

Santee Municipal Code

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Chapter 9.06 STORMWATER MANAGEMENT AND DISCHARGE CONTROL

Article 1. General Provisions

9.06.100 Title.

This chapter is known as the “Stormwater Management Ordinance.” (Ord. 562 § 3, 2019)

9.06.110 Purpose and intent.

- A. The purpose of this chapter is to ensure the health, safety, and general welfare of the citizens of the City by:
 1. Effectively prohibiting nonstormwater discharges to the stormwater conveyance system.
 2. Eliminating illicit discharges and illicit connections to the stormwater conveyance system.
 3. Reducing the discharge of pollutants from the stormwater conveyance system, to the maximum extent practicable in order to achieve applicable water quality objectives for surface waters in San Diego County.
 4. Achieving compliance with total maximum daily load (TMDL) regulations.
- B. The intent of this chapter is to protect and enhance the water quality of our watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Clean Water Act, the California Porter-Cologne Water Quality Control Act, and San Diego Regional municipal stormwater permit. (Ord. 562 § 3, 2019)

9.06.120 Definitions.

In this chapter:

“Basin Plan” means Water Quality Control Plan, San Diego Basin, Region 9, and duly adopted amendments thereto.

“Best management practices (BMPs)” means schedules of activities, prohibitions of practices, training and education, maintenance procedures, and other management practices to prevent or reduce the discharge of pollution to surface and groundwater to the maximum extent practicable. BMPs include, without limitation, structural and nonstructural treatment requirements, operating procedures, and practices to control urban runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs also include standard industry practices for controlling stormwater and nonstormwater runoff established by the California Stormwater Quality Association.

“BMP Design Manual” means the plan developed by the City in accordance with the City’s NPDES permit to eliminate, reduce, or mitigate the impacts of runoff from development projects and existing development.

“Business related activities” includes maintenance, storage, manufacturing, assembly, equipment operations, vehicle loading, and cleanup procedures which are carried out partially or wholly outside.

“Caltrans Standards” means the BMPs included in the most recent iteration of the Caltrans Construction Site Best Management Practices Manual.

“CASQA Standards” means the BMPs included in the most recent iteration of the California Stormwater Quality Association (“CASQA”) Construction BMP Handbook.

“Construction General Permit” or “CGP” means the General Permit for Stormwater Discharges associated with Construction and Land Disturbance Activities issued by the State Board, NPDES No. CAS000002, as it currently exists or may be amended and reissued from time to time. The Construction General Permit covers, in part, construction or demolition activity that results in a land disturbance of equal to or greater than one acre. The Construction General Permit is available from the State Board and may be accessed on the City’s website.

“Development” or “development project” means construction, rehabilitation, redevelopment, reconstruction or land disturbance activity.

“Director” means the Director of Development Services or the Director’s designee.

“Discharge,” when used as a verb, means to allow pollutants to directly or indirectly enter stormwater, or to allow stormwater or nonstormwater to directly or indirectly enter the stormwater conveyance system or receiving waters, from an activity or operations which one owns or operates. When used as a noun, “discharge” means the pollutants, stormwater or nonstormwater that are discharged.

“Discharger” means any person or entity engaged in activities or operations owning facilities, from which an allowed nonstormwater discharge to the stormwater conveyance system may or does originate or which will or may result in pollutants entering stormwater, the stormwater conveyance system, or receiving waters or the owners of property on which such activities, operations or facilities are located, except that a local government or public authority is not a discharger as to activities conducted by others in public rights-of-way.

“Enclosed Bays and Estuaries Plan” means the “California Enclosed Bays and Estuaries Plan: Water Quality Control Plan for Enclosed Bays and Estuaries of California” adopted by the State Water Resources Control Board April 11, 1991, and any duly adopted amendments thereto.

“Enforcement officer” means any employee of the City who is responsible for enforcing the provisions of this chapter.

“Enforcement response plan” means the plan for enforcement of violations of this chapter developed in accordance with the municipal permit and included in the JRMP.

“Grading” means the cutting and/or filling of the land surface to a desired slope or elevation and is further defined in the grading ordinance.

“Graywater” means untreated wastewater that has not come into contact with toilet waste, kitchen sink waste, dishwasher waste or similarly contaminated sources. “Graywater” includes, but is not limited to, wastewater from bathtubs, showers, bathroom washbasins, clothes washing machines, and laundry tubs. Graywater does not include captured rainwater.

“Guidelines for Surface Water Pollution Prevention” means the guidance document prepared by the City which outlines the minimum required BMPs for the control of stormwater in accordance with the municipal permit to eliminate, reduce or mitigate the impacts of pollutants and runoff. The Guidelines for Surface Water Pollution Prevention may be accessed on the City’s website.

“Hydromodification” means a change in the natural watershed hydrologic processes and runoff characteristics (i.e., interception, infiltration, overland flow, and groundwater flow) caused by urbanization or other land use changes that result in increased stream flows and sediment transport. In addition, alteration of stream and river channels, such as stream channelization, concrete lining, installation of dams and water impoundments, and excessive streambank and shoreline erosion are also considered hydro-modification due to their disruption of natural watershed hydrologic processes.

“Illicit connection” means any conveyance or drainage system through which a nonstormwater discharge to the stormwater conveyance system occurs or may occur and any connection to the stormwater conveyance system that conveys an illicit discharge.

“Illicit discharge” means any discharge to the stormwater conveyance system that is not composed entirely of stormwater, except discharges allowed pursuant to the provisions of this chapter.

“Impervious surface area” means the ground area covered or sheltered by an impervious surface, measured in plain view. For example, the impervious surface area for a pitched roof is equal to the ground area it shelters, rather than the surface area of the roof itself.

“Industrial General Permit” means the General Permit for Stormwater Discharges Associated with Industrial Activities issued by the State Water Resources Control Board, NPDES No. CAS000001, as it currently exists or may be amended and reissued from time to time. The Industrial General Permit is available from the State Board and may be accessed on the City’s website.

“Infiltration” in the context of low impact development means the percolation of water into the ground. Infiltration is often expressed as a rate (inches per hour), which is determined through an infiltration test. In the context of nonstormwater, infiltration is water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.

“Jurisdictional Runoff Management Plan (JRMP)” means the plan containing the runoff management measures and programs that the City implements to comply with the municipal permit.

“Land disturbance activity” means any activity, whether or not a stormwater quality management plan or County permit or approval is required, that moves soils or substantially alters the land such as a grading, digging, cutting, scraping, stockpiling, or excavating of soil; placement of fill materials; paving, pavement removal, exterior construction; substantial removal of vegetation where soils are disturbed, including, but not limited to, removal by clearing or grubbing; clearing or road-cutting associated with geotechnical exploration and assessment, percolation testing, or any other activity that is a condition of a permit application; or any activity which bares soil or rock or involves streambed alterations or the diversion or piping of any watercourse.

“Low impact development (LID)” means a stormwater management and land development strategy that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect pre-development hydrologic functions.

“Maximum extent practicable (MEP)” means implementation of all best management practices (BMPs) that are technically feasible (i.e., are likely to be effective), are not cost prohibitive, and adequately reduce or eliminate pollutant discharges from the stormwater conveyance system. MEP will generally require a combination of site design, source control and treatment control BMPs that emphasize pollution prevention and source control BMPs as the first line of defense, and uses treatment control BMPs as a second line of defense. MEP also includes those practices considered or generally accepted as industry standards for the control of stormwater and nonstormwater runoff.

“Municipal Permit” means the San Diego Regional Water Quality Control Board Order No. R9-2013-0001, NPDES Permit No. CAS0109266, issued by the San Diego Regional Water Quality Control Board on May 8, 2013, amended by Order No. R9-2015-0001 on February 11, 2015, and any amendment revision or renewal thereof.

“National Pollution Discharge Elimination System (NPDES) permit” means a permit issued by the San Diego Regional Water Quality Control Board or the State Water Resources Control Board pursuant to Chapter 5.5, division 7 of the California Water Code, or the Environmental Protection Agency (EPA) to control discharges from point sources to waters of the United States.

“New development” means land disturbing activities, structural development, including construction or installation of a building or structure, the creation of impervious surfaces and land subdivision.

“Nonstormwater discharge” means any discharge to the stormwater conveyance system that is not entirely composed of stormwater.

“Pollutant” means, but is not limited to, any agent that may cause, potentially cause or contribute to the degradation of water quality such that a condition of pollution or contamination is created or aggravated, as defined by applicable laws and regulations.

“Pre-development runoff conditions” means the approximate flow rates and durations that exist or existed onsite before land development occurs. For new development projects, this equates to runoff conditions immediately before project construction. For redevelopment projects, this equates to runoff conditions from the project footprint assuming infiltration characteristics of the underlying soil and existing grade. Runoff coefficients of concrete or asphalt must not be used. A redevelopment priority development project must use available information pertaining to existing underlying soil type and onsite existing grade to estimate pre-development runoff conditions.

“Premises” means any building, lot, parcel, real estate, land or portion of land, whether improved or unimproved.

“Priority development project (PDP)” means development projects that fall under the City’s planning and building authority and which must incorporate general, source control site design, pollutant control, and hydromodification management BMPs and other requirements as identified in the BMP Design Manual. Priority development projects must demonstrate compliance with the requirements of this chapter through the development and implementation of a stormwater quality management plan approved by the City.

“Priority land use” has the same meaning as that term is defined in the Trash Amendments.

“Rainy season” means October 1st through April 30th of each year or as otherwise specified in any applicable NPDES permit or the municipal permit.

“Receiving waters” means surface bodies of water which serve as discharge points for the stormwater conveyance system, including, but not limited to:

1. San Diego River, Forester Creek, Woodglen Vista Creek, Sycamore Creek, and Los Colinas Channel.
2. Any water body that qualifies as a “water of the United States” as that term is defined herein.
3. Any water body that qualifies as a “water of the State” as that term is defined herein.

“Redevelopment” means the creation and/or replacement of impervious surface on an already developed site.

“Regional Water Board” means the Regional Water Quality Control Board, San Diego Region.

“Significant redevelopment” means that creation or addition of impervious surfaces on an already developed site and is further defined in the BMP Design Manual.

“Stormwater” means surface runoff and drainage associated with storm events and snow melt.

“Stormwater conveyance system” means the conveyance or system of conveyances, public or private, improved or unimproved, by which water may be collected and conveyed, including, but not limited to, roads with drainage systems, municipal streets, sidewalks, catch basins, curbs, gutters, ditches, man-made channels, or storm drains.

“Stormwater facilities maintenance agreement” means an agreement prepared as to content to the satisfaction of the City Engineer, approved as to form by the City Attorney and executed on behalf of the City by the Director, by and between the City and the owner of any priority development project and designed to identify, preserve, and ensure the property maintenance and operation of all stormwater controls in perpetuity.

“Stormwater pollution prevention plan” means an approved site-specific document which describes the on-site program activities and minimum best management practices that will be implemented to effectively eliminate pollutant discharges to the stormwater conveyance system. This plan must include information required to ensure compliance with this chapter.

“Stormwater Quality Management Plan (SWQMP)” means a plan identifying the measures that will be used for stormwater and nonstormwater management for a development project. There are two types of SWQMPs: a Standard SWQMP and a PDP SWQMP. A PDP SWQMP is required for all priority development projects. A standard SWQMP is required for all development projects that are not priority development projects.

“Surface Waters Plan” means the “California Inland Surface Waters Plan: Water Quality Control Plan for Inland Surface Waters of California” adopted by the State Water Resources Control Board, April 11, 1991, including duly adopted amendments thereto.

“Tenant improvement” means any improvement project that requires a permit from the City.

“Trash Amendments” means the amendment to the Water Quality Control Plan for Ocean Waters of California to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Water, Enclosed Bays, and Estuaries of California adopted by the State Water Resources Control Board and any amendments thereto.

“Temporary sewage disposal facility” means any portable privy, chemical toilet, recirculating toilet, composting toilet, or similar facility.

“Waste” means any discarded material of any form (for example, liquid, semi-solid, solid or gaseous) whether discarded intentionally or unintentionally.

“Water quality improvement plan (WQIP)” means the plan(s) developed by the City and other jurisdictions in accordance with the municipal permit for watershed management areas.

“Water quality standards” means the beneficial uses (e.g., swimming, fishing, municipal drinking water supply, etc.) of a water body and criteria (referred to as water quality objectives in the California Water Code) necessary to protect those uses. Water quality standards are further described in the Basin Plan.

“Watercourse” means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, arroyo or wash, in which waters flow in a definite direction or course, either continuously or intermittently, and which has a definite channel and a bed or banks. A channel is not limited to land covered by minimal or ordinary flow but also includes land covered during times of high water. Watercourse does not include any surface drainage prior to its collection in a stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, arroyo or wash.

“Waters of the State” means any water, surface or underground, including saline waters within the boundaries of the State as defined by California Water Code Section 13050(e). The definition of the waters of the State is broader than

that for waters of the United States in that all water in the State is considered to be waters of the State regardless of circumstances or condition.

“Waters of the United States” has the meaning set forth in 40 CFR 122.2, as limited by any applicable court decision. (Ord. 562 § 3, 2019)

9.06.130 Responsibility for administration.

The Director may modify any requirement imposed by this chapter to allow the on-site collection and use of stormwater or the collection of stormwater for delivery to and use at City-designated sites, provided the modified requirements are enforceable, consistent with the municipal permit, and provide equivalent environmental protection. (Ord. 562 § 3, 2019)

9.06.140 Construction and application.

- A. This chapter must be interpreted to assure consistency with the requirements of the Federal Clean Water Act and the California Porter-Cologne Water Quality Control Act, as amended, applicable implementing regulations, and the municipal permit.
- B. Except as otherwise provided in this chapter, this chapter applies to any development project in the City, whether or not a permit or other approval is required. The requirements of this chapter apply to any discharger and any discharger may be required by the enforcement officer to install, implement and maintain source control, structural or other BMPs to prevent or reduce the discharge of pollutants, stormwater or nonstormwater to the extent necessary to bring a discharge into compliance with this chapter. (Ord. 562 § 3, 2019)

Article 2. Regulatory Provisions

9.06.200 Discharge of pollutants and nonstormwater prohibited.

- A. It is unlawful for any person to:
 - 1. Cause, allow or facilitate any illicit discharge.
 - 2. Discharge any material, liquid, or substance into the stormwater conveyance system, or any premises or water body within the City’s jurisdiction that may cause or threaten to cause a condition of pollution, contamination, or nuisance within the meaning of California Water Code Section 13050.
 - 3. Discharge nonstormwater into the stormwater conveyance system or the receiving waters.
- B. Specific Prohibitions. Without limiting the prohibitions set forth in this chapter, it is unlawful for any person to:
 - 1. Cause or permit irrigation water to enter the stormwater conveyance system;
 - 2. Cause or permit wash water from car washing, pavement washing and similar activities to enter the stormwater conveyance system.
- C. Watercourses.
 - 1. Every person owning property through which a watercourse passes, or such person’s lessee or tenant:
 - a. Must keep and maintain the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles which could pollute, contaminate, or significantly retard the flow of water through the watercourse;
 - b. Must maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse; and
 - c. Must not remove healthy bank vegetation beyond that actually necessary for said maintenance and must conduct maintenance activities in a manner that minimizes the vulnerability of the watercourse to erosion.
 - 2. It is unlawful for any person to commit or cause to be committed any of the following acts, unless a written permit has first been obtained from the Director and the appropriate State or Federal agencies, if applicable:

- a. Discharge pollutants into or connect any pipe or channel to a watercourse;
- b. Modify the natural flow of water in a watercourse;
- c. Deposit in, plant in, or remove any material from a watercourse including its banks, except as required for necessary maintenance;
- d. Construct, alter, enlarge, connect to, change, or remove any structure in a watercourse; or
- e. Place any loose or unconsolidated material along the side of or within a watercourse or so close to the side as to cause a diversion of the flow, or to cause a probability of such material being carried away by stormwaters passing through such a watercourse.

3. The requirements in subsection (C)(2) are in addition to, but do not supersede any requirements of State or Federal law, including, but not limited to, lawful requirements imposed on a project or property owner by the California Department of Fish and Wildlife or the United States Army Corps of Engineers.

D. Exceptions to Discharge Prohibition.

1. The prohibition on discharges in this section do not apply to any discharge regulated under a valid NPDES permit, provided that the discharger is in compliance with all requirements of the NPDES permit and other applicable laws and regulations and provided that the discharger takes actions to effectively prohibit discharges of pollutants to the stormwater conveyance system. Any discharge that could result in or contribute to a violation of the municipal permit, either separately considered or when combined with other discharges, is prohibited. Liability for any such discharge is the responsibility of the person(s) causing or responsible for the discharge.

2. The prohibition on discharges in this chapter do not apply to the following discharges, unless the Regional Water Board or the Director determines the discharge is or may constitute a source of pollutants to receiving waters or to otherwise cause or threaten to cause a violation of the municipal permit:

- a. Diverted stream flows;
- b. Rising groundwaters;
- c. Uncontaminated groundwater infiltration to MS4s;
- d. Springs;
- e. Flows from riparian habitats and wetlands; and
- f. Discharges from foundation drains where the system is designed to be located above the groundwater table at all times of the year, and the system is only expected to discharge nonstormwater under unusual circumstances. (Ord. 562 § 3, 2019)

9.06.210 Illicit connections prohibited.

It is unlawful for any person to:

- A. Construct, maintain, operate and/or utilize any illicit connection.
- B. Act, cause, permit or suffer any agent, employee, or independent contractor, to construct, maintain, operate or utilize any illicit connection. (Ord. 562 § 3, 2019)

9.06.220 Reduction of pollutants.

A. Best Management Practice Requirements.

1. Any person engaged in activities which will or may result in pollutants entering the stormwater conveyance system or owning or operating any property that may discharge any pollutants, directly or indirectly, to the stormwater conveyance system, must undertake all best management practices to effectively prohibit discharge of such pollutants. Such persons must implement the minimal requirements identified in the BMP Design Manual, Guidelines for Surface Water Pollution Prevention, JRMP and otherwise meet industry standards for the control of pollutants, including, but not limited to, installing trash capture devices in accordance with the trash capture requirements in the Trash Amendments and Guidelines for Surface Water Pollution Prevention.

2. The owner, operator and person in charge of day-to-day activities of any existing and new development must comply with Section 9.06.250 and must maintain post-construction structural BMPs so that they function in the manner intended, are maintained in accordance with any approved plans and industry standards, and do not create a nuisance or condition of pollution.
3. The owner of any property and any person in charge of day-to-day construction activities must comply with Section 9.06.230 and must maintain BMPs so that they function in the manner intended and do not create a nuisance or condition of pollution.
4. The owner, operator and any person having control of the day-to-day activities of any commercial or industrial property must comply with Section 9.06.240 and must maintain BMPs so that they function in the manner intended and do not create a nuisance or condition of pollution.

B. Waste Management.

1. Littering. It is unlawful for any person to throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned materials in or on any stormwater conveyance system, street, alley, parking lot, sidewalk, storm drain, inlet catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land in the City, except as allowed by Chapter 9.02 or any other applicable solid waste laws or ordinances.
 - a. The occupant or tenant, or in the absence of occupant or tenant, the owner, lessee, or proprietor of any property in the City in front of which there is a paved sidewalk must maintain the sidewalk free of dirt and litter. Sweepings from the sidewalk must not be swept or otherwise made or allowed to go into the gutter or roadway, but must be placed in receptacles maintained on the property for the disposal of garbage or recyclables.
 - b. It is unlawful for any person to throw or deposit waste in any fountain, pond, lake, stream or any other body of water in a park or elsewhere in the City.
2. Upon receiving notice from the City, the owner or operator of any property that discharges to the stormwater conveyance system must install and operate best management practices to control and eliminate the discharge of waste from the property.
3. Parking Lots, Impervious Surfaces, and Equivalent Structures. Persons owning or operating a parking lot or impervious surfaces used for similar purposes must clean those structures as thoroughly and as often as is necessary to effectively prohibit the discharge of pollutants to the stormwater conveyance system. At a minimum, these facilities must be swept, and parking areas must be deep cleaned not less than once per year prior to each rainy season. Sweepings or cleaning residue from parking lots or said impervious surfaces must be captured and contained for proper disposal, and must not be swept or otherwise made or allowed to go into a stormwater conveyance system.
4. Wastewater.
 - a. It is unlawful for any person to cause, suffer or permit the disposal of sewage, human excrement or other liquid wastes, in any place or manner except through and by means of an approved plumbing and drainage system and an approved and properly installed and maintained sewage disposal system. "Approved sewage disposal system" means a system that is functioning satisfactorily by disposing of all sewage in accordance with all applicable laws and regulations.
 - b. Temporary Sewage Disposal Facility.
 - i. Every person must dispose of sewage, human excrement and other liquid wastes in plumbing or drainage system that complies with all local, State, and Federal requirements.
 - ii. Any person who places, allows, or causes to be placed, a temporary sewage disposal facility on property that person owns or controls must pump and remove all sewage from the temporary sewage disposal facility at an interval no greater than 45 days, and maintain the facility in a manner that prevents leaks, spills, or the creation of a condition of pollution or nuisance, including at a minimum, the following:
 - (A) The temporary sewage disposal facility must have secondary containment features to control runoff from accidental leaks or spills;

(B) The temporary sewage disposal facility must be located more than 50 feet away from any body of water, inlet, drainage channel, or other stormwater conveyance feature.

5. Graywater.

a. All graywater systems must conform to the California Plumbing Code (Title 24, Part 5, Chapter 16). Graywater systems may include tanks, filters, pumps, and piping for subsurface landscape irrigation through mulch basins, disposal trenches, or subsurface drip irrigation fields, provided the system complies with all local and State requirements.

b. Any person using graywater must ensure that graywater is used only subsurface, except as follows:

- i. Graywater may be discharged on the ground in a mulch basin, provided the graywater remains covered with at least two inches of mulch, rock, or soil;
- ii. Graywater must not be used in vegetable gardens where the food is a root crop or touches the ground surface.

6. Recreational Vehicles. No person may allow or cause solid and liquid waste from a recreational vehicle or trailer to discharge to any portion of the stormwater conveyance system, create health hazards, harbor rodents, create or contribute to insect breeding areas, or otherwise cause or contribute to air and water pollution or a condition of nuisance.

7. Compliance with Best Management Practices. Every person owning or operating any activity, operation, or facility must comply with stormwater best management practices adopted by Federal, State, regional, or local agencies, as applicable. (Ord. 562 § 3, 2019)

9.06.230 Best management practices for construction projects.

Construction activities are dynamic in nature and must adjust to seasonal changes, changed site conditions, and other changes throughout the life of a construction project. The following requirements apply to construction projects.

A. Construction and Grading Permits. Prior to issuance of any construction or grading permit, the owner or applicant of any development project that involves ground disturbance or soil disturbing activities that can potentially generate pollutants in stormwater runoff must prepare a pollution control plan, erosion and sediment control plan, BMP Plan Sheet, and implement BMPs to the Director's satisfaction and in accordance with the requirements of the CASQA or Caltrans standards. Pollution control plans must comply with the grading ordinance and must ensure that the discharge of pollutants from the site will be reduced to the maximum extent practicable and will not cause or contribute to an exceedance of water quality standards.

B. BMP Implementation. Each owner, operator, or person in charge of day-to-day activities of each construction or grading site in the City must take the following actions:

1. Implement an approved pollution control plan and effective BMPs to ensure that discharges of pollutants to the stormwater conveyance system are effectively prohibited and will not cause or contribute to an exceedance of water quality standards. All construction and grading activities must comply with applicable laws, including all applicable City ordinances and the municipal permit regulating discharges into and from the stormwater conveyance system;
2. Revise the pollution control plan as necessary to maintain compliance with this chapter as the project site changes through different phases of construction and different seasons of the year;
3. If dewatering will occur, submit a dewatering plan to the City showing how dewatering activities will comply with all State and local laws prior to conducting any dewatering activity.

C. Compliance with Construction General Permit. Prior to issuance of any construction or grading permit, the owner or applicant of any development project must submit evidence satisfactory to the Director that the applicant has obtained coverage under the Construction General Permit, if applicable. Maintaining applicable coverage under the Construction General Permit is a requirement to maintaining valid construction or grading permits. (Ord. 562 § 3, 2019)

9.06.240 Best management practices for commercial and industrial activities.

A. Business-Related Activities. All owners or operators of premises where pollutants from business-related activities may enter the stormwater conveyance system must undertake the following:

1. Prevent the discharge of pollutant(s);
2. Implement industry standard pollution prevention methods and BMPs to eliminate pollutants in runoff;
3. Train staff at these businesses in the procedures to prevent the discharge of pollutants to the stormwater conveyance system;
4. Pay an inspection fee as established by resolution of the City Council.

B. Coordination with Hazardous Materials Release Response Plans and Inventory. Any business subject to the Hazardous Materials Release Response and Inventory Plan, Chapter 6.95 of the California Health and Safety Code, must include in that plan, a provision for compliance with this chapter, including the prohibitions on nonstormwater discharges and illicit discharges.

C. Compliance with NPDES Stormwater Permits. Each industrial discharger, discharger associated with construction activity, or other discharger, subject to any NPDES permit addressing such discharges, must obtain, comply with, and undertake all other activities required by any NPDES permit applicable to such discharges, including, but not limited to, the State Water Resources Control Board Statewide General Industrial and General Construction Permits, Hydrostatic Discharge Permit, and the San Diego Regional Water Quality Control Board General De-Watering Permits. Each discharger operating under the Industrial General Permit must maintain records in accordance with the requirements of the Industrial General Permit and make those records available for inspection by the City. Unpermitted sites and noncompliance sites will be referred to the Regional Water Board. (Ord. 562 § 3, 2019)

9.06.250 Best management practices for new development and redevelopment.

A. All New Development and Redevelopment.

1. Any person performing construction work in the City, regardless of whether a permit is required for such work, must effectively prohibit pollutants from entering the stormwater conveyance system by complying with all applicable local ordinances, CASQA standards, Caltrans standards, and the City's current BMP Design Manual, Guidelines for Surface Water Pollution Prevention, and JRMP. If any requirement in this chapter conflicts with any standards in the above-referenced sources, the standard most protective of the environment prevails.

a. On-site BMPs must be located, installed, and maintained so as to remove pollutants from runoff prior to discharging to any receiving waters or to the stormwater conveyance system, be located as close to the source as possible, and must be designed and implemented to avoid creating nuisance or additional pollutant sources, including those associated with vectors; and

b. Structural BMPs must not be constructed within waters of the United States.

2. Prior to the issuance by the City of a grading permit or building permit for any new development or significant redevelopment, the project applicant must prepare and submit project plans, including a Stormwater Quality Management Plan, BMP Plan Sheet, pollution control plan, and any other required plans, to the Director that comply with the following requirements:

a. Stormwater Quality Management Plan. The owner or applicant of a new development or significant redevelopment project must submit a stormwater quality management plan in accordance with the BMP Design Manual. The plan must describe the manner in which BMPs required by this chapter will be implemented and maintained.

b. All new development and significant redevelopment projects must be designed, constructed, and maintained to employ post-construction BMPs, consistent with the BMP Design Manual, including, but not limited to, the following:

- i. Source control BMPs must prevent illicit discharges and protect outdoor trash and material storage areas from rainfall, run-on, runoff, and wind dispersal.
- ii. Low impact development design techniques.

iii. Site designs, where feasible, must maintain or restore natural storage reservoirs and drainage corridors; provide buffer zones for natural water bodies; conserve natural areas within the project footprint; minimize the size of streets, sidewalks, parking areas, impervious areas, and soil compaction to landscaped areas; disconnect impervious surfaces; infiltrate, retain and/or treat runoff from impervious areas prior to discharging to the stormwater conveyance system; use permeable materials, native or drought tolerant landscaping; and harvest precipitation for landscaping or other permitted uses.

3. The owner of a new development or significant redevelopment project, or upon transfer of the property, its successors and assigns, must implement and adhere to the terms, conditions and requirements imposed on the new development or significant redevelopment pursuant to this section, including, but not limited to, ongoing maintenance of all post-construction BMPs. Failure by the owner of the property or its successors or assigns to implement and adhere to the terms, conditions and requirements imposed pursuant to this section constitutes a violation of this chapter.

4. The Director may require that the terms, conditions and requirements imposed pursuant to this section be incorporated into a stormwater facilities maintenance agreement in accordance with Section 9.06.260 and be recorded with the County Recorder's office by the property owner.

B. Priority Development Projects (PDP). In addition to the requirements in this section, PDPs must submit a plan, subject to approval by the Director, identifying the measures that will be used to meet the following requirements:

1. All PDPs must be designed, constructed prior to final occupancy or earlier time established by City Council, and maintained to employ post-construction BMPs consistent with the BMP Design Manual, including, but not limited to, the following:

a. Low impact development BMPs designed to retain (intercept, store, infiltrate, evaporate, and evapotranspire) onsite the pollutants contained in the volume of stormwater runoff produced from a 24-hour 85th percentile storm event (design capture volume).

b. Hydromodification management BMPs that are sized and designed to ensure that post-project runoff conditions (flow rates and durations) will not exceed the pre-development runoff conditions by more than 10% (for the range of flows that result in increased potential for erosion or degraded instream habitat downstream of the priority development project). A PDP may be exempt from the hydromodification management BMP requirements in this subsection, at the discretion of the Director, where the project includes the following:

i. Existing underground storm drains that discharge directly to water storage reservoirs, lakes, enclosed embayments, or the Pacific Ocean;

ii. Conveyance channels whose bed and bank are concrete lined from the point of discharge to the water storage reservoir, lake, enclosed embayment, or the Pacific Ocean; or

iii. An area the City deems appropriate for an exemption pursuant to any watershed management area analysis incorporated into an applicable water quality improvement plan accepted by the Regional Water Board.

2. All PDPs must avoid critical course sediment yield areas identified by the City or in any watershed management area analysis accepted by the Regional Water Board unless measures are implemented that allow for no net impact from critical coarse sediment to the receiving water and comply with the BMP Design Manual.

C. Improvements to Existing Development.

1. Any applicant for a permit to construct improvements to existing property must undertake the following:

a. Install, maintain, and operate trash enclosure and trash capture devices required by the Trash Amendments or by any plan or policy adopted by the City in accordance with the Trash Amendments, including, but not limited to, installing or retrofitting trash enclosures as outlined in City policy. At the Director's discretion, the Director may waive or modify the requirements in this subsection if the requirements are determined to be infeasible or impractical based on site conditions;

b. Implement minimum BMPs in the Guidelines for Stormwater Pollution Prevention;

- c. Submit a BMP plan sheet for review prior to permit issuance. A BMP plan sheet must include minimum construction related BMPs, such as waste/material storage, sediment and erosion control, and inlet protection, in accordance with the requirements established by the Director.
- 2. Hazardous Materials Documentation. Any person in charge of a project improving existing development which includes the demolition or disturbance of 100 square feet or more of building materials must submit a hazardous materials assessment reports and abatement documentation as outlined in the City's procedures. A project to improve one single-family residence is exempt from this subsection. (Ord. 562 § 3, 2019)

9.06.260 Stormwater facilities maintenance agreement.

As a condition of development, the owner of PDPs must, prior to occupancy of the development, enter into a Stormwater Facilities Maintenance Agreement with the City. The agreement must comply with the following:

- A. Be recorded to run with the land and be binding upon the owner, and their heirs, and successors in interest to the project and to any real property developed in conjunction with the project in perpetuity;
- B. Include an annual requirement that verification of the effective operation and maintenance of each approved treatment control BMP be conducted by the owner and be certified to the City prior to each rainy season;
- C. Include a right of entry on the part of the City for the purpose of inspecting and confirming the condition of permanent stormwater BMPs and to perform maintenance or repairs where operation and maintenance is not conducted in a proper or timely fashion. (Ord. 562 § 3, 2019)

9.06.270 Authority to inspect.

- A. The owner, occupant, or operator of any property or activity subject to the requirements of this chapter must allow the enforcement officer of the City to make an inspection of any facility, activity, or residence during normal business hours to enforce the provisions of this chapter, and to ascertain whether the purposes of this chapter are being met.
- B. An enforcement officer may make an inspection authorized by this section after presenting proper credentials and after the owner and/or occupant authorizes entry. If the enforcement officer is unable to locate the owner or other persons having charge or control of the premises, or the owner and/or occupant refuses the request for entry, the City may seek assistance from any peace officer or court of competent jurisdiction in obtaining entry.
- C. In the event of an emergency that presents a direct threat to the environment or public health, safety and welfare, the enforcement officer may conduct an immediate inspection as necessary to remedy the direct threat to the public.
- D. Any person who engages in any willful and unlawful use of force or violence upon the enforcement officer may be subject to criminal prosecution pursuant to the Penal Code.
- E. In order to confirm or ensure compliance with the requirements of this chapter, the City may establish or require the establishment of devices necessary to conduct sampling or metering operations on any property. (Ord. 562 § 3, 2019)

9.06.280 Notification of spills.

Any person responsible for emergency response for, or in charge of, a premises or facility must notify the City of any release or discharge in violation of this chapter and must take all steps necessary to ensure the containment and minimize the damages of such discharge in accordance with all applicable health and safety regulations and facility hazardous materials handling procedures and policies. Such person must immediately notify the City and any other appropriate agency of the discharge. (Ord. 562 § 3, 2019)

9.06.290 Requirement to test, monitor or mitigate.

- A. The Director may require any person engaged in any activity or owning or operating any facility which may cause or contribute pollution or contamination or discharge to undertake monitoring activities, including physical

and chemical monitoring, and analyses and furnish reports. Specific monitoring requirements must bear a reasonable relationship to the types of pollutants which may be generated by the person's activities or the facility's operations.

B. The City, in cooperation with local wastewater programs, may require a person, or facility owner or operator, to install or implement stormwater pollution reduction or control measures, including but not limited to, process modification to reduce the generation of pollutants or a pretreatment program approved by the Regional Water Board or the City. Specific monitoring requirements must bear a reasonable relationship to the types of pollutants which may be generated by the person's activities or the facility's operations.

C. If testing, monitoring, or mitigation required pursuant to this chapter are deemed no longer necessary by the Director, then the Director may discontinue such requirements. (Ord. 562 § 3, 2019)

Article 3. Enforcement Provisions

9.06.300 Response plans.

The Director must enforce the requirements of chapter consistent with the provisions of the Enforcement Response Plan. The enforcement officer may develop, amend, and implement or require a person in violation of this chapter to develop and implement a spill response plan or operation and maintenance plan setting forth the procedures, roles and responsibilities for investigating, cleaning up and reporting spills, BMP implementation, an illicit discharge response plan setting forth the procedures and responsibilities for investigating and abating illicit discharges, and other plans required to comply with the municipal permit or this chapter. (Ord. 562 § 3, 2019)

9.06.310 Penalties for violation.

The Director and enforcement officer are authorized to pursue any remedies available to the City at law or equity, for violations of this chapter, including, but not limited to, the administrative, civil, and criminal remedies set forth in Title 1 of this code and in this chapter. (Ord. 562 § 3, 2019)

9.06.320 Administrative enforcement powers.

In addition to the other enforcement powers and remedies established by this code, the enforcement officer has the authority to order any and all of the following administrative enforcement orders for violations of this chapter and to serve such order in accordance with Section 1.08.030:

- A. Notice of Violation. A notice of violation identifying the provision(s) of this chapter or applicable permit or order that has been violated.
- B. Cease and Desist Order. A cease and desist order identifying the provision(s) of this chapter or applicable permit or order that has been violated and directing the cessation of any activities, practices, operations, or other actions that cause or contribute to the identified violation, either immediately or pursuant to a timeline.
- C. Compliance Order. A compliance order identifying the provision(s) of this chapter or applicable permit or order that has been violated and directing the implementation of BMPs, facilities, equipment, or other actions appropriate to cease any violation and remedy the effects of such noncompliance, either immediately or pursuant to a timeline. A compliance order may require a person subject to the order to prepare and implement a stormwater pollution prevention plan for remedying any identified violation.
- D. Permit Revocation and Denial. A notice identifying the provision(s) of this chapter or applicable permit or order that has been violated and identifying the provision(s) of this code authorizing revocation or denial of any permit issued by the City. If a permit or order issued by the City does not have independent procedures for revocation or denial, the City must follow the hearing procedures set forth in Chapter 1.14.
- E. Stop Work Order. An order identifying the provision(s) of this chapter or applicable permit or order that has been violated and directing any or all work or activities causing or contributing to the noted violation to immediately stop. A person ordered to stop any work or activity in accordance with this section must not restart the work or activity until the City has verified that corrective actions have been implemented and authorizes work or activities to resume.

F. **Notice of Ineligibility for Land Development.** A notice identifying the priority development project requirement or land disturbing activity requirement at a construction project that has been violated, providing a notice of intent to determine a person or project ineligible for land development, and providing the date and time of the eligibility hearing.

1. The notice of intent required by this chapter must:
 - a. Be served on the owner personally or mailed by certified mail and first class mail to the address shown on the most recent tax assessment roll and be posted on the property;
 - b. State the City's intent to file a notice of ineligibility for land development;
 - c. Fix a location, time and date, not less than 15 days after delivery of the notice, at which a hearing will occur and at which the owner may submit written or oral comments or reasons why a notice of ineligibility should not be filed.
2. The eligibility hearing must:
 - a. Be held at the appointed time, or at a time agreed to by all parties;
 - b. Provide the owner an opportunity to present written or oral comments or reasons why a notice of ineligibility should not be filed;
 - c. Result in a determination of whether a violation occurred, whether it has been remedied, and whether to file a notice of ineligibility for land development; and
 - d. Complies with the hearing requirements of Chapter 1.14 to the extent those requirements do not conflict with the requirements of this section.
3. A notice of ineligibility filed in accordance with this section remains in effect until the enforcement officer files a "Release of Notice of Ineligibility for Land Development." A Release of Notice of Ineligibility for Land Development may be filed when the owner implements all required plans and BMPs and remedies any noncompliant site conditions to the Director's satisfaction. During the effective dates of any notice of ineligibility filed in accordance with this section, no application for a building permit, administrative permit, site plan, use permit, variance, tentative parcel map, tentative map, parcel map, or final map or any other permit for the development of the property, on which the violation occurred and which resulted in the notice of ineligibility will be approved.

G. **Public Nuisance Abatement.** A nuisance abatement action or summary abatement action pursuant to the provisions of Chapter 1.10.

H. **Referral to the Regional Water Board.** A violation of this chapter may be referred to the Regional Water Board for enforcement action in accordance with the requirements of the municipal permit or plans adopted pursuant to the municipal permit.

I. **Monetary Penalties.** Any violation of any provision or failure to comply with any of the mandatory requirements of this chapter may also be subject to a monetary penalty issued pursuant to Chapter 1.14 of this code. Any monetary penalties collected by the City for violations of this chapter, will be used for stormwater pollution prevention and program management.

J. **Cost Recovery.** Together with or after issuing any administrative enforcement action, the City may also recover its costs in accordance with the provisions of Section 1.08.020. (Ord. 562 § 3, 2019)

9.06.330 Civil actions.

In addition to any other remedies provided in this chapter, any violation of this chapter may be enforced by civil action brought by the City. In any such action, the City may seek, without limitation, and the court may grant, as appropriate, any or all of the following remedies:

- A. Injunctive relief;
- B. Assessment of the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing a legal action under this subsection;
- C. Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation;

D. Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life. Assessments under this subsection must be paid to the City to be used exclusively for costs associated with monitoring and establishing stormwater discharge pollution control systems and/or implementing or enforcing the provisions of this chapter, or for implementing water quality improvement projects. (Ord. 562 § 3, 2019)

9.06.340 Violations constituting misdemeanors.

The violation of any provision of this chapter, failure to comply with any of the mandatory requirements of this chapter, and the provision of false testimony or falsification of any statement made in accordance with this chapter are declared to be misdemeanors; except notwithstanding any other provisions of this chapter, any such violation constituting a misdemeanor under this chapter may, in the discretion of the City Attorney, be charged and prosecuted as an infraction. (Ord. 562 § 3, 2019)

9.06.350 Concealment.

Causing, permitting, aiding, abetting or concealing a violation of any provision of this chapter constitutes a violation of such provision. (Ord. 562 § 3, 2019)

9.06.360 Remedies not exclusive.

Remedies under this chapter are in addition to and do not supersede or limit any and all other administrative, civil, or criminal remedies. The remedies in this chapter are cumulative and not exclusive. (Ord. 562 § 3, 2019)

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