Prohibited**
- **Chapter 4 Required Compliance with NPDES Permit**
- **Chapter 5 Authority of Building Official**
- **Chapter 6 Inspection and Detection Program**
- **Chapter 7 Release and Reporting; Cleanup**
- **Chapter 8 Abatement of Nuisances and Hazards**
- **Chapter 9 Persons Responsible for Compliance**
- **Chapter 10 Penalties**

## **Chapter 1 Purposed and Intent of Stormwater Management Program**

The Governing Body finds it is necessary to provide for regulations in order to comply with the City's responsibilities under the *Clean Water Act* and the NPDES program. The purpose of this Title is to set forth procedures for the regulation of spills, improper dumping, and other acts resulting in harmful discharges into the City Municipal Separate Storm Sewer System (MS4).

A Stormwater Management Program will provide both general and specific benefits to all property within the City and will include the provision of adequate systems of reduction of hazards to property and life resulting from Stormwater runoff; improvement in general health and welfare through reduction of undesirable Stormwater conditions improvement of water quality in the Stormwater Management System and its receiving waters the provision of a planned and orderly system for managing and mitigating the effects of new development on Stormwater and appropriate balancing between development and preservation of the natural environment.

The Stormwater Management Program will also initiate innovative and proactive approaches to Stormwater management within the City to address problems in areas of the City that may be prone to flooding, and assist in meeting the mandates of the National Pollutant Discharge Elimination System as created under the Federal Clean Water Act and associated state and federal laws and their supporting regulations

## **Chapter 2 Definitions and Abbreviations**

The terms or phrases used in this Title shall have those meanings and definitions as set forth herein, unless the context a different meaning is intended, or the Code directs that a different definition is to be applied to a provision.

As used in this Title, the following abbreviations shall have the following meanings;

<b>BMP</b>	Best Management Practice
<b>CFR</b>	Code of Federal Regulations
<b>EPA</b>	Environmental Protection Agency
<b>HHW</b>	Household Hazardous Waste
<b>KDHE</b>	Kansas Department of Health and Environment
<b>MS4</b>	Municipal Separate Storm Sewer System
<b>NPDES</b>	National Pollutant Discharge Elimination System
<b>PST</b>	Petroleum Storage Tank

As used in this Title, the following abbreviations shall have the following meanings:

*“Applicant”* means any Person who makes application for an approved plan and a permit as required by this Title.

*“Best Management Practice”* (BMP) means the means schedules of activities prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the Discharge of Pollutants directly or indirectly to Stormwater, receiving waters, or Stormwater Conveyance systems. BMP’s also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

*“Building Official”* means the City Building Official or his or her designee.

*“Car”* means any vehicle meeting the definition for passenger car, passenger van, pickup truck, motorcycle, recreational vehicle, or motor home.

*“City”* means the City of Lake Quivira, Kansas

*“Clean Water Act”* means the federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), and any subsequent amendments thereto.

*“Code”* means the Code of the City of Lake Quivira, Kansas.

*“City Administrator”* means the City Administrator or the City Administrator’s authorized representative.

*“Discharge”* means the addition or introduction, directly or indirectly, of any Pollutant, Stormwater, or any other substance into the MS4 or Surface Waters.

*“Domestic Sewage”* means human excrement, gray water (from home clothes washing, bathing, showers, dishwashing, and food preparation), other Wastewater from household drains, and waterborne Waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, retail and commercial establishments, factories, and institutions, that is free from Industrial Waste.

*“Erosion”* means the process by which the ground surface is worn away by the action of the wind, water, ice, gravity, or artificial means, and/or Land Disturbance activities.

*“Extremely Hazardous Substance”* means any substance listed in the appendices to 40 CFR Part 355, Emergency Planning and Notification.

*“Fertilizer”* means a substance or compound that contains a plant nutrient element in a form available to plants and is used primarily for its plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or mixture of two or more Fertilizers.

*“Hazardous Household Waste”* (HHW) means any material generated in a household (including single and multiple residences) by a consumer which, except for the exclusion provided in 40 CFR Section 261.4 (b)(1), would be classified as a Hazardous Waste under 40 CFR Part 261 or K.A.R. 28-29-23b.

*“Hazardous Substance”* means any substance listed in Table 302.4 of 40CFR Part 302.

*“Hazardous Waste”* means any substance identified or listed as a Hazardous Waste by the EPA pursuant to 40 CFR Part 261.

*“Illicit Discharge”* means any direct or indirect non-stormwater discharge to the Municipal Separate Storm Sewer System, except as exempted by this Title.

*“Industrial Waste”* means any waterborne liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade, or business.

*“Municipal Separate Storm Sewer System”* or *“Public Storm Sewers”* means the publicly maintained Storm Water Drainage System within this City, including all appurtenances and ancillary structures thereto, any conveyance or system of conveyances for Stormwater, including road drainage systems, streets, catch basins, Detention Basins, curbs, gutters, ditches, man-made, Channels, or storm drains, as well as any system that meets the definition of a Municipal Separate Storm Sewer System or “MS4” as defined by the Environmental Protection Agency in 40 C.F.R. 122.26, or amendments thereto.

*“NPDES Stormwater Discharge Permit”* means a National Pollutant Discharge Elimination System permit issued under authority delegated pursuant to 33 U.S.C. 1342(b) that authorizes the discharge of Pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

*“Oil”* means any kind of oil in any form, including but not limited to: petroleum, fuel, oil, crude oil, synthetic oil, motor oil, bio-fuel, cooking oil, grease, sludge, oil refuse, and oil mixed with Waste.

*“Permit Holder”* means the Person who applies for the NPDES Stormwater Discharge Permit or other Permit authorized by this Title, and includes any Person responsible for compliance with the terms of the Permit or this Title.

*“Person”* means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns, including all federal, state, and local governmental entities.

*“Pesticide”* means a substance or mixture of substances intended to prevent, destroy, repel, or migrate any pest, or substances intended for use as a plant regulator,

*“Petroleum Product”* means a product that is obtained from distilling and processing crude Oil and that is capable of being used as a fuel or lubricant in a motor vehicle, boat, or aircraft, including motor Oil, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel Oil, and #1 and #2 diesel fuel.

*“Pollutant”* means any substance or material that contaminates or adversely alters the physical, chemical, or biological properties of waters, including changes in temperature, taste, odor, turbidity, or color of the water. This substance or material may include, but is not limited to, dredged spoil, spoil Waste, incinerator residue, Sewage, Pet and livestock Waste, garbage, Sewage, sludge, munitions, chemical Waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, yard Waste, Hazardous Household Wastes, Oil, anti-freeze, litter, Pesticides, and industrial, municipal, and agricultural Waste discharge into water.

*“Property Owner”* means the named owner as indicated by the records of Johnson County, Kansas Records and Tax Administration, as the legal or beneficial owner of land, and includes those holding the right to purchase or lease the land, or any other person holding proprietary rights on the land.

*“Release”* means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the MS4 and/or Surface Waters.

*“Sanitary Sewer”* means the system of pipes, conduits, and other conveyances that carry Industrial Waste and Domestic Sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to a Sewage treatment plant and to which Stormwater, surface water, and ground water are not intentionally admitted.

*“Sediment”* means any solid material, organic, or inorganic, that has been deposited in water, is in suspension in water, is being transported or has been removed from its site of origin by wind, water, ice, or gravity as result of soil Erosion, Sedimentation is the process by which eroded material is transported and deposited by the action of wind water, ice or gravity.

*“Septic Tank Waste”* means any Domestic Sewage from holding tanks, such as vessels, chemical toilets, campers, trailers, and septic tanks.

*“Sewage”* means the Domestic Sewage and/or Industrial Waste that is discharged into the Sanitary Sewer system and passes through the Sanitary Sewer system to a Sewage treatment plant for treatment.

*“State”* means the state of Kansas.

*“Stormwater”* or *“Stormwater Runoff”* means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

*“Surface Waters”* means any body of water classified as “surface waters” by the state of Kansas, including streams, rivers, creeks, brooks, sloughs, draws, arroyos, canals, springs, seeps, cavern streams, alluvial aquifers associated with these Surface Waters, lakes, man-made reservoirs, oxbow lakes, ponds, and wetlands, as well as any other body of water classified by the federal government as “water of the United States”.

*“Waste”* means any garbage, refuse, sludge, or other discarded material that is abandoned or committed to treatment, storage or disposal, including solid, liquid, semi-solid or contained gaseous materials resulting from industrial, commercial mining, community and agricultural activities. Waste does not include solid or dissolved materials in Domestic Sewage or irrigation return flows or solid or dissolved materials or industrial Discharges that are point sources subjected to permits under the state of Kansas. The Federal definition of solid Waste is found at 40 CFR 257.2.

*“Watercourse”* is any natural or improved stream, river, creek, ditch, channel, canal, conduit, gutter, culvert, drain, gully, swale, lake, or wash in waters flow either continuously or intermittently.

*“Water Quality Standard”* means the law or regulation that consists of the beneficial designated use or uses of a water body, the numeric and narrative water quality criteria that are necessary to protect the use or uses of that particular water body and an anti-degradation statement.

### Chapter 3 Illicit Discharge Prohibited

- A. Illicit Discharge.** No person shall permit, maintain, authorize, direct, place, drain, throw, or otherwise discharge any Pollutant into Surface Waters or the Municipal Separate Storm Sewer System. Unless in compliance with a valid NPDES Permit including, but not limited to:
1. The discharge of Pollutants related to the cleaning of gas stations, auto repair garages, or other type of automotive service facilities.
  2. Discharge of Pollutants related to the commercial auto washing, commercial floor, rug, or carpet cleaning, and other such mobile commercial and industrial operations.
  3. Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains soap, detergent, degreaser, solvent or any surfactant based cleaner.
  4. Any wastewater that contains soap, detergent, degreaser, solvent, or surfactant based cleaner from a commercial motor vehicle wash facility; from any vehicle washing, cleaning, or maintenance at any new or used motor vehicle dealership, rental agency, body shop, repair shop, or maintenance facility, or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including truck, bus, or heavy equipment;
  5. Any wastewater from commercial floor, rug or carpet cleaning;
  6. To the maximum extent practicable, discharges from areas where repair of machinery and equipment, including motor vehicles, which are visible leaking oil, fluid or antifreeze, is undertaken;
  7. Any contaminated runoff from a vehicle wrecking or storage yard.
  8. Discharge of motor oil, antifreeze or any other petroleum product or Waste;
  9. Any new or used Petroleum Product or Oil;
  10. Discharge of untreated runoff from storage areas of materials containing grease, oil, or other hazardous substances, and uncovered receptacles containing hazardous materials;
  11. Discharge of chlorinated/brominated swimming pool water and filter backwash, or any swimming pool, fountain or water containing a

harmful level of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in fountain or pool cleaning;

12. Any swimming pool, fountain or spa water containing a harmful level of chlorine (>0 parts per million), muriatic acid or other chemical used in the treatment or disinfection of the water or during cleaning of the facility;
13. Any filter backwash from a swimming pool or fountain;
14. Discharge of untreated runoff from the washing of Pollutant materials from paved or unpaved areas; provided, however, that non-industrial and non-commercial activities which incidentally generate urban runoff, such as the hosing of sidewalks, and the non-commercial hand-washing of Cars, shall be excluded from this prohibition;
15. Any wastewater from the wash-down or other cleaning of pavement that contains any soap, detergent solvent, degreaser, emulsifier, dispersant or other cleaning substance, or any wastewater from the wash-down or other cleaning of any pavement, where any spill, leak, or other Release of Oil, motor fuel, or other petroleum or Hazardous Substance has occurred, unless all those materials have been previously removed;
16. To the maximum extent practicable, discharges from washing impervious surfaces in industrial/commercial areas which results in a discharge of untreated runoff, unless specifically required by State or City health and safety codes, or permitted under a separate NPDES permit.
17. Discharges from the washing out of concrete trucks, or discharges of any ready-mixed concrete, mortar, ceramic, asphalt based material or hydro mulch material or discharge resulting from the cleaning of vehicles or equipment containing or used in transporting or applying such materials;
18. The disposal of hazardous waste, including household hazardous waste, and including trash containers used for trash disposal where such disposal caused or threatens to cause a direct or indirect discharge;
19. Discharge of a significant quantity of food or food processing wastes;



20. Discharge of any fuel and chemical wastes, animal wastes, garbage, batteries, and other materials that have potential adverse impacts on water quality;
21. Any garbage, rubbish or other Waste;
22. Any new or used paints, including latex-based paints, Oil-based paints, stains, varnish, and primers, as well as cleaning solvents and other associated products;
23. Any runoff, wash down water or Waste from any animal pen, kennel, fowl or livestock containment area or any pet Wastes Generally;
24. Any Domestic Sewage or Septic Tank Waste, grease trap or grease interceptor Waste, holding tank Waste, or grit trap Waste;
25. Any Discharge from water line disinfection by super chlorination, if it contains a harmful level of chlorine (>0 parts per million) at the point of entry into the MS4 or Surface Waters;
26. Any yard waste which has been moved or gathered by a person;
27. Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by leaking PST; or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge has received an NPDES permit from the state and is acknowledged by the Building Official;
28. Any substance or material that will damage, block, or clog the MS4;
29. Any other discharge that caused or contributes to causing the City to violate a state water quality standard, the City's NPDES stormwater permit, the City's Kansas Water Pollution Control General Permit, or any state-issued discharge permit for discharges from its MS4;
30. Any Industrial Waste;
31. Any effluent from cooling tower, condenser, compressor, emissions scrubber, emission filter or blowdown from a boiler;

B. Unless identified by the City or KDHE as a significant source of Pollutants to Surface Water, the following non-stormwater Discharges are deemed acceptable and not a violation of this Chapter;

1. Water line flushing;
2. Diverted stream flow;
3. Rising groundwater;
4. Uncontaminated groundwater infiltration as defined under 40 CFR 35.2005(20) to Municipal Separate Storm Sewer System;
5. Uncontaminated pumped groundwater
6. Contaminated groundwater if authorized by KDHE and approved by the City;
7. Discharges from potable water sources;
8. Fountain drains;
9. Air conditioning condensate;
10. Irrigation waters;
11. Springs;
12. Water from crawl spaces pumps;
13. Footing drains;
14. Individual residential Car washing;
15. Flows from riparian habitats and wetlands;
16. Dechlorinated swimming pool discharges, excluding filter back wash;
17. Street wash waters (excluding street sweepings which have been removed from the street);
18. Discharges or flows from emergency firefighting activities;
19. Heat pump discharge waters (residential only);

20. Debris associated with a City sponsored fireworks display;
  21. Street or pavement treatments placed on utilized by the City or by Lake Quivira Incorporated;
  22. Pressure washing of boats, awnings, or other items utilizing only water from surface waters or potable water sources.
  23. Treated Wastewater or other discharges meeting requirements of the NPDES permit; and
  24. Other discharges determined not to be a significant source of Pollutants to waters of the state, a public health hazard or a nuisance.
- C. Any discharge identified as an Exempted Discharge by this Chapter, shall be prohibited by this Chapter if the discharge in question has been determined by KDHE or the Building Official to be a source of Pollutant to the Municipal Separate Storm Sewer System or to a Water Body, provided written notice of such determination has been provided by the Building Official to the property owner or Person responsible for such discharge, and the discharge has occurred more than ten calendar days beyond such notice.
- D. No Person shall introduce or cause to be introduced into the Municipal Separate Storm Sewer System or to a Surface Water any harmful quantity of sediment, silt, earth, soil, or other material associated with construction or land disturbance activities in excess of what could be retained on site or captured by employing Sediment and Erosion control measures.
- E. No person shall permit, authorize, maintain, allow or connect a line conveying sanitary sewage, domestic or industrial, to the Municipal Separate Storm Sewer System or to a Surface Water.
- F. No person shall use Pesticides, herbicides and Fertilizers except in accordance with manufacture recommendations. Pesticides, herbicides, and Fertilizers shall be stored, transported, and disposed of in a manner to prevent release to the MS4.
- G. No Person shall tamper with, destroy, vandalize, or render inoperable any BMP's which have been installed for the purpose of eliminating or minimizing pollutant discharges, nor shall any person fail to install or fail to properly maintain any BMP's which have been required by the City or by other local, state, or federal jurisdictions.

## **Chapter 4 Required Compliance With NPDES Permit**

Any Person subject to a NPDES stormwater discharge permit in addition to the City of Lake Quivira's Kansas Water Pollution Control General Permit shall comply with all provisions of such permits. Proof of compliance with said permit may be required in a form acceptable to the Building Official prior to allowing discharges to the Municipal Separate Storm Sewer System, and prior to the issuance of any grading, building or occupancy permits, Land Disturbance Permit, Right of Way Permit, Public Improvement Permit, or any other types of permit or license issued by the City.

Any discharge that would result in or contribute to a violation of a NPDES Permit, either separately or in combination with other discharges, is prohibited.

## **Chapter 5 Authority of Building Official**

The Building Official is hereby designated to exercise the powers prescribed by this Title. In addition to the authority which may be specifically provided in this Title, the Building Official may exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Title. The building official may appoint and fix the duties of such officers, agents, and employees as the Building Official deems necessary to carry out the purposes of this Title, and may delegate any of the aforementioned functions or powers to such officer agents and employees.

## **Chapter 6 Inspection and Detection Program**

The Building Official is authorized to develop and implement a plan to actively detect and eliminate prohibited discharges and connections to the MS4 or surface waters within the City. Such plan may include, but is not limited to, periodic and random inspections of facilities and businesses, particularly those most associated with potentially prohibited discharges; visual surveys of exterior practices; inspection, sampling and analysis of discharges from outfalls of the MS4, particularly during dry weather periods; manhole and pipe inspections to trace discharges through the system to point of origin; education on pollution prevention, and receipt of complaints and information from the public regarding known or suspected discharges.

## **Chapter 7 Release and Reporting; Cleanup**

- A. Any person responsible for the release of any prohibited material that may flow, leach, enter, or otherwise be introduced into the MS4 or surface waters shall take all necessary steps to ensure the containment and cleanup of such release.

- B. In the event of such release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services and shall notify the Building Official in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Building official within three business days of the phone notice.
  
- C. In the event of a release of non-hazardous materials, said person shall notify the Building Official in person or by phone or facsimile no later than next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Building Official within three business days of the phone notice.

## **Chapter 8    Abatement of Nuisances and Hazards**

### **Section 1 Authority**

In addition to the penalties provided for by this Title, when the Building Official determines there exists a condition or act prohibited by this Title, the Building Official may, in his or her sole discretion, take whatever action he or she deems necessary to immediately abate the nuisance or hazard to protect the safety or Persons or property, and the City may be reimbursed from any surety, escrow account or letter of credit, required by this Title, and/or may assess, to the property where a violation has been identified by the Building Official, all costs of the abatement, including administrative costs, materials, and personnel, to the Person who commits, permits, maintains, directs, or authorizes the nuisance or hazard in violation of this Title.

The Governing Body hereby delegates to the Building Official the duty of determining when a violation of this Title exists. This determination shall be made in written form by the Building Official, acting on behalf of the Governing Body, and the Building Official may proceed to abate and assess the nuisance.

## **Section 2 Required Compliance with Order**

No Person shall intentionally impede or obstruct the Building Official or his or her lawful designee from the lawful performance of duties or activities related to the enforcement of this Title or abatement of violations, through the use of restraint, coercion, intimidation or by force and violence or threat thereof. No Person shall intentionally disregard an Order of the Building Official or his or her lawful designee, to immediately cease and discontinue a condition or act prohibited by this Title, or to fail to take action necessary to immediately abate and/or remedy the conditions prohibited by this Title and as required by the Building Official.

## **Chapter 9 Persons Responsible for Compliance**

Addition to the Person who commits, permits, maintains, directs, or authorizes, a violation of this Title, additional Persons responsible for compliance with this Title shall include, jointly and severally:

- A. The owner or occupant of the property upon which a violation or an illicit connection or discharge occurs;
- B. The Person who submits or to whom a Building Permit or NPDES Permit is issued that relates to the property upon which a violation or an illicit connection or discharge occurs;
- C. Any Person who participated in a violation or an illicit discharge or illicit connection as prohibited by this Title.

## **Chapter 10 Penalties**

Any Person violating any of the provisions of this Title shall upon first offense be guilty of a Class C Offense. Any Person violating any of the provisions of this Title shall upon a second offence be guilty of a Class B Offense. Any Person violating any of the provisions of this Title shall upon a third and any subsequent offense be guilty of a Class A Offense. The imposition of a penalty shall not prohibit any action by the Building Official to enforce compliance, prevent a violation, or remedy a violation, nor shall it prohibit the Building Official from imposing liens or assessments necessary to remedy a violation of this Title. In addition to the imposition of a penalty, the Court may assess restitution and reimbursement of all costs of any abatement, including administrative, materials, and personnel, to the Person who commits, permits, maintains, directs, or authorizes, a violation of this Title.

The City shall keep a record of the total cost of such abatement or removal incurred by the City, and shall bill such costs to the owner of the property where a violation of this Title takes place by certified, return receipt requested. If the assessment for such costs is unpaid after thirty calendar (30) days from the date of billing, the City Clerk, at the time of certifying City taxes, shall certify such costs to the County Clerk, with instructions to extend the same on the tax roll of the County Treasurer and pay to the City as City taxes are collected and paid.

Nothing in this Section shall limit the City's right to pursue collection both by levying a special assessment and in any other manner provided for by law, but only until the full cost and any applicable interest has been paid in full.

SECTION TWO: If any part or parts of this Ordinance shall be held to be invalid, such invalidity shall not affect the validity of the remaining parts of this Ordinance. The Governing Body hereby declares that would have passed the remaining parts of this Ordinance if it would have known that such part or parts thereof would be declared invalid.

SECTION THREE: This Ordinance shall take effect and be in force from and after its passage and approval as provided by law.

Passed and approved this 3<sup>rd</sup> day of October, 2016