

ORDINANCE NO. 3348

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
SECTION 14.20 OF THE CHULA VISTA MUNICIPAL CODE
RELATING TO “STORM WATER MANAGEMENT AND
DISCHARGE CONTROL”

WHEREAS, on May 08, 2013, the San Diego Regional Water Quality Control Board (Regional Board) adopted a new National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4) Draining the Watersheds within the San Diego Region, Order No. R9-2013-0001 (Municipal Permit); and

WHEREAS, the Municipal Permit regulates discharges to storm drain systems within 18 municipalities in San Diego County, the County of San Diego, the San Diego County Regional Airport Authority, and the San Diego Unified Port District, as well as 13 Copermittees in Orange County and 5 Copermittees in Riverside County (collectively referred to as “Copermittees”); and

WHEREAS, the Municipal Permit required Copermittees to review and update their storm water, grading and other relevant ordinances and standards, as necessary, to comply with the more stringent requirements of the Municipal Permit; and

WHEREAS, proposed amendments to CVMC Chapter 14.20 would incorporate, by reference, the City of Chula Vista Best Management Practice Design Manual “BMP Design Manual, October 2015” and establish new requirements and guidelines for storm water management on development and redevelopment projects during the construction and post-construction phases.

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

Section I. That Chapter 14.20 of the Chula Vista Municipal Code is amended as follows:

Chapter 14.20
STORM WATER MANAGEMENT AND DISCHARGE CONTROL

Sections:

- 14.20.010 Purpose and intent.
- 14.20.020 Scope.
- 14.20.030 Definitions.
- 14.20.040 Administration.
- 14.20.100 Discharge of non-storm water prohibited.
- 14.20.110 Exemptions to discharge prohibition.
- 14.20.120 Reduction of pollutants contacting or entering storm water required.
- 14.20.125 Additional planning, design, construction, and post-construction requirements for all land development and redevelopment projects.
- 14.20.130 Containment, cleanup, and notification of spills.

- 14.20.140 Watercourse protection.
- 14.20.150 Development in or adjacent to watercourse restricted – Land development, building, or watercourse permit required.
- 14.20.160 Illegal connection prohibited.
- 14.20.170 Proof of compliance required.
- 14.20.200 Inspection and sampling – General.
- 14.20.210 Inspection procedures – Additional requirements.
- 14.20.220 Authority to sample and establish sampling devices.
- 14.20.230 Testing, monitoring or mitigation required – When.
- 14.20.300 Concealment.
- 14.20.310 Administrative enforcement powers.
- 14.20.320 Administrative notice, hearing, and appeal procedures.
- 14.20.330 Judicial enforcement.
- 14.20.340 Violations deemed a public nuisance.
- 14.20.350 Remedies not exclusive.
- 14.20.360 Civil penalties to be deposited in the storm drain revenue fund.

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 0109266 0108758) and any subsequent amendments thereto. (Ord. 2854 § 1, 2002; Ord. 2597 § 11, 1994).

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 0109266) and any amendment, revision, or reissuance 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. 2854 § 2, 2002; Ord. 2597 § 11, 1994).

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 "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 October 2012, 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” shall mean 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 September 2008, 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 0109266, or degrades the quality of receiving waters in violation of any plan water quality objective. Discharges of irrigation runoff to the storm water conveyance system are considered illegal discharges.

O. "Land development permit" shall mean a permit issued by the Director of Public Works pursuant to Chapter 15.04 CVMC.

P. "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.

Q. "National Pollutant Discharge Elimination System Permit (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 0109266), NPDES municipal permit – Waste discharge requirements for discharges from the municipal separate storm sewer systems (MS4s) draining the watersheds within the San Diego Region;
2. NPDES general permit for storm water discharges associated with industrial activities;
3. NPDES general permit for storm water discharges associated with construction activity;
4. California Regional Water Quality Control Board, San Diego Region, general permit for discharges of groundwater extraction waste to San Diego Bay tributaries thereto under tidal influence, and storm drains or other conveyance systems tributary thereto;
5. California Regional Water Quality Control Board, San Diego Region, general permit for discharges of groundwater extraction waste to water bodies except for San Diego Bay; and
6. NPDES general permit for discharges from utility vaults and underground structures to surface waters.

R. "Non-storm water discharge" shall mean any discharges to or from the Storm Water Conveyance System that is not entirely composed of storm water, including illegal discharges and discharges allowed under an NPDES permit, (also see definition of "storm water").

S. "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.).

T. "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.

U. "Plan water quality objective" shall mean 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.

V. "Pollutant" shall mean any agent introduced to the Storm Water Conveyance System that may cause or contribute to the degradation of water quality such that a condition of pollution or contamination is created or aggravated

As used in this definition, "pollution" means, as defined in the Porter-Cologne Water Quality Control Act, "the alteration of the quality of the waters of the State by waste, to a degree which unreasonably affects either of the following: 1) The waters for beneficial uses; or 2) Facilities that serve these beneficial uses." Pollution may include contamination.

As used in this definition, "contamination" means, as defined in the Porter-Cologne Water Quality Control Act, "an impairment of the quality of waters of the State by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. 'Contamination' includes any equivalent effect resulting from the disposal of waste whether or not waters of the State are affected."

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

X. "Receiving waters" shall mean ~~surface bodies of water~~ waters of the United States, as defined under the Clean Water Act. Receiving waters include surface bodies of water that serve as discharge points for the Storm Water Conveyance System, such as creeks, rivers, reservoirs, lakes, lagoons, estuaries, harbors, bays, and the Pacific Ocean.

Y. "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.

Z. "Storm water" shall mean ~~urban~~ storm water runoff, snow melt runoff, and surface runoff and drainage resulting from precipitation events.

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.

AA. "Storm water conveyance system" shall mean "a Municipal Separate Storm Sewer System" or "MS4," which is a conveyance or system of conveyances (including roads or drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) owned or operated by the City; and (ii) designated or used for collecting or conveying storm water;

BB. "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.

CC. "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.

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

EE. "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. 3245, 2012; Ord. 2854 § 3, 2002; Ord. 2790, 1999; Ord. 2597 § 11, 1994).

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 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. 2854 § 4, 2002; Ord. 2597 § 11, 1994).

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 Chula Vista Municipal Code Section CVMC 14.20.110.

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. (Ord. 2854 § 5, 2002; 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: (1) cause or significantly contribute to violations of the water quality standards set forth in any plan water quality objective, (2) convey significant quantities of pollutants to receiving waters, or (3) cause a danger to public health and safety:

A. Any discharge or connection to the Storm Water Conveyance System that is 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 is allowed; provided that the discharger is in compliance with all requirements of the NPDES permit and other applicable laws and regulations.

B. Non-storm water discharges to the Storm Water Conveyance System from the following categories are allowed if the discharger obtains coverage under NPDES permit No. CAG919001, NPDES permit No. CAG919002 or any successor permits for discharges of groundwater. Otherwise, they will be considered illegal discharges:

1. discharges from uncontaminated pumped groundwater;
2. discharges from foundation drains when the system is designed to be located at or below the groundwater table to actively or passively extract groundwater during any part of the year;
3. discharges from crawl space pumps; and
4. discharges from footing drains when the system is designed to be located at or below the groundwater table to actively or passively extract groundwater during any part of the year.

C. Non-storm water discharges to the Storm Water Conveyance System ~~MS4~~ from water line flushing and water main breaks are allowed if the dischargers have coverage under NPDES permit No. CAG679001 or any successor permits, and the discharger is in compliance with all requirements of that NPDES permit and other applicable laws and regulations. Discharges to the Storm Water Conveyance System ~~MS4~~ from recycled or reclaimed water lines are allowed if the discharger have coverage under an NPDES permit, and the discharger is in compliance with all requirements of that NPDES permit and other applicable laws and regulations. Otherwise, discharges from water lines are illegal discharges,

D. Non-storm water discharges to the Storm Water Conveyance System from the following categories are allowed, unless the City identifies the discharge as a source of pollutants to receiving waters, in which case the discharge is considered an illegal discharge:

1. discharges from diverted stream flows;
2. discharges from rising groundwater;
3. discharges from uncontaminated groundwater infiltration to the Storm Water Conveyance System;
4. discharges from springs;
5. discharges from riparian habitats and wetlands;
6. discharges from potable water sources, except that irrigation runoff discharges are considered illegal discharges and are prohibited;
7. discharges from foundation drains when 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 non-storm water under unusual circumstances; and
8. discharges from footing drains when 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 non-storm water under unusual circumstances.

E. Non-storm water discharges to the Storm Water Conveyance System from the following categories are allowed if they are addressed with BMPs as set forth in the Jurisdictional Runoff Management Program:

1. Air conditioning condensation
 2. Individual residential vehicle washing, except that non-commercial car washes, such as fundraisers and other similar activities, are prohibited; and
 3. Water from swimming pools
- Otherwise, said discharges are illegal discharges.

F. Non-storm water discharges from firefighting activities are allowed if they are addressed as follows:

1. Non-emergency firefighting discharges, including building fire suppression system maintenance discharges such as sprinkler line flushing, controlled or practice blazes, training, and other maintenance activities shall be addressed by BMPs as set forth in the Jurisdictional Runoff Management Program to prevent the discharge of pollutants to the Storm Water Conveyance System.
2. BMPs are encouraged to prevent pollutants from entering the Storm Water Conveyance System during emergency firefighting discharges. During emergencies, priority of efforts should be directed toward life, property, and the environment (in descending order). BMPs shall not interfere with emergency response operations or impact public health and safety.

G. 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. 3245, 2012; Ord. 3103 § 1, 2008; Ord. 2854 § 6, 2002; Ord. 2597 § 11, 1994).

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. (Ord. 2854 § 7, 2002; Ord. 2597 § 11, 1994).

14.20.125 Additional planning, design, construction, and post-construction requirements for all land development and redevelopment projects.

The City of Chula Vista Best Management Practices Design Manual (BMP Design Manual) is a part of this chapter and is incorporated by reference as though set forth in full in this chapter. No land owner or development project proponent in the City of Chula Vista shall receive any city permit or approval for land development activity or significant redevelopment activity unless the project meets or will meet the requirements of this chapter and the BMP Design Manual.

14.20.130 Containment, cleanup, and notification of spills.

It is unlawful for any person owning or occupying any premises who has knowledge of any release of significant quantities of materials, pollutants, or waste which may result in pollutants or non-storm water discharges entering the City's storm water conveyance system to not immediately take all reasonable action to contain, minimize, and clean up such release. Such person shall notify the City of Chula Vista of the occurrence and/or the County of San Diego Department of Health Services/Environmental Health Services Hazardous Materials Management Division, and any other appropriate agency of the occurrence as soon as possible, but no later than 24 hours from the time of the incident's occurrence. (Ord. 2597 § 11, 1994).

14.20.140 Watercourse protection.

In addition to the prohibitions relating to watercourses and the requirements for watercourse permits set forth in Chapter 14.08 CVMC, it is unlawful for any person owning and/or occupying property through which a watercourse passes to fail or refuse to:

A. Keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles which would pollute, contaminate, or significantly retard the flow of water through the watercourse.

B. 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.

C. Keep and maintain healthy bank vegetation in such a manner as to minimize the vulnerability of the watercourse to erosion. (Ord. 2597 § 11, 1994).

14.20.150 Development in or adjacent to watercourse restricted – Land development, building, or watercourse permit required.

No person shall carry out development within 30 feet of the centerline of any watercourse or within 20 feet of the edge of any watercourse, whichever is the greater distance from the top of the creek bank, unless a land development, building, or watercourse permit has first been obtained. The City officer issuing said permit is hereby granted the authority to establish controls on the volume and rate of storm water runoff from such new development as may be reasonable and appropriate to minimize the discharge and transport of pollutants to the maximum extent practicable in the granting or conditioning the granting of such permit. (Ord. 2597 § 11, 1994).

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 14.20.110(A). (Ord. 2854 § 8, 2002).

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 affect the storm water conveyance system and/or the waters entering it. Proof of compliance shall be furnished upon request of the enforcement official. (Ord. 2854 § 9, 2002).

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. 2854 § 10, 2002; Ord. 2597 § 11, 1994).

14.20.210 Inspection procedures – Additional requirements.

During the inspection, the enforcement official shall comply with all reasonable security, safety, and sanitation measures. In addition, the enforcement official shall comply with reasonable precautionary measures specified by the owner and/or occupant or facility operator.

At the conclusion of the inspection, and prior to leaving the site, the enforcement official shall make every reasonable effort to review with the owner and/or occupant or the facility operator each of the violations noted by the enforcement official and any corrective actions that may be necessary. A report listing any violation found by the enforcement official during the inspection shall be kept on file by the enforcement agency. A copy of the report shall be provided to the owner and/or occupant or facility operator, or left at the premises if no person is available. If corrective action is required, then the occupant, facility owner, and/or facility operator shall implement a plan of corrective action based upon a written plan of correction, submitted to the enforcement agency, which states the corrective actions to be taken and the expected dates of completion. Failure to implement a plan of correction constitutes a violation of this chapter. (Ord. 2597 § 11, 1994).

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. 2854 § 11, 2002; Ord. 2597 § 11, 1994).

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 subsections (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 NPDES 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. 2854 § 12, 2002; Ord. 2597 § 11, 1994).

14.20.300 Concealment.

Causing, permitting, aiding, abetting or concealing a violation of any provision of this chapter is unlawful and shall constitute a separate violation of this chapter. (Ord. 2597 § 11, 1994).

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 BMPs for any premises pursuant to CVMC 14.20.20(A).

F. Civil Penalties. Notwithstanding any other provisions 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.

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). (Ord. 2854 § 13, 2002; Ord. 2597 § 11, 1994).

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 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 10 calendar 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 10 calendar 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 hearing is received, the hearing shall be conducted pursuant to CVMC 1.40.020(B) through (I) and 1.40.070. 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. (Ord. 2854 § 14, 2002; Ord. 2597 § 11, 1994).

14.20.330 Judicial enforcement.

A. Criminal Penalties. Notwithstanding CVMC 1.20.010, any person who violates any provision 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 punished, upon conviction, by a fine not to exceed \$10,000 for each day in which such violation occurs, or imprisonment in the San Diego County jail for a period not to exceed one year, or both.

B. Injunction/Abatement of Public Nuisance. Whenever a discharge into the storm water conveyance system is in violation of the provisions of this chapter or otherwise threatens to cause a condition of contamination, pollution, or nuisance, the enforcement official may also cause the city to seek a petition to the superior court for the issuance of a preliminary or

permanent injunction, or both, or an action to abate a public nuisance, as may be appropriate in restraining the continuance of such discharge.

C. Other Civil Action. Whenever a notice and order or hearing officer's decision is not complied with, the city attorney may, at the request of the enforcement official, initiate any appropriate civil action in a court of competent jurisdiction to enforce such notice and order and decision, including the recovery of any unpaid storm drain fees and/or civil penalties provided herein. (Ord. 2597 § 11, 1994).

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. 2854 § 15, 2002; Ord. 2597 § 11, 1994).

14.20.350 Remedies not exclusive.

Remedies set forth in this chapter are not exclusive but are cumulative to all other civil and criminal penalties provided by law, including, but not limited to, penalty provisions of the federal Clean Water Act and/or the State Porter-Cologne Water Quality Control Act. The seeking of such federal and/or state remedies shall not preclude the simultaneous commencement of proceedings pursuant to this chapter. (Ord. 2597 § 11, 1994).

14.20.360 Civil penalties to be deposited in the storm drain revenue fund.

Any civil penalties collected by the city as a result of violations of this chapter shall be deposited in the storm drain revenue fund. (Ord. 2597 § 11, 1994).

Section II. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section III. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section IV. Effective Date

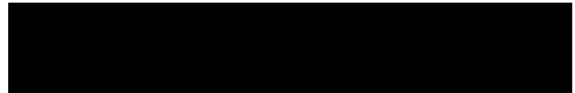
This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

Section V. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

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 14th day of July 2015, by the following vote:

AYES: Councilmembers: Aguilar, Bensoussan, McCann, Miesen and Salas

NAYS: Councilmembers: None

ABSENT: Councilmembers: None


Mary Salas, 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. 3348 had its first reading at a regular meeting held on the 16th day of June 2015 and its second reading and adoption at a regular meeting of said City Council held on the 14th day of July 2015; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

7-29-15
Dated


Donna R. Norris, CMC, City Clerk