

## ORDINANCE NO. O2021-022

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, AMENDING TITLE 19, CHAPTER 194 OF THE YUMA CITY CODE, AS AMENDED, RELATING TO ILLICIT DISCHARGE DETECTION AND ELIMINATION WITHIN THE CITY LIMITS OF THE CITY OF YUMA

WHEREAS, during routine review of the Yuma City Code, out-of-date information was discovered in the Illicit Discharge Detection and Elimination Code (Title 19, Chapter 194); and,

WHEREAS, the proposed revisions update references, correct the approval entity, and make editorial corrections; and,

WHEREAS, the proposed revisions incorporate a process to obtain an administrative warrant to abate and restore uncorrected violations.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Yuma, Arizona, as follows:

SECTION 1: Yuma City Code, Title 19, Chapter 194 is amended to insert the following bolded text and delete the strikethrough text:

#### § 194-01 Findings of Fact.

An illicit discharge is defined as any discharge to the **Small Municipal Separate Storm Sewer Systems** (MS4) or waters of the United States that is not composed entirely of stormwater, except for discharges allowed ~~under~~ **by** the AZPDES Permit No. ~~AZG2002~~**AZG2016**-002 or waters used for firefighting operations. These non-stormwater discharges occur due to illegal connections to the MS4 from residential, business, industrial or commercial establishments. As a result of these illicit connections, contaminated stormwater, wastes or wastewater enters ~~into~~ storm drains or ~~directly into~~ local waters before receiving treatment ~~from~~ **at** a wastewater treatment plant. Illicit connections may be intentional or ~~may be~~ unknown to the property or business owner and may be due to the connection of floor drains to the MS4. Additional sources of illicit discharges can be attributed to, but not ~~necessarily~~ limited to, failing septic systems, illegal dumping practices, and the improper disposal of sewage from recreational practices such as boating or camping.

#### § 194-02 Purpose.

(B) To prohibit illicit connections, illegal ~~dumpings~~**dumping** and discharges to the city's MS4.

#### § 194-03 Definitions.

**CONSTRUCTION ACTIVITY.** Activities subject to AZPDES Construction General Permit No. ~~AZG2003-001~~**CGP 2013**.

§ 194-13 Notification of Spills.

Notwithstanding other requirements of law, as soon as any operator, or a person responsible for emergency response for a facility or operation, has information of any known or suspected release of materials ~~which are~~ **that is causing** or may result in illegal discharges or pollutant discharges into stormwater, the MS4, or waters of the United States.; ~~said~~ **The operator or person with this information** 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 the operator or~~ person shall immediately notify emergency response agencies of the occurrence ~~via~~ **using the** emergency dispatch services. In the event of release of non-hazardous materials, ~~said the operator or~~ person shall notify the **Engineering Department** ~~Department of Public Works of the city~~ in person, or by phone or ~~facsimile~~ **by electronic communication** no later than the next business day. Notification in person or by phone shall be confirmed ~~by written notice addressed~~ **in writing and the confirmation shall be** mailed to the ~~city~~ **City** within three (3) business days of the ~~phone notice~~ **initial notification**. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall ~~also~~ retain an on-site written record of the discharge and the action taken to prevent its recurrence. ~~Such~~ **These** records shall be retained for ~~at least~~ **a minimum of** three (3) years.

§ 194-15 Appeal of Notice of Violation.

Any person receiving a notice of violation (~~NOV~~) may appeal the determination ~~of to the Director of the Department of Public Works of the city~~ **City Engineer. The** A notice of appeal ~~must~~ **shall** be **submitted to the City Engineer** ~~received within~~ **fifteen (15)** calendar days from the date of the NOV. ~~A Hearing hearing on the appeal before the appropriate authority or his/her designee shall take place~~ **be held** within **fifteen (15)** calendar days ~~from~~ **of** the date of receipt of the notice of appeal. The **appeal** decision of the ~~city~~ **City** or its designee shall be final.

§ 194-16 Enforcement Measures After Appeal.

If the violation ~~has is not been~~ corrected ~~pursuant to the requirements as set forth in the notice of violation,~~ **allowing for the time to appeal,** ~~or, in the event of an appeal, the Engineer within three working days of the decision of the city upholding its decision, then~~ the **City Engineer** shall **seek an administrative warrant** to enter upon the subject private property and ~~is authorized to~~ take any ~~and all~~ measures necessary to abate the violation and/or restore the property. **In the event of an appeal, the administrative warrant shall be sought within three (3) days of a decision that upholds the notice of violation.** ~~It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the Engineer or the city designated contractor to enter upon the premises, for the purposes set forth above.~~ **The process for obtaining an administrative warrant is set forth in § 134.05 of Title 13, and a warrant shall issue if probable cause is shown that a violation of this Chapter has occurred.**

SECTION 2: It shall be unlawful for any person, firm or corporation to violate, or cause the violation of, any provision of this ordinance. Any person, firm or corporation violating any of the provisions of this ordinance shall be guilty of a class 1 misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed \$1,000 or by imprisonment for not more than ten days or both fine and imprisonment. Fine and imprisonment must consider the nature of the violation,

its seriousness and the prior history of the violator. Each separate day or part thereof during which any violation of said sections of this ordinance occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided.

SECTION 3: If any part or portion of this ordinance is found invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining part or portion of this ordinance

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

APPROVED:

\_\_\_\_\_  
Douglas J. Nicholls  
Mayor

ATTESTED:

\_\_\_\_\_  
Lynda L. Bushong  
City Clerk

APPROVED AS TO FORM:

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Richard W. Files  
City Attorney