

# City of Safford Drainage Ordinance; Adopted September 24<sup>th</sup>, 2001

## 1. General Provisions

### 1.1. Title and Authority

This regulation may be referred to as the Drainage regulation for the City of Safford and shall be referred to herein as the Regulation. The Regulation is adopted pursuant to ARS 9-462.01, which authorizes the legislative body of any municipality to establish regulations to protect life and property from the hazards of periodic flood inundation, and ARS 9-463.01, which requires the legislative body of a municipality to establish regulations requiring the preparation and submission of engineering plans for drainage for the subdivision of land.

### 1.2. Need And Purpose

The occurrence of storms and other events that cause periodic inundation of land require the adoption of regulations specifically designed to minimize damages associated with such inundation. The purpose of the Regulation is to promote and protect the health, welfare and safety of the citizens of the City of Safford and their property.

### 1.3. Area Of Jurisdiction

The Regulation applies to all areas within the incorporated limits of the City of Safford (hereinafter "City") excluding islands of county area enclosed by the city limits.

### 1.4. Severability

This Regulation and the various parts thereof are hereby declared to be severable. Should any section of this Regulation be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Regulation to as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

### 1.5. Disclaimer

The degree of protection from flooding due to storm water runoff required by this Regulation is considered reasonable for regulatory purposes and is based on standard engineering practices and scientific methods of study. Compliance with this Regulation does not ensure complete protection from flooding and is not to be taken as a warranty. Greater storms may occur or the water damage hazard may be increased by man-made or natural causes such as silting of channels and canals, pipe and culvert openings restricted by debris, natural erosion or man-made obstructions or diversions. This Regulation does not imply that land uses will be free from flooding or flood damage. This Regulation does not create any liability on the part of the City or any officer or employee thereof for any flood damages that may result from reliance on this Regulation or any administrative decision lawfully made thereunder. This Regulation does not relieve any person from liability for actions taken that damage persons or the property of others.

### 1.6. Rules Of Construction

When not inconsistent with the context, words used in the present tense include the future; words in the singular include the plural; words in the plural include the singular. Words or phrases not specifically defined in this Regulation shall be given the meaning they have in common usage. The word "shall" is mandatory and the word "may" is permissive.

### 1.7. Rules Of Interpretation

This Regulation is remedial in nature and therefore shall be liberally construed to effectuate its purpose. The requirements set out herein shall be construed as minimum requirements. Nothing in this Regulation shall be construed to limit or repeal other powers granted to the City. This Regulation shall not be construed to legalize existing conditions or uses which are in violation of other statutes, ordinances or regulations. Should provisions of this Regulation conflict or overlap

with other regulations, ordinances or statutes, the regulation, ordinance or statute which imposes the more stringent requirement or restriction shall prevail.

#### 1.8. Definitions

The following definitions apply to those words and phrases as used within this Regulation:

**All-weather access:** Provision for at least one continuous paved 12-foot wide lane of access where regulatory flow levels do not exceed one foot in depth. For arterial and major streets (as defined in the City Subdivision code) all-weather access shall mean provision of an access lane as described above in both directions of travel.

**Arizona State Standards:** Technical standards promulgated by the Arizona Department of Water Resources under the authority of ARS 48-3605(A) for use in floodplain management in Arizona.

**Best Management Practices:** Procedures promulgated by the Environmental Protection Agency and as outlined within the Drainage Manual for mitigation of water quality impacts associated with construction and other land disturbance activities.

**City Storm Drain System:** Any and all storm drains, gutters, streets, public right-of-way, regulatory drainage paths and other flow conveyances capable of conveying storm runoff within the City.

**Drainage Administrator:** The person responsible for administering this regulation. The Drainage Administrator is appointed by the City Manager.

**Drainage Manual:** Refers to the effective City of Safford Drainage Manual adopted by the City Manager and hereby incorporated into this Drainage regulation together with any adopted revisions.

**Drainage Plan:** A plan for land development activity prepared by an Arizona registered civil engineer for and at the expense of the party proposing the development activity and meeting the requirements of a Drainage Plan as outlined in the Drainage Manual.

**Land Development Activity:** Any disturbance of land, which has the potential for affecting conveyance of runoff along a regulatory drainage path.

**Onsite Drainage:** Drainage located within the boundaries of a parcel or property that is the subject of development or other improvement.

**Offsite Drainage:** Drainage that is not located within the boundaries of a property which is the subject of development or other improvement but which enters or exits the subject property and which may affect, or be affected by, the development of the subject property.

**Regulatory drainage path:** Any physical path of drainage (e.g., wash, swale, gully, street, pipe, etc.) which collects flow from an area of  $\geq 10$  acres. The 10 acre area criteria utilized under this definition is only for purposes of identifying regulatory flow paths and does not mean that a land development activity under 10 acres in size is exempt from the provisions of this Regulation.

**Regulatory flow:** The rate of flow, in cubic feet per second, occurring along a regulatory drainage path during a 100-year storm event as determined using the Drainage Manual.

**Regulatory flow level:** The elevation or height of ponding or flooding associated with the occurrence of a regulatory flow.

## 2. General Requirements

### 2.1. Permit Required

A Drainage Permit is required for any new construction, any improvement(s) to existing property that increase(s) the assessed value of the improvements to the property by 50% or more, and any other improvement(s) or activity that could potentially affect a regulatory drainage path or regulatory flow level.

### 2.2. Drainage Plan Required

#### 2.2.1 Commercial and Multiple Lot Development

A Drainage Plan is required for all commercial, industrial, and multiple lot development.

#### 2.2.2 Single Lot Residential Development

The Drainage Administrator is authorized to determine if a Drainage Plan is required for single lot residential development.

### 2.3. Standards

#### 2.3.1 General

All regulatory drainage paths, both onsite and offsite, shall be evaluated and accommodated in accordance with the Drainage Manual in the preparation of a Drainage Plan. In addition, the Arizona registered civil engineer preparing the Drainage Plan shall evaluate other drainage sources affecting the site of interest in the Drainage Plan to the extent necessary to determine that the proposed alteration of such sources does not pose a hazard to persons or property under the proposed plan. Such determination shall be clearly stated in the Drainage Plan.

#### 2.3.2 Stormwater Storage

All development shall provide storage of stormwater runoff in accordance with Arizona State Standards, SS8-99. All development shall utilize the Level 1 procedure of SSA8-99 unless an engineer demonstrates and certifies that adequate outfall capacity exists downstream to allow application of the Level 2 procedure. The Drainage Administrator shall determine circumstances and criteria suitable for application of SSA8-99 Level 3 procedures. Specific design and landscaping requirements for stormwater storage facilities are outlined in Arizona State Standards and the Drainage Manual. Waiver of stormwater storage requirements may be allowed with the approval of the Drainage Administrator for those cases cited in Arizona State Standards, SSA8-99.

#### 2.3.3 Stormwater Quality

##### 2.3.3.1 Prohibition Of Non-Stormwater Discharges

Non-stormwater discharges to the City Storm Drain System are prohibited with the following exceptions: flows from fire fighting activity, water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing (including car washes for charitable purposes), flows from riparian habitats and wetlands, dechlorinated swimming pool discharges and street wash water.

#### 2.3.3.2 Construction Site Stormwater Runoff Control

All construction activity disturbing a land area of one acre or more shall conform to all applicable state and federal regulations regarding erosion control and sediment loss from project sites. Such construction activity shall also control waste such as discarded building materials, concrete truck washout, chemicals, litter and sanitary waste to avoid adverse impacts to water quality.

#### 2.3.3.3 Post-Construction Stormwater Management

Owners of facilities, which engage in activities that will or may reasonably be expected to result in pollutants entering the City Storm Drain System, shall conform to all applicable state and federal regulations regarding practices to minimize such pollution.

#### 2.3.3.4 Site Inspection

Upon presentation of credentials and at all necessary hours, all authorized employees of the City shall have free access to all premises and to all records pertaining to those premises for purposes of ensuring compliance with the stormwater quality provisions of this Regulation.

#### 2.3.4 Roadways

All new roadways, and roadways improved as a part of new development, shall be constructed so as to provide all-weather access to new construction and meet any other applicable design requirements of the Drainage Manual. Where a regulatory flow is carried within a street, the street shall have curbs and gutters. In no case shall a regulatory flow in excess of 100 cubic feet per second be carried along a street. A regulatory flow in excess of 100 cubic feet per second may be carried across a street provided that all-weather access is otherwise provided to new construction.

#### 2.3.5 Floor Elevations

Finished floor elevations for all new construction shall be either one foot above the surrounding or adjacent regulatory flow level, or eight inches above the surrounding adjacent grade, whichever is higher. Floor levels for carports and garages may be set four inches lower than defined above. However, such areas must have the floors elevated the full amount if enclosed in the future to serve as living space. Basements shall be protected from inundation to the required finished floor elevation to the satisfaction of the Drainage Administrator.

#### 2.3.6 Onsite Drainage

Regulatory flows should be conveyed either within improved stormwater conveyances such as drainageways, storm drains and stormwater basins, or within street sections (as otherwise allowed by this Regulation). Regulatory flows may not be conveyed across individual lots smaller than one acre as a part of a development plan without the approval of the Drainage Administrator.

#### 2.3.7 Offsite Drainage

Land development activity shall ensure that drainage entering and exiting the land being developed is received and discharged in substantially the same manner which existed prior to the activity, unless express permission to alter drainage on adjoining property in a particular manner is obtained from the owner of the adjoining property and the owners of all affected upstream and downstream properties.

#### 2.3.8 Erosion Hazards

Residences shall be set back a safe distance, as defined in the Drainage Manual, from regulatory flow paths unless it can be shown through an assessment prepared and submitted by an Arizona registered civil engineer, that a lesser setback will provide a safe location for the residence.

#### 2.3.9 Irrigation Canals

Land development activity shall not increase the quantity, or decrease the quality, of runoff entering irrigation canals and ditches. Land development activity shall not discharge runoff into irrigation canals in a more concentrated manner than that which existed prior to the activity (e.g., by collecting and concentrating runoff into a pipe, channel or other defined conveyance which discharges directly into a canal). There is no affirmative requirement for those engaged in land development to prevent runoff from entering a canal(s) where such runoff drains into the canal(s) under existing conditions.

#### 2.4. Special Needs Areas

The City includes a variety of landscapes that provide varying levels of natural and man-made flood conveyances. The Drainage Administrator may undertake studies of different areas from time to time for the purpose of developing drainage plans for such areas as warrant such attention. Policies and recommendations resulting from such studies, including recommendations for requirements which may vary from those described elsewhere within this Regulation, shall become a part of this Regulation by adoption of said studies by the City.

#### 2.5. Floodplain Areas

In addition to complying with the provisions of this Regulation, all development shall comply with the current floodplain management ordinance adopted as required by ARS 48-3609 or ARS 48-3910.

### 3. Easements, Rights-Of-Way and Improvements

#### 3.1. Easements

Drainage Easements shall be dedicated along all regulatory drainage paths as a part of commercial, industrial and multiple lot development. Such easements may be dedicated by way of platting or by separate instrument. Drainage easements shall clearly identify the party responsible for maintenance of the easement. Maintenance of private drainage facilities shall be the responsibility of the property owner or the appropriate assessment entity.

#### 3.2. Rights-Of-Way

Drainage improvements made as a part of development shall not be dedicated to the public unless a request is made of the City to accept dedication of such facilities and the Drainage Administrator determines that it is in the public interest to accept such dedication. In making such a determination, the Drainage Administrator shall consider whether the facility offers potential for recreational or other uses that provide a public benefit. Drainage facilities that are geometrically or topographically configured so as to preclude multiple uses for public benefit shall not be considered positively for public dedication.

#### 3.3. Improvements

All drainage improvements shall be made in conformance with the requirements of this Regulation and the Drainage Manual, regardless of whether the improvements will be privately or publicly owned and maintained. Stormwater lift stations are not permitted.

#### 3.4. Inspections

The developer's engineer shall provide certification of conformance of drainage improvements with approved plans prior to release of assurances or issuance of building permits. The City reserves the right to perform inspections for purposes of certifying conformance with approved plans. The City shall perform inspections of all improvements planned for public dedication.

#### 3.5. Assurances

Financial assurances shall be provided to the City sufficient to guarantee construction of the drainage improvements required by the drainage plan.

#### 3.6. Maintenance

Owners of drainage improvements, including streets that convey flow, channels, basins, culverts and other drainage improvements, are responsible for maintaining such improvements in such a manner as to enable the improvements to function as intended by their original design. The City reserves the right to perform emergency maintenance of such facilities as needed to protect the public safety.

#### 4. Administration and Enforcement

##### 4.1. Drainage Administrator

All decisions regarding interpretation of this Regulation shall be made by the Drainage Administrator, except as provided for under the "Appeals" Section of this Regulation. The Drainage Administrator may designate or rely on other agents and employees of the City as necessary to assist in the administration of this Regulation.

##### 4.2. Issuance of Permits/Plan Approvals

The Drainage Administrator, or his duly designated representative, shall be responsible for reviewing all drainage permit applications and drainage plan submittals and ensuring that such applications and plans are in conformance with the requirements of this Regulation. Construction of improvements associated with a building permit or development plan without a drainage permit or approved drainage plan is a violation of this Regulation. In the interest of streamlining administrative procedures and approvals, the Drainage Administrator may stipulate in writing that other building permits or approvals as constituting issuance of a drainage permit or drainage plan approval. Drainage plans submitted by an Arizona registered civil engineer must be reviewed and approved by, or under the direction of, an Arizona registered civil engineer.

##### 4.3. Appeals and Variances

###### 4.3.1 Technical Appeals Board

###### A. Creation, Composition, terms of members, vacancies, compensation of members.

1. There is created a board to be known as the City of Safford Technical Appeals Board.
2. The Technical Appeals Board shall be composed of 3 members who shall be registered professional engineers residing within Graham County.
3. The members of the board shall be appointed by the mayor subject to the approval of the common council of the City of Safford.
4. The terms of the appointment shall be for no more than 3 years; however, board members may be reappointed to serve additional terms. In the event of death or resignation of a member the vacancy may be filled for the remaining term. The board members shall serve at the pleasure of the City Council and may be removed for cause which may include:
  - i. Failure to attend meetings; or
  - ii. Failure to maintain Arizona Registration as a professional engineer; or
  - iii. Failure to participate actively and meaningfully in the deliberations of the Technical Appeals Board.
5. All members shall serve without pay. However, members of the board may be reimbursed for mileage and per diem at the rate currently approved by the City of Safford.

###### B. Selection of Officers--Meetings and Rules.

1. The board shall elect a chairperson and a vice chairperson from among its own members, who shall serve for one year until their successors are elected and qualified.
2. The chairperson shall preside at all meetings and exercise all the usual rights, duties, and the prerogatives of the head of any similar organization.
3. The chairperson shall have the power to administer oaths and to take evidence. The vice chairperson shall perform the duties of the chairperson in the latter's absence or disability.
4. A quorum shall consist of two members of the board.

5. The Technical Appeals Board shall keep minutes of its proceedings showing the vote of each member upon every question, or records of its hearings and other official actions.

#### C. Powers and duties

The Technical Appeals Board shall have only the power and duties described by this title, which are:

1. The Technical Appeals Board of Safford shall hear and decide appeals and requests for variances from the requirements of this regulation. The Technical Appeals Board shall interpret upon appeal the terms of this title when the meaning of any word, phrase or regulation is in doubt.
2. The Technical Appeals Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Drainage Administrator in the enforcement or administration of this ordinance.
3. In passing upon such applications, the Technical Appeals Board shall consider all technical evaluations, all relevant factors, and standards specified in other sections of this regulation.

#### 4.3.2 Conditions For Variances

- A. Variances may be issued for the repair, rehabilitation or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic Places, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- B. A variance shall not be authorized unless the Technical Appeals Board shall find sufficient evidence that:
  1. Having to adhere strictly to the letter of this title will cause difficulties and hardships upon the petitioner, which are unnecessary in order to carry out the purposes of this title.
  2. The difficulties and hardships were not created by any act of the appellant subsequent to the effective date of the regulation appealed from.
  3. A determination that the granting of a variance will not result in additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary to afford relief.
- D. Any applicant to whom a variance is granted shall be given written notice of the decision of the board within 7 working days of the decision of the board. Such notification shall be maintained with a record of all variance actions as required by the City of Safford.

#### 4.3.3 Appeals.

- A. An appeal to the Technical Appeals Board concerning interpretation or administration of this title may be taken when any person is aggrieved by an officer, or a department of the city affected by a decision of an administrative official.
- B. The appeal must be filed within sixty- (60) days of the date of relevant action with the Technical Appeals Board specifying the grounds of the appeal.
- C. The officer from whom the appeal is taken shall transmit to the Technical Appeals Board all papers constituting the record upon which the action was taken.
- D. The appeal stays all proceedings in the matter appealed, unless the officer from whom the appeal is taken certifies to the Technical Appeals Board that, by reason of the facts stated in the certificate, a stay would in his or her opinion cause imminent peril to life or property. In

- such case, proceedings shall not be stayed, except by a restraining order granted by the board or by a court of record on application and notice to the officer from whom the appeal is taken.
- E. The board shall fix a time for hearing the appeal and give notice to the interested parties and to the public as required by this title.
  - F. The concurring vote of a majority of the Technical Appeals Board shall be necessary to review any decision of any administrative official of the city, or to decide in favor of the applicant on any matter or to affect any variation from the conditions of this title.
  - G. The city attorney, or his designated representative, shall be the legal counsel for the Technical Appeals Board.
  - H. Appeal of a decision made by the Technical Appeals Board: A person aggrieved by a decision of the Technical Appeals Board may, at any time within thirty (30) days of the decision, appeal to the superior court.

#### 4.3.4 Application for variance.

- A. Application for any variance to the regulations of this title shall be made to the Technical Appeals Board. Applications shall be made on forms prescribed by the Technical Appeals Board, shall be filed with the Drainage Administrator, and shall be accompanied by:
  - 1. A copy of the drainage report and related information;
  - 2. Reasons for requesting the variance as provided in section 4.3.2 B;
  - 3. Technical information supporting the request for variance shall be prepared in accordance with acceptable engineering practices.
- B. The board may prescribe conditions, as it may deem necessary to fully carry out the provisions and intent of this title. Such conditions applying to a variance may include, among other things, a time limitation for which the variance shall be valid. Violation of any condition shall render the variance null and void.

#### 4.3.5 Public hearing.

- A. Appeals. Upon receipt of appeals concerning interpretation or administration of this title, the Technical Appeals Board shall hold a public hearing after giving at least fifteen (15) days public notice.
- B. Variance. Upon receipt of applications for a variance to the regulations of this title, the Technical Appeals Board shall hold a public hearing after giving at least fifteen (15) days public notice in advance of the public hearing.

#### 4.3.6 Limitations.

Any variance granted under the terms of this title shall expire within six months if action is not taken from the date of granting the variance, unless otherwise stipulated. The term of the variance may be extended by the approval of the Technical Appeals Board.

#### 4.3.7 Fees.

A nonrefundable fee of \$50 shall be established for filing an application for any appeal or variance to the regulations of this title.

### 4.4. Violations and Enforcement

Failure to construct, improve, develop, maintain, or repair drainage improvements necessary to comply with a drainage permit or approved drainage plan shall constitute a violation of this Regulation and penalties per Chapter 17.92 of the City Code shall be imposed upon conviction.

### 4.5. Abatement of Violations

The City reserves the right to enter private property to abate violations of this Regulation. Such abatement may occur after 30 days notice to the property owner and upon determination by the

Drainage Administrator that the violation constitutes a threat to the public health, welfare and safety. Costs incurred by the City for such abatement shall be billed to the property owner and collected by the City Attorney by use of all appropriate legal remedies, including but not limited to a lien against the property for the costs of abatement plus attorneys fees and costs of collection. The Drainage Administrator shall be under no affirmative duty pursuant to this provision to either identify violations or undertake their abatement. Abatement pursuant to this provision is discretionary with the Drainage Administrator.