

ORDINANCE NO. 3245

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING  
SECTIONS 14.20.030 AND 14.20.110 OF THE CHULA VISTA  
MUNICIPAL CODE RELATING TO “STORM WATER  
MANAGEMENT AND DISCHARGE CONTROL”

WHEREAS, on January 24, 2007, the Regional Water Quality Control Board adopted the National Pollutant Discharge Elimination System (NPDES) Municipal Permit, Order No. R9-2007-0001 (Permit); and

WHEREAS, the Permit requires jurisdictions within San Diego County to develop and enforce ordinances that prohibit the discharge of pollutants to their storm drainage systems and require all persons who engage in activities which may result in pollutants entering storm drainage systems to implement Best Management Practices to minimize pollution; and

WHEREAS, CVMC Chapter 14.20, Storm Water Management and Discharge Control, is the City’s storm water ordinance and is largely based on Permit requirements. The Permit and CVMC Chapter 14.20 prohibit all non-storm water discharges with a few exemptions. Some of the exemptions include landscape irrigation, lawn watering, and agricultural irrigation water; and

WHEREAS, Chapter 14.20.110 currently allows for an exemption for landscape irrigation, lawn watering, and agricultural irrigation water. By removing these exemptions, responsible persons will be required to implement Best Management Practices to prevent landscape over-irrigation discharge into storm drains, which will ultimately result in the protection of beneficial uses of water resources threatened by climate change; and

WHEREAS, this municipal code amendment would allow for the implementation of this climate adaptation strategy; and

WHEREAS, enforcement would start with the public works department storm water management staff through public education and outreach, but would also allow for stricter enforcement by means of violation notices and civil penalties in extreme cases.

The City Council of the City of Chula Vista does ordain Sections 14.20.030 and 14.20.110 of the Chula Vista Municipal Code relating to “Storm Water Management and Discharge Control” as follows:

**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 15.06 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. “Incidental Discharge” shall mean unintended small amounts (volume) of runoff from landscape irrigation, such as minimal over-spray from sprinklers that escapes the irrigated area. Water leaving an irrigated area is not considered incidental if it is due to improper (e.g. during a precipitation event) or excessive application, if it is due to intentional overflow or application, or if it is due to negligence. Leaks and other discharges (e.g. broken sprinkler heads) are not considered incidental if not corrected within 72 hours of learning of the discharge or if the discharge exceeds 1000 gallons.

P. “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.

Q. “Land development permit” shall mean a permit issued by the Director of Public Works pursuant to Chapter 15.04 CVMC.

R. “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 discharges must meet. MEP generally emphasizes pollution

prevention and source control BMPs primarily in combination with treatment methods serving as a backup.

S. "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.

T. "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.

U. "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").

V. "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, mobilehomes, dormitories, group quarters, etc.).

W. "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.

X. "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.

Y. "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.

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

AA. "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.

BB. "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.

CC. "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.

DD. "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.

EE. "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.

FF. "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.

GG. "Watercourse permit" shall mean a permit issued by the Director of Public Works pursuant to Chapter 14.08 CVMC.

HH. "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. 2854 § 3, 2002; Ord. 2790, 1999; Ord. 2597 § 11, 1994).

#### **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 significantly 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 an 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. Diverted stream flows;
2. Rising ground water;
3. Uncontaminated ground water infiltration (as defined in 40 CFR 35.2005(20)) to MS4s;
4. Uncontaminated pumped ground water;
5. Foundation drains;
6. Springs;
7. Water from crawl space pumps;
8. Footing drains;
9. Air conditioning condensation;
10. Flows from riparian habitats and wetlands;
11. Water line flushing;
12. ; Minor, incidental discharges of landscape irrigation water;
13. Discharges from potable water sources not subject to NPDES Permit No. CAG679001, other than water main breaks;
14. Individual residential car washing; and
15. Dechlorinated swimming pool discharges.

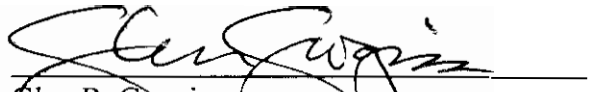
C. Any discharge which the enforcement agency, the County Health Officer, the Regional Water Quality Control Board and/or the U.S. Environmental Protection Agency determines in writing is necessary for the protection of the public health and safety. (Ord. 3103 § 1, 2008; Ord. 2854 § 6, 2002; Ord. 2597 § 11, 1994).



Presented by


Approved as to form by

  
 Richard A. Hopkins  
 Director of Public Works

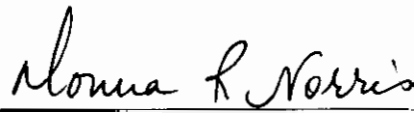
  
 Glen R. Googins  
 City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 11th day of December 2012, by the following vote:

AYES: Councilmembers: Aguilar, Bensoussan, Ramirez, Salas and Cox  
 NAYS: Councilmembers: None  
 ABSENT: Councilmembers: None

  
 Cheryl Cox, Mayor

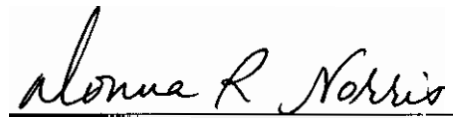
ATTEST:

  
 Donna R. Norris, CMC, City Clerk

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

I, Donna R. Norris, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3245 had its first reading at a regular meeting held on the 20th day of November 2012 and its second reading and adoption at a regular meeting of said City Council held on the 11th day of December 2012; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

  
 Dated

  
 Donna R. Norris, CMC, City Clerk