

ORDINANCE NO. 2854

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AMENDING SECTIONS 14.20.010, 14.20.020, 14.20.030, 14.20.040, 14.20.100, 14.20.110, 14.20.120, 14.20.200, 14.20.220, 14.20.230, 14.20.310, 14.20.320, 14.20.340 AND ADDING SECTIONS 14.20.160 AND 14.20.170 TO THE CHULA VISTA MUNICIPAL CODE, ALL UNDER CHAPTER 14.20 RELATING TO STORM WATER MANAGEMENT AND DISCHARGE CONTROL

WHEREAS, the Federal Water Pollution Control Act (Clean Water Act, 33 USCA Section 1251 et seq.) as implemented by the United States Environmental Protection Agency regulations, make necessary the adoption of plans and programs for storm water management; and,

WHEREAS, Section 402 (p) of the Clean Water Act requires that all large-sized (population 250,000 and greater) and medium-sized (population of 100,000 to 249,999) incorporated municipalities must:

- (a) Effectively prohibit non-storm water discharges into the storm water conveyance system; and
- (b) Establish controls to reduce the discharge of pollutants from storm water conveyance systems to waters of the United States to the maximum extent practicable; and

WHEREAS, the State of California Porter-Cologne Water Quality Control Act requires that there be a statewide program for control of the quality of the waters of the State and, further, requires that activities and factors which may affect the quality of the waters of the State be regulated in order to attain the highest reasonable water quality standard; and

WHEREAS, the United States Environmental Protection Agency regulations require permits for discharges from municipal storm water conveyance systems on a system-wide or jurisdiction-wide basis; and

WHEREAS, the California State Water Resources Control Board and the Regional Water Quality Control Board, San Diego Region, have determined that, in order to protect the waters of the United States, all jurisdictions within San Diego County, regardless of population, are tributary to a regional storm water conveyance system that serves an urbanized population greater than 250,000 and, therefore, must comply with the federal regulations for large-sized municipalities; and,

WHEREAS, the City of Chula Vista seeks to comply with all provisions of state and federal law; and

WHEREAS, on February 21, 2001 the California Regional Water Quality Control Board, San Diego Region issued Order Number 2001-01 (NPDES Permit No. CAS 0108758) which

replaced Order No.90-42 and regulates storm water discharges by the City of Chula Vista and the 17 other municipalities of San Diego County, as well as the San Diego Unified Port District and the County of San Diego, collectively referred to as the Co-permittees; and

WHEREAS, Order Number 2001-01 requires the Co-permittees to review and upgrade, if necessary, their storm water, grading, and other relevant ordinances and regulations as necessary to comply with the more detailed requirements of the new permit; and,

WHEREAS, The Environmental Review Coordinator has determined that adoption of the Storm Water Management and Discharge Control Ordinance Amendment is exempt for the California Environmental Quality Act pursuant to Section 15307, Class 7 (Actions by Regulatory Agencies for Protection of Natural Resources). No further environmental review is necessary; and

WHEREAS, City staff reviewed Chapter 14.20 and other pertinent ordinances of the City of Chula Vista Municipal Code to ensure that the City's legal authority to control pollutant discharges from various land uses within the City are adequately defined, and meet all the requirements of Order No. 2001-01; and

WHEREAS, City staff determined that although the existing ordinances adequately provided legal authority to implement Order 2001-01's requirements, certain amendments would be helpful to clearly define all issues contained the Order, and prevent possible ambiguities.

NOW, THEREFORE, the City Council of the City of Chula Vista does hereby ordain:

SECTION I. That Section 14.20.010 of the Chula Vista Municipal Code is amended to read:

14.20.010 Purpose and intent.

The purpose of this chapter is to promote the health, safety, and general welfare of the citizens of the city of Chula Vista by:

- A. Prohibiting non-storm water discharges to the storm water conveyance system.
- B. Preventing discharges to the storm water conveyance system from spills, dumping or disposal of materials other than storm water.
- C. Reducing pollutants in storm water discharges, including those pollutants taken up by storm water as it flows over urban areas ("urban runoff"), to the maximum extent practicable.
- D. Reducing pollutants in storm water discharges in order to achieve applicable water quality objectives for surface waters in San Diego County.

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 (33 USCA Section 1251, et seq.) and its implementing regulations, the Porter-Cologne Water

Quality Control Act (California Water Code Section 13020, et seq.) and its implementing regulations, and the San Diego Regional Water Quality Control Board (NPDES Permit No. CAS 0108758) and any subsequent amendments thereto. (Ord. 2597 §11, 1994).

SECTION II. That Section 14.20.020 of the Chula Vista Municipal Code is amended to read:

14.20.020 Scope.

This chapter shall be interpreted in accordance with the definitions set forth herein and the provisions of this chapter shall apply to the direct or indirect discharge of pollutants into the city's storm water conveyance system.

Further, this chapter shall be interpreted in accordance with the requirements of the federal Clean Water Act and acts amendatory thereof or supplementary thereto: applicable implementing regulations; NPDES Permit No. CAS 0108758 and any amendment, revision, or re-issuance thereof; and the purposes and intent of this chapter.

This chapter, among other things, provides for the prohibition of non-storm water discharges to the storm water conveyance system, the prohibition of illegal connections to the storm water conveyance system, the requirement that all persons reduce the volume and character of pollutants related to urban activity entering the storm water conveyance system to the maximum extent practicable, and the establishment of enforcement mechanisms for violation of this chapter, including civil and criminal fines and penalties. (Ord. 2597 §11, 1994).

SECTION III. That Section 14.20.030 of the Chula Vista Municipal Code is amended to read:

14.20.030 Definitions.

When used in this chapter, the following terms shall have the meanings ascribed to them in this section:

A. "Basin plan" shall mean the "Comprehensive Water Quality Control Plan for the San Diego Basin" adopted by the Regional Water Quality Control Board, San Diego Region (September 1994), and approved by the State Water Resources Control Board, together with subsequent amendments.

B. "Best management practices (BMPs)" shall mean 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, to the maximum extent practicable, the discharge of pollutants directly or indirectly to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

C. "Building permit" shall mean a permit issued by the building official pursuant to Chapter 15.20 CVMC.

D. "California ocean plan" shall mean the "California Ocean Plan: Water Quality Control Plan for Ocean Waters of California" adopted by the State Water Resources Control Board in July 1997, and any subsequent amendments.

E. "Clean Water Act" shall mean the federal Water Pollution Control Act enacted by Public Law 92-500, as amended by Public Laws 95-217, 95-576, 96-483, and 95-117 (33 USCA Section 1251, et seq.), and any subsequent amendments.

F. "County health officer" shall mean the health officer of the county of San Diego department of public health or designee.

G. "Development" shall mean:

1. The placement or erection of any solid material or structure on land, in water, or under water;
2. The discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste;
3. The grading, removing, dredging, mining, or extraction of any materials;
4. A change in the density or intensity of the use of land, including, but not limited to, a subdivision pursuant to the Subdivision Map Act (Government Code Section 66410, et seq.) and any other division of land, except where the division of land is brought about in connection with the purchase of such land by a public agency for public recreational use;
5. A change in the intensity of the use of water, or of access thereto;
6. The construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal entity; and
7. The removal or harvesting of major vegetation other than for agricultural purposes.

As used in this definition, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line. (Source: Government Code Section 65927).

H. "Employee training program" shall mean a documented employee training program for all persons responsible for implementing a storm water pollution prevention plan. The employee training program shall include, but is not limited to, the following topics:

1. Laws, regulations, and local ordinances associated with storm water pollution prevention, and an overview of the potential impacts of polluted storm water on the receiving waters of the San Diego region;

2. Proper handling of all materials and wastes to prevent spillage;
3. Mitigation of spills including spill response, containment and cleanup procedures;
4. Visual monitoring of all effluent streams to ensure that no illegal discharges enter the storm water conveyance system;
5. Discussion of the differences between the storm water conveyance system and the sanitary sewer system;
6. Identification of all on-site connections to the storm water conveyance system;
7. Preventive maintenance and good housekeeping procedures;
8. Material management practices employed by the facility to reduce or eliminate pollutant contact with storm water discharge.

I. "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 1991, and all subsequent amendments.

J. "Enforcement agency" shall mean the city of Chula Vista or its authorized agents charged with ensuring compliance with this chapter.

K. "Enforcement official" shall mean the director of public works or his or her designee.

L. "Hazardous materials" shall mean any substance or mixture of substances which is toxic, corrosive, flammable, an irritant, a strong sensitizer, or generates pressure through decomposition, heat or other means, if such a substance or mixture of substances may cause substantial injury, serious illness or harm to humans, domestic livestock, or wildlife.

M. "Illegal connection" shall mean any physical connection to the storm water conveyance system which has not been permitted by the city of Chula Vista or the San Diego Regional Water Quality Control Board, or which drains illegal discharges either directly or indirectly into the storm water conveyance system.

N. "Illegal discharge" shall mean any discharge to the storm water conveyance system that is not composed entirely of storm water, or is expressly prohibited by federal, state, or local regulations, laws, codes, or ordinances, NPDES Permit No. CAS 0108758, or degrades the quality of receiving waters in violation of any Plan Water Quality Objective.

O. "Inland Surface Water 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 on April 1991, and all amendments thereto.

P. "Land development permit" shall mean a permit issued by the director of public works pursuant to Chapter 15.04 CVMC.

Q. "Maximum extent practicable (MEP)" shall mean the technology-based standard established by Congress in Clean Water Act section 402(p)(3)(B)(iii) that municipal dischargers of Storm Water dischargers must meet. MEP generally emphasizes pollution prevention and source control BMPs primarily in combination with treatment methods serving as a backup.

R. "National Pollution Discharge Elimination System (NPDES) permit" shall mean a permit issued by the Regional Water Quality Control Board or the State Water Resources Control Board, pursuant to Chapter 5.5, Division 7 of the California Water Code, to control discharges from point sources to waters of the United States, including, but not limited to:

1. California Regional Water Quality Control Board, San Diego Region, (NPDES No. CAS 0108758), NPDES municipal permit - Waste discharge Requirements for storm water and urban runoff from the county of San Diego, the incorporated cities of San Diego County, and the San Diego Unified Port District;
2. NPDES general permit for storm water discharges associated with industrial activities;
3. NPDES general permit for storm water discharges associated with construction activity; and
4. California Regional Water Quality Control Board, San Diego Region, general dewatering permits.

S. "NPDES general permit" shall mean a permit issued by the State Water Resources Control Board, including, but not limited to:

1. NPDES general permit for storm water discharges associated with industrial activities; and
2. NPDES general permit for storm water discharges associated with construction activity.

T. "Non-storm water" shall mean any water conveyed to the storm water conveyance system that is not entirely composed of storm water (also see definition of "storm water").

U. "Parking lot" shall mean an open area, other than a street or other public way, used for the parking of motorized vehicles, whether for a fee or free, to accommodate clients or customers, or to accommodate residents of multifamily dwellings (i.e., apartments, condominiums, townhomes, mobile homes, dormitories, group quarters, etc.).

V. "Person" shall mean any individual, organization, business trust, company, partnership, entity, firm, association, corporation, or public agency, including the state of California and the United States of America.

W. "Plan Water Quality Objective" means any or all, applicable requirements of the Basin Plan, the Enclosed Bays and Estuaries Plan, the Inland Surface Water Plan, and the California Ocean Plan.

X. "Pollutant" may include, but is not limited to, solid waste, sewage, garbage, medical waste, wrecked or discarded equipment, radioactive materials, dredged soil, rock, sand, sediment, industrial waste, and any organic or inorganic contaminant whose presence degrades the quality of the receiving waters in violation of basin plan or California ocean plan standards. "Pollutant" includes, but is not limited to, fecal coliform, fecal streptococcus, enterococcus, volatile organic carbon (VOC), surfactants, oil and grease, petroleum hydrocarbons, total organic carbon (TOC), lead, copper, chromium, cadmium, silver, nickel, zinc, cyanides, phenols, and biocides.

A "pollutant" also includes any substance defined as a pollutant under 40 CFR Section 122.2 and any contaminant which degrades the quality of the receiving waters in violation of basin plan or California ocean plan standards by altering any of the following parameters: pH, total suspended and settleable solids, biochemical oxygen demand (BOD), chemical oxygen demand (COD), nutrients, and temperature.

Y. "Premises" shall mean any building, lot, parcel, real estate, land, or portion of land, whether improved or unimproved.

Z. "Receiving waters" shall mean surface bodies of water, as described in NPDES Permit No. CAS 0108758, which serve as discharge points for the storm water conveyance system, including creeks, rivers, reservoirs, lakes, lagoons, estuaries, harbors, bays, and the Pacific Ocean.

AA. "Significant quantities" shall mean the volume, concentrations, or mass of a pollutant in a discharge that can cause or threaten to cause pollution, contamination, or nuisance; or adversely impact human health or the environment; or cause or contribute to a violation of any water quality standards applicable to the receiving water.

BB. "Storm water" shall mean urban runoff and snow melt runoff consisting of only those discharges which originate from precipitation events. Storm water is that portion of precipitation that flows across a surface to the storm water conveyance system or receiving waters.

For the purposes of this chapter, storm water runoff and drainage from areas that are in a natural state, have not been significantly disturbed or altered, either directly or indirectly, as a result of human activity, and the character and type of pollutants naturally appearing in the runoff that have not been significantly altered, either directly or indirectly, as a result of human activity, shall be considered "unpolluted" and shall satisfy the definition of "storm water" in this chapter.

CC. "Storm water conveyance system" means those municipal, private and/or natural facilities within the city of Chula Vista by which storm water may be conveyed to waters of the United States, including any roads with drainage systems, municipal streets, catch basins, and watercourses.

DD. "Storm water pollution prevention plan" shall mean a document, which describes the on-site program activities to utilize BMPs to eliminate or reduce pollutant discharges to the storm water conveyance system to the maximum extent practicable.

A storm water pollution prevention plan prepared and implemented pursuant to any NPDES permit shall meet the definition of a "storm water pollution prevention plan" for the purposes of this chapter.

EE. "Watercourse" shall mean 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.

FF. "Watercourse permit" shall mean a permit issued by the director of public works pursuant to Chapter 14.08 CVMC.

GG. "Wetlands" shall mean areas that are inundated or saturated by surface or ground waters at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. "Wetlands" generally includes swamps, marshes, bogs, and similar areas. (Ord. 2790,1999; Ord. 2597 §11, 1994).

SECTION IV. That Section 14.20.040 of the Chula Vista Municipal Code is amended to read:

14.20.040 Administration.

The enforcement official shall administer, implement, and enforce the provisions of this chapter. Any powers granted to, or duties imposed upon, the enforcement official may be delegated by the enforcement official to persons in the employ of the city, or pursuant to contract.

When deemed necessary by the enforcement official, the enforcement official shall prepare and present to the city council for approval regulations and programs consistent with the general policies established herein by the city council. The enforcement official shall enforce council-approved regulations and programs necessary to the administration of this chapter, and may recommend that the council amend such regulations and programs from time to time, as conditions require. (Ord. 2597 §11, 1994).

SECTION V. That Section 14.20.100 of the Chula Vista Municipal Code is amended to read:

14.20.100 Discharge of non-storm water prohibited.

A. It is unlawful for any person to discharge non-storm water into the storm water conveyance system, except as provided in CVMC 14.20.110. (Ord. 2597 §11, 1994).

B. It is unlawful for any person to cause either individually or jointly any discharge into or from the Storm Water Conveyance System that results in or contributes to a violation of any NPDES permit. Liability for any damage, abatement costs, or fines against the permit holder caused by such discharge shall be the responsibility of the person(s) causing or responsible for the discharge.

SECTION VI. That Section 14.20.110 of the Chula Vista Municipal Code is amended to read:

14.20.110 Exemptions to discharge prohibition.

The following discharges are exempt from the prohibition set forth in CVMC 14.20.100; provided, that they do not cause or contribute to violations of the water quality standards set forth in any Plan Water Quality Objective or convey significant quantities of pollutants to receiving waters, or are a danger to public health and safety:

A. Any discharge or connection regulated under a NPDES permit issued to the discharger and administered by the state of California pursuant to Chapter 5.5, Division 7 of the California Water Code; provided, that the discharger is in compliance with all requirements of the permit and other applicable laws, and regulations, and programs.

B. Discharges from the following activities will not be considered a source of pollutants to waters of the United States:

1. Discharges composed entirely of storm water;
2. Water line flushing and other discharges from potable water sources;
3. Landscape irrigation and lawn watering;
4. Irrigation water;
5. Diverted stream flows;
6. Rising ground waters;
7. Uncontaminated groundwater infiltration to the storm water conveyance system;

8. Uncontaminated pumped ground water not subject to any applicable NPDES or State Water Resources Control Board permit;
9. Passive foundation and footing drains (not including active groundwater dewatering systems);
10. Water from crawl space pumps;
11. Air conditioning condensation;
12. Springs;
13. Individual residential washing of vehicles;
14. Flows from riparian habitats and wetlands;
15. De-chlorinated swimming pool discharges;
16. Flows from fire fighting activities;
17. Street wash waters related to cleaning and maintenance by the city of Chula Vista or its contractor for said services.

C. Any discharge which the enforcement agency, the county health officer, the Regional Water Quality Control Board and/or the U.S. Environmental Protection Agency determines in writing is necessary for the protection of the public health and safety. (Ord. 2597 §11, 1994).

SECTION VII. That Section 14.20.120 of the Chula Vista Municipal Code is amended to read:

14.20.120 Reduction of pollutants contacting or entering storm water required.

Any person engaged in activities, which may result in Pollutants entering the Storm Water Conveyance System, shall, to the maximum extent practical, undertake all measures to reduce the risk of illegal discharges. The following requirements shall apply:

A. **Best Management Practices Implementation.** It is unlawful for any person not to comply with BMPs and pollution control requirements established by the city or other responsible agency to eliminate or reduce pollutants entering the city's storm water conveyance system. BMPs shall be complied with throughout the life of the activity.

B. **Storm Water Pollution Prevention Plan.** When the enforcement official determines that a business or business-related activity causes or may cause an illegal discharge to the storm water conveyance system, then the enforcement official may require the business to develop and implement a storm water pollution prevention plan (SWPPP). Businesses which may be required to prepare and implement a SWPPP, include but are not limited to, those which perform

maintenance, storage, manufacturing, assembly, equipment operations, vehicle loading, and/or cleanup activities partially or wholly out of doors.

C. Coordination with Hazardous Materials Response Plans and Inventory. Any activity subject to the hazardous materials inventory and response program, pursuant to Chapter 6.95 of the California Health and Safety Code, shall include provisions for compliance with this chapter in its hazardous materials response plan, including prohibitions of unlawful non-storm water discharges and illegal discharges, and provisions requiring the use of BMPs to reduce the discharge of pollutants in storm water.

D. Impervious Surfaces. Persons owning or operating a parking lot or an impervious surface (including, but not limited to, service station pavements or paved private streets and roads) used for automobile-related or similar purposes shall clean those surfaces as frequently and as thoroughly as is necessary, in accordance with BMPs, to prevent the discharge of pollutants to the city's storm water conveyance system. Sweepings or cleaning residue from parking lots or impervious surfaces shall not be swept or otherwise made or allowed to go into any storm water conveyance, gutter, or roadway, but must be disposed of in accordance with regional solid waste procedures and practices.

E. Compliance with NPDES Permit for Storm Water Discharges. Each discharger, subject to any NPDES permit for storm water discharges shall comply with all requirements of such permit.

SECTION VIII. That Section 14.20.160 is hereby added to Chapter 14.20 of the Chula Vista Municipal Code to read as follows:

14.20.160 Illegal Connection Prohibited.

It is unlawful for any person to establish, use, or maintain any illegal connection to the Storm Water Conveyance System, regardless of whether such connection was made under a permit or other authorization or whether permissible under the law or practices applicable or prevailing at the time of the connection, except as authorized in CVMC section 14.20.110 A.

SECTION IX. That Section 14.20.170 is hereby added to Chapter 14.20 of the Chula Vista Municipal Code to read as follows:

14.20.170 Proof of Compliance Required.

Proof of compliance with this chapter may be required in a form acceptable to the city prior to or as a condition of a subdivision map, site plan, development improvement plan, building permit, grading permit or any other permit or activity which may effect the storm water conveyance system and/or the waters entering it. Proof of compliance shall be furnished upon request of the enforcement official.

SECTION X. That Section 14.20.200 of the Chula Vista Municipal Code is amended to read:

14.20.200 Inspection and sampling - General.

A. After obtaining legal entry to any premises in accordance with CVMC 1.16.010 or by consent, the representative of the enforcement agency shall have the right to:

1. Carry out any inspection and sampling activities on the premises as may be necessary to enforce the provisions and requirements of this chapter. Upon request, split samples shall be given to the owner and/or occupant of the premises.
2. Inspect any vehicle on the premises reasonably suspected of causing, contributing to, or being used to transport an illegal discharge to the storm water conveyance system.
3. Conduct tests, analyses and evaluations to determine if a discharge of storm water is an illegal discharge or to determine if the requirements of this chapter have been met.
4. Photograph any effluent stream, material or waste, material or waste container, container label, vehicle, waste treatment process, waste disposal site, or condition contributing to storm water pollution and constituting a violation of this chapter found during an inspection.
5. Inspect and copy pertinent records relating to the facility's operations, including inventories, chemical usage, materials, sources, hazardous materials manifests and disposal records, treatment and operations log books, and materials invoices.
6. Review and obtain a copy of the storm water pollution prevention plan prepared by the owner and/or occupant or facility operator, if such a plan is required.
7. Require the owner and/or occupant or facility operator to retain evidence, as instructed by the inspector, for a period not to exceed 30 days.
8. Review and obtain copies of all storm water monitoring data compiled by the owner and/or occupant or facility operator, if such monitoring is required.
9. Review and obtain copies of all records related to handling of pollutants and hazardous materials.

B. The enforcement official may conduct routine or area inspections, which shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this chapter, including, but not limited to, random sampling or sampling in areas with evidence of storm water contamination, illegal discharges, discharge of non-storm water to the storm water conveyance system, or similar factors.

C. All enforcement officials shall have adequate identification. Enforcement officials and other authorized personnel shall identify themselves when entering any property for inspection purposes or when inspecting the work of any contractor. (Ord. 2597 §11, 1994).

SECTION XI. That Section 14.20.220 of the Chula Vista Municipal Code is amended to read:

14.20.220 Authority to sample and establish sampling devices.

With the consent of the property owner or occupant or pursuant to an inspection warrant, the enforcement official is authorized to establish on any property that discharges directly or indirectly to the municipal storm water conveyance system such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the official may take samples of materials, wastes, and/or effluent as deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities on-site. (Ord. 2597 §11, 1994).

SECTION XII. That Section 14.20.230 of the Chula Vista Municipal Code is amended to read:

14.20.230 Testing, monitoring or mitigation required – When.

A. The enforcement official may require that any person engaged in any activity and/or owning or operating any facility which causes or may contribute to storm water pollution or contamination, illegal discharges, and/or discharge of non-storm water to the storm water conveyance system perform monitoring, including physical and chemical monitoring and/or analyses, and furnish reports as the enforcement official may specify, if:

1. The person, or facility owner or operator, fails to eliminate illegal discharges within a specified time after receiving a written notice to do so by the enforcement official; or
2. The enforcement official has documented repeated violations of this chapter by the person or facility owner, or operator, which have caused or contributed to storm water pollution.

It is unlawful for such person or facility owner or operator to fail or refuse to undertake and provide the monitoring, analyses, and/or reports specified. Specific monitoring criteria shall bear a relationship to the types of pollutants, which may be generated by the person's activities or the facility's operations. If the enforcement agency has evidence that a pollutant is originating from a specific premises, then the enforcement agency may require monitoring for that pollutant regardless of whether said pollutant may be generated by routine activities or operations. The person or facility owner or operator shall be responsible for all costs of these activities, analyses and reports.

B. Any persons required to monitor, pursuant to subsection (A) of this section, shall implement a storm water monitoring program including, but not limited to, the following:

1. Routine visual monitoring for dry weather flows;
2. Routine visual monitoring for spills which may pollute storm water runoff;
3. A monitoring log including monitoring date, potential pollution sources, as noted in sub-sections (B)(1) and (2) of this section, and a description of the mitigation measures taken to eliminate any potential pollution sources.

C. If testing, monitoring or mitigation required pursuant to this chapter is deemed no longer necessary by the enforcement official, then any or all of the requirements contained in subsections (A), and (B) of this section may be discontinued.

D. A storm water monitoring program prepared and implemented pursuant to any state-issued NPDES general permit shall be deemed to meet the requirements of a monitoring program for the purposes of this chapter. All monitoring data and analytical evaluation/assessment reports required by such a permit shall be submitted to the city at the same time the data and reports are submitted to the Regional Water Quality Control Board. (Ord. 2597 §11, 1994).

SECTION XIII. That Section 14.20.310 of the Chula Vista Municipal Code is amended to read:

14.20.310 Administrative enforcement powers.

The enforcement agency and enforcement official can exercise any enforcement powers as provided in CVMC Title 1. In addition to the general enforcement powers provided in CVMC Title 1, the enforcement agency and enforcement official have the authority to utilize the following administrative remedies as may be necessary to enforce this chapter:

A. Cease and Desist Orders. When the enforcement official finds that an illegal discharge has or is likely to occur or an illegal connection is in place, the enforcement official may issue an order to cease and desist such discharge, practice, or operation likely to cause such discharge and direct that those persons not complying shall:

1. Comply with the applicable provisions and policies of this chapter;
2. Comply with a time schedule for compliance, which may consist of a duty to cease and desist immediately; and
3. Take appropriate remedial or preventive action to prevent the violation from recurring.

B. Notice to Clean and Abate. Whenever the enforcement official finds any oil, earth, dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or any other material of any kind in or upon the sidewalk abutting or adjoining any parcel of land, or upon any parcel of land or grounds, which may result in an increase in pollutants entering the city's storm water conveyance

system or a non-storm water discharge to the city's storm water conveyance system, the enforcement official may issue orders and give written notice to remove same in any reasonable manner. The recipient of such notice shall undertake the activities as described in the notice.

C. **Storm Water Pollution Prevention Plan.** The enforcement official shall have the authority to establish elements of a storm water pollution prevention plan, and to require any owner or occupier of any premises to adopt and implement such a plan, pursuant to CVMC 14.20.120(B), as may be reasonably necessary to fulfill the purposes of this chapter.

D. **Employee Training Program.** The enforcement official shall have the authority to establish elements of an employee training program, as may be necessary to fulfill the purposes of this chapter, where such a program has been required as an element of a storm water pollution prevention plan.

E. **Best Management Practices.** The enforcement official may establish the requirements of BMP for any Premises pursuant to CVMC section 14.20.040.

F. **Civil Penalties.** Notwithstanding any other provision of the Municipal Code, a person who violates any of the provisions of this chapter or who fails to implement a storm water monitoring plan, violates any cease and desist order or notice to clean and abate, or fails to adopt or implement a storm water pollution prevention plan as directed by the enforcement official shall be liable for a civil penalty not to exceed \$10,000 for each day such a violation exists. The violator shall also be charged for the full costs of any investigation, inspection, or monitoring survey which led to the detection of any such violation; for abatement costs; and for the reasonable costs of preparing and bringing legal action under this subsection. In addition to any other applicable procedures, the enforcement agency may utilize the lien procedures of Chapter 1.30 CVMC to enforce the violator's liability. The violator may also be liable for compensatory damages for impairment, loss or destruction to water quality, wildlife, fish and aquatic life. (Ord. 2597 §11, 1994).

G. **Administrative Citations.** Notwithstanding any other provision of the Municipal Code, a person who violates any provision of this chapter or disobeys an enforcement order may be issued an administrative citation by the enforcement official requiring immediate corrective action and imposing an administrative fine in an amount as set forth in CVMC 1.41.100 (D)(1).

SECTION XIV. That Section 14.20.320 of the Chula Vista Municipal Code is amended to read:

14.20.320 Administrative notice, hearing, and appeal procedures.

A. **Service.** Unless otherwise provided herein, any order, notice of violation, or other notice required to be given by the enforcement official under this chapter shall be in writing and served in accordance with CVMC section 1.40.030.

B. **Notice Contents.** Notwithstanding any other provision of the Municipal Code, when the enforcement official determines that a violation of one or more provisions of this chapter exists or has occurred, any violator(s) may be served with a written notice of violation and order. The

notice and order shall state the municipal code section violated, describe how violated, the location, date(s) and time(s) of the violation(s), and describe the corrective action required. The notice and order may require immediate corrective action by the violator(s) and explain which method(s) of enforcement the city is utilizing. The notice and order shall explain the consequences of failing to comply. Finally, the notice and order shall identify all hearing/appeal rights and specify the issuing officer.

C. Hearings and Appeals. Notwithstanding any other provision of the Municipal Code, a violator may request a hearing to contest the enforcement official's determination that a violation has occurred. Such request must be in writing and received by the city within ten calendar (10) days of service of the notice of violation (or 30 calendar days for out-of-state residents) in a form approved by the enforcement official. If the city does not receive such a written request within ten calendar (10) days (or 30 calendar days for out-of-state residents), it shall constitute a waiver of the right to a hearing and adjudication of all or any portion of the notice and order. Once a request for a hearing is received, the hearing shall be conducted pursuant to Sections 1.40.020 B. through I. and 1.40.070 of the CVMC. If the violator(s) fails to attend the hearing, it shall constitute a waiver of the right to a hearing and adjudication of all or any portion of the notice and order.

SECTION XV. That Section 14.20.340 of the Chula Vista Municipal Code is amended to read:

14.20.340 Violations deemed a public nuisance.

In addition to the other civil and criminal penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to the public health, safety, and welfare and is declared and deemed a public nuisance, which may be summarily abated and/or restored as directed by the enforcement official in accordance with the procedures identified in this chapter or Chapter 1.30 CVMC. A civil action to abate, enjoin or otherwise compel the cessation of such nuisance may also be taken by the city, if necessary.

The full cost of such abatement and restoration shall be borne by the owner of the property, and the cost thereof shall be a lien upon and against the property in accordance with the procedures set forth in Chapter 1.30 CVMC. (Ord. 2597 §11, 1994).

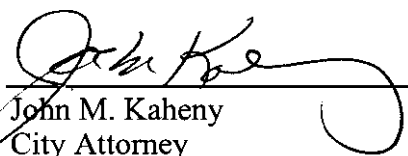
SECTION XVI. This Ordinance shall take effect and be in full force on the thirtieth day from and after its adoption.

Submitted by

Approved as to form by



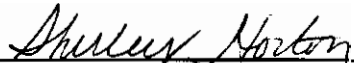
John P. Lippit
Public Works Director



John M. Kaheny
City Attorney


PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 26th day of February, 2002, by the following vote:

AYES:	Councilmembers:	Davis, Padilla, Rindone, Salas and Horton
NAYS:	Councilmembers:	None
ABSENT:	Councilmembers:	None



Shirley Horton, Mayor

ATTEST:



Susan Bigelow, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Susan Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 2854 had its first reading at a regular meeting held on the 19th day of February, 2002 and its second reading and adoption at a regular meeting of said City Council held on the 26th day of February, 2002.

Executed this 26th day of February, 2002.



Susan Bigelow, City Clerk