

***COUNTY OF SAN DIEGO***  
**WATERSHED PROTECTION, STORMWATER  
MANAGEMENT AND DISCHARGE CONTROL  
ORDINANCE**



An Excerpt From The San Diego County Code Of Regulatory Ordinances

(Amended by Ordinance No. 9589 (N.S.), adopted 8/5/03)  
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(Ordinance No. 9426 (N.S.), adopted 2/1/02)



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**CHAPTER 8. STORMWATER AND DISCHARGE CONTROL**

**ARTICLE 1. TITLE, PURPOSE, DEFINITIONS, AND GENERAL PROVISIONS**

**SEC. 67.801. TITLE.**

This Chapter shall be known as the "County of San Diego Watershed Protection, Stormwater Management, and Discharge Control Ordinance."

**SEC. 67.802. PURPOSES.**

The purposes of this Ordinance are to protect the health, safety and general welfare of County of San Diego residents; to protect water resources and to improve water quality; to cause the use of management practices by the County and its citizens that will reduce the adverse effects of polluted runoff discharges on waters of the state; to secure benefits from the use of stormwater as a resource; and to ensure the County is compliant with applicable state and federal law. The Ordinance seeks to promote these purposes by:

- Prohibiting polluted non-stormwater discharges to the stormwater conveyance system;
- Establishing minimum requirements for stormwater management, including source control requirements, to prevent and reduce pollution;
- Establishing requirements for development project site design, to reduce stormwater pollution and erosion;
- Establishing requirements for the management of stormwater flows from development projects, both to prevent erosion and to protect and enhance existing water-dependent habitats;
- Establishing standards for the use of off-site facilities for stormwater management to supplement on-site practices at new development sites; and

- Establishing notice procedures and standards for adjusting stormwater and non-stormwater management requirements where necessary.

### **SEC. 67.803. DEFINITIONS.**

The following definitions shall be applicable when the following words or phrases are used hereafter in this Ordinance (including use in the County Stormwater Standards Manual), whether or not these words or phrases are capitalized:

Accelerated Erosion: means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away. Erosion includes the movement or loss of soil by the action of water, wind, or chemical action.

Authorized Enforcement Staff: means any County employee supervised by an Authorized Enforcement Official, assigned to duties involving permits and other County approvals, inspections, and enforcement related to this Ordinance.

Authorized Enforcement Official: means the Director of Public Works; the Director of the Department of Planning and Land Use; the Director of Environmental Health; and the Agricultural Commissioner, Department of Agriculture, Weights and Measures.

Best Management Practices: means schedules of activities, pollution treatment practices or devices, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices or devices to prevent or reduce the discharge of pollutants directly or indirectly to Stormwater, Receiving Waters, or the Stormwater Conveyance System. Best Management Practices also include but are not limited to treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage. Best Management Practices may include any type of pollution prevention and pollution control measure that can help to achieve compliance with this Ordinance.

BMPs: means Best Management Practices.

Channel: means a natural or improved watercourse with a definite bed and banks that conducts continuously or intermittently flowing water.

Commercial Discharger: means a Discharger who operates a Regulated Commercial Facility.

Constructed Wetland: means a vegetated area that has been deliberately modified to provide or enhance habitat, to provide water quality benefits, or to moderate water flow rates or velocities, that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

County: means the County of San Diego.

County Stormwater Standards Manual: means the manual described in section 67.804(g) of this Ordinance, attached to this Ordinance as Appendix A.

County Urban Area: means that portion of the unincorporated area of the County that is within the service area boundary of a public water supply company or agency, as indicated on the map at Appendix B, plus any other land in the unincorporated area of the County which will, after proposed development is completed, route stormwater runoff into or through an underground conveyance other than a road-crossing culvert.

Detention: means the temporary storage of storm runoff in a manner that controls peak discharge rates and provides some gravity settling of pollutants.

Detention Facility: means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

Developer: means a person who seeks or receives permits for or who undertakes land development activities.

Development Project Proponent: means Developer.

Discharge: when used as a verb, means to allow pollutants to directly or indirectly enter storm water, or to allow storm water or non-stormwater to directly or indirectly enter the Stormwater Conveyance System or Receiving Waters, from an activity or operations which one owns or operates. When used as a noun, “Discharge” means the pollutants, storm water and/or non-storm water that is discharged.

Discharger: means any person or entity engaged in activities or operations or owning facilities, which will or may result in pollutants entering storm water, the Storm Water Conveyance System, or Receiving Waters; and the owners of real property on which such activities, operations or facilities are located; provided however that a local government or public authority is not a discharger as to activities conducted by others in public rights of way.

Discharges Directly To: means that stormwater or non-stormwater enters Receiving Waters from a facility or activity, without mixing with any storm water or non-stormwater from another facility or activity prior to entering such Receiving Waters.

Drainage Easement: means a legal right granted by a land owner to a grantee allowing the use of private land for stormwater management purposes.

Environmentally Sensitive Area: means Impaired Water Bodies, areas designated as Areas of Special Biological Significance or with the RARE beneficial use by the SWRCB in the Water Quality Control Plan for the San Diego Basin (1994 and amendments), National Wildlife Refuges, areas designated as preserves for species-protection purposes by the State of California

or a local government, and pre-approved mitigation areas identified in agreements between the County and state or federal natural resources agencies.

Erosion and Sediment Control Plan: means a Stormwater Management Plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

ESA: means Environmentally Sensitive Area.

Household Hazardous Waste: means a household hazardous material that no longer has a use and is discarded or intended to be discarded. The term includes but is not limited to paint and paint-related materials; yard and garden products; household cleaners; used oil, motor vehicle fluids, batteries and oil filters; and household batteries.

Hydrologic Soil Group (HSG): means the classification system for soil erodability set out in “Soil Survey - San Diego Area, California” (December 1973), issued by the U.S. Department of Agriculture Soil Conservation Service and U.S. Forest Service. (In this system soils are categorized into four runoff potential groups. The groups range from “A” soils, which have high permeability and little runoff production, to “D” soils, which have low permeability rates and produce much more runoff.)

Illicit Connection: means a pipe, facility, or other device connected to the Stormwater Conveyance System or Receiving Waters, which has not been reviewed and authorized by the County; or a permitted/authorized pipe, facility, or other device, which conveys Illegal Discharges.

Illegal Discharge: means any discharge into Stormwater, the Stormwater Conveyance System, or Receiving Waters that is prohibited by this Ordinance. This includes but is not limited to discharges of non-stormwater that are not exempt discharges listed in Section 67.806, any discharge from an Illicit Connection, and any discharge that contains additional pollutants due to the absence of a required BMP or the failure of a BMP unless it qualifies as an upset. Discharges that require a County permit or an RWQCB permit that has not been issued or has not been acknowledged by the Discharger to be applicable are Illegal Discharges. Discharges regulated under an applicable RWQCB or County permit or SWPPP are Illegal Discharges for purposes of this Ordinance unless compliance with all applicable permit and SWPPP conditions is maintained.

Impaired Water Body: means a water body that is listed by the SWRCB as impaired by a particular pollutant or pollutants, pursuant to section 303(d) of the Federal Clean Water Act. “303(d) listed water body” has the same meaning.

Impervious Cover or Impervious Surface: means constructed or modified surfaces that cannot effectively infiltrate rainfall. The term includes but is not limited to building rooftops, pavement, sidewalks, and driveways.

Impervious Surface Area: means the ground area covered or sheltered by an impervious surface, measured in plan view (i.e., as if from directly above). For example, the “impervious surface area” for a pitched roof is equal to the ground area it shelters, rather than the surface area of the roof itself.

Industrial Activity: means manufacturing, processing, or raw materials storage at a commercial, industrial or municipal facility. The term includes, but is not limited to, industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials; manufactured products, waste material, or by-product creation or storage; material handling; refuse storage or disposal; the application or disposal of process wastewaters; storage and maintenance of material handling equipment; treatment, storage or disposal of residuals; outdoor shipping and receiving; activities in manufacturing buildings; storage of raw materials and intermediate and finished products; and areas where significant industrial activity has taken place in the past and significant materials remain and are exposed to storm water. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product, or waste product.

Industrial Discharger: means a Discharger who operates a Regulated Industrial Facility.

Industrial Stormwater Permit: means the State General Industrial Stormwater Permit.

Infiltration: means the process of percolating storm water or non-storm water into the subsoil.

Infiltration BMP or Infiltration Facility: means any structural treatment BMP designed primarily to percolate water into the subsurface, such as an infiltration trench or infiltration basin. An infiltration facility may include filtering prior to or during infiltration. BMPs that infiltrate some water but which are designed primarily to retain water or to treat water, such as retention basins, constructed wetlands, or filtering swales are not infiltration facilities.

Jurisdictional Wetland: means an area that is naturally inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. This includes but is not limited to areas previously designated by the County as wetlands (e.g., in the County’s Resource Protection Ordinance). Constructed wetlands are not jurisdictional wetlands.

Land Development Activity: means any activity or proposed activity that requires any of the permits or approvals listed in section 67.804(e) of this Ordinance.

Land Disturbance Activity: means any activity that moves soils or substantially alters the pre-existing vegetated or man-made cover of any land. This includes, but is not limited to, grading, digging, cutting, scraping, stockpiling or excavating of soil; placement of fill materials; paving, pavement removal, exterior construction; substantial removal of vegetation where soils are disturbed including but not limited to removal by clearing or grubbing; or any activity which bares soil or rock or involves streambed alterations or the diversion or piping of any watercourse. Land Disturbance Activity does not include routine maintenance to maintain original line and

grade, hydraulic capacity, or the original purpose of the facility, nor does it include emergency construction activities (i.e., land disturbances) required to protect public health and safety.

Land Owner: means the holder of legal title to the land, and other persons or entities who exercise control over a land development project pursuant to rights granted in a purchase agreement, joint venture agreement, development agreement, or long-term lease.

Maintenance [of a BMP]: means periodic action taken to maintain the as-designed performance of a BMP, and includes but is not limited to repairs to the BMP as necessary, and replacement of the BMP by an equally effective or more effective BMP at the end of its useful life.

Maximum Extent Practicable [“MEP”]: is an acceptability standard for Best Management Practices (BMPs). When BMPs are required to meet this standard, the BMPs must be the most effective set of BMPs that is still practicable. A BMP is effective if it prevents, reduces or removes the pollutants that would otherwise be present in runoff due to human activity. A BMP is practicable if it complies with other regulations as well as stormwater regulations; is compatible with the area’s land use, character, facilities, and activities; is technically feasible (considering area soil, geography, water resources, and other resources available); is economically feasible; and provides benefits that are reasonable in relation to costs.

MEP: means Maximum Extent Practicable.

Motor Vehicle: means any automobile, car, truck, bus, motor home or other self-propelled vehicle used or suited to use for on-road transportation: and any similar vehicle modified for off-road use.

Municipal Facility: means a facility owned or operated by the County of San Diego, by the Port Authority of San Diego, or by an incorporated City within San Diego County, that is used for a governmental purpose. Facilities on municipally owned land that are leased or rented to others to generate municipal revenues are not Municipal Facilities. (The commercial or industrial lessees of such facilities may, however, be subject to this Ordinance as Commercial Dischargers or Industrial Dischargers.)

NPDES Permit: means a National Pollutant Discharge Elimination System permit issued by the U.S. Environmental Protection Agency, the SWRCB, or the RWQCB.

NPDES Permit No. CAS 0108758: means RWQCB Order No. 2001-01, NPDES Permit No. CAS 0108758, “Waste Discharge Requirements for Discharges of Urban Runoff From the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, and the San Diego Unified Port District.”

Off-Site BMP: means a stormwater management measure located outside the subject property boundary of a facility or outside the boundary described in the permit application for a land development activity.



On-Site BMP: means a stormwater management measure located within the subject property boundary or a facility, or inside the boundary described in the permit application for a land development activity.

Performance Standard: means a requirement under this Ordinance that specifies a result that must be achieved (e.g., “minimize impervious surface area” or “do not impair receiving water quality”) without specifying the means that must be used to achieve that result. (This Ordinance applies performance standards only to certain land development and redevelopment projects that require discretionary County permits; those permits will typically include enforceable project-specific requirements intended to achieve the result required by the performance standard.)

Pollutant: means any agent introduced to stormwater or non-stormwater through human activity that may cause or contribute to the degradation of water quality such that public health, the environment, or beneficial uses of waters may be affected. The term does not include trauma scene post-cleanup residues. The term may include but is not limited to dredged spoil, rock, sand, or silt (excluding sediment, silt, or substances in quantities which would enter Stormwater from a natural undeveloped watershed); solid waste, sewage, garbage, or medical waste; wrecked or discarded equipment; radioactive materials; industrial waste; fecal coliform, fecal streptococcus, and enterococcus bacteria and other pathogens that pose a threat to human health; volatile organic carbon, surfactants, oil and grease, petroleum hydrocarbons, total organic carbon, lead, copper, chromium, cadmium, silver, nickel, zinc, cyanides, phenols, and biocides; and any contaminant which can significantly degrade the quality of Receiving Waters by altering pH, total suspended or settleable solids, biochemical oxygen demand, chemical oxygen demand, nutrients, or temperature.

Primary Pollutant of Concern: means any of the following pollutants, if that pollutant may be discharged from a priority development project or significant redevelopment project, and is also a basis for a listing of the receiving water for the project as impaired pursuant to Section 303(d) of the federal Clean Water Act: sediments, nutrients, heavy metals, organic compounds, trash and debris, oxygen demanding substances, oil and grease, bacteria and viruses, and pesticides.

Priority Development Project: means a development project in the county urban area that falls within any of the following categories:

- i. *Home subdivisions of 100 housing units or more.* This category includes single-family homes, multi-family homes, condominiums, and apartments.
- ii. *Home subdivisions of 10-99 housing units.* This category includes single-family homes, multi-family homes, condominiums, and apartments.
- iii. *Commercial developments greater than 100,000 square feet.* This category is defined as any development on private land that is not for heavy industrial or residential uses where the land area for development is greater than 100,000 square feet. The category includes, but is not limited to: hospitals; laboratories and other medical facilities; educational institutions; recreational facilities; commercial nurseries; multi-apartment

- buildings; car wash facilities; mini-malls and other business complexes; shopping malls; hotels; office buildings; public warehouses; automotive dealerships; commercial airfields; and other light industrial facilities.
- iv. *Automotive repair shops.* This category is defined as a facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 7532-7534, or 7536-7539.
  - v. *Restaurants.* This category is defined as a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC code 5812), where the land area for development is greater than 5,000 square feet.
  - vi. *All hillside development greater than 5,000 square feet.* This category is defined as any development which creates 5,000 square feet of impervious surface which is located in an area with known erosive soil conditions, where the development will grade on any natural slope that is twenty-five percent or greater.
  - vii. *Environmentally Sensitive Areas: All development and redevelopment located within or directly adjacent to or discharging directly to an environmentally sensitive area (where discharges from the development or redevelopment will enter receiving waters within the environmentally sensitive area), which either creates 2,500 square feet of impervious surface on a proposed project site or increases the area of imperviousness of a proposed project site to 10% or more of its naturally occurring condition.* Environmentally sensitive areas include but are not limited to all Clean Water Act Section 303(d) impaired water bodies; areas designated as Areas of Special Biological Significance by the State Water Resources Control Board (Water Quality Control Plan for the San Diego Basin (1994) and amendments); water bodies designated with the RARE beneficial use by the State Water Resources Control Board (Water Quality Control Plan for the San Diego Basin (1994) and amendments); areas designated as preserves or their equivalent under the Multi Species Conservation Program within the Cities and County of San Diego; and any other equivalent environmentally sensitive areas which have been identified by the Copermittees. “Directly adjacent” means situated within 200 feet of the environmentally sensitive area. “Discharging directly to” means outflow from a drainage conveyance system that is composed entirely of flows from the subject development or redevelopment site, and not commingled with flows from adjacent lands.
  - viii. *Parking lots 5,000 square feet or more or with 15 or more parking spaces and potentially exposed to urban runoff.* Parking lot is defined as a land area or facility for the temporary parking or storage of motor vehicles used personally, for business, or for commerce.

- ix. *Street, roads, highways, and freeways.* This category includes construction of any paved surface which is 5,000 square feet or greater used for the transportation of automobiles, trucks, motorcycles, and other vehicles.

Rainy Season: means, from October 1 through April 30.

Receiving Waters: means all waters that are “Waters of the State” within the scope of the State Water Code, including but not limited to natural streams, creeks, rivers, reservoirs, lakes, ponds, water in vernal pools, lagoons, estuaries, bays, the Pacific Ocean, and ground water.

Redevelopment: means any construction, alteration or improvement at an already developed site that will increase the total impervious surface area of that site, or that involves activities that could expose contaminants to rainfall. Redevelopment can include but is not limited to the expansion of building footprints, the addition or replacement of a structure, exterior construction and remodeling, replacement of existing impervious surfaces that is not part of a routine maintenance activity, and other activities that create additional impervious surface.

Regulated Commercial Facility: means all non-residential facilities engaged in business or commerce, whether for profit or not-for-profit, or publicly or privately owned, except for Regulated Industrial Facilities and Municipal Facilities; plus residences used for commercial repair, maintenance, cleaning, manufacturing, food preparation or painting activity if that activity has the potential to result in the discharge of non-storm water or the discharge of pollutants to storm water.

Regulated Industrial Facility: means any facility subject to the State General Industrial Stormwater Permit; any other facility primarily engaged in manufacturing, processing, storage or handling of raw materials, processed bulk materials, or refuse; and any other facility with a total outdoor uncovered area of more than two (2) acres that is used for an Industrial Activity. Municipal Facilities are not Regulated Industrial Facilities, unless they are subject to the State General Industrial Stormwater Permit.

Residential Discharger: means, for an occupied residence, the occupants; and for a vacant residence, the owner and the manager of the residence.

RWQCB: means the California Regional Water Quality Control Board for the San Diego Region.

Significant Redevelopment: means (1) any Redevelopment in the County Urban Area that creates or adds at least 2,500 net square feet of additional impervious surface area within or within 200 feet of an ESA, where runoff from the Redevelopment would Discharge Directly To receiving waters within the ESA; and (2) any Redevelopment in the County Urban Area that creates or adds at least 5,000 net square feet of additional impervious surface area, if that Redevelopment involves grading any natural slope with a total pre-construction height of 20 feet or more and an average pre-construction slope from toe to top of 25% or more in an area of known erosive soil conditions; and (3) any Redevelopment in the County Urban Area in a

Priority Development Project Category that creates or adds at least 5,000 net square feet of additional impervious surface area.

Secondary Pollutant of Concern: means any of the following pollutants, discharged from a priority development project or significant redevelopment project, that is not a primary pollutant of concern for that project: sediments, nutrients, heavy metals, organic compounds, trash and debris, oxygen demanding substances, oil and grease, bacteria and viruses, and pesticides.

Standard Urban Stormwater Mitigation Plan: means the SUSMP.

State General Construction Stormwater Permit: means NPDES Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Associated with Construction Activities, and any amendments thereto.

State General Industrial Stormwater Permit: means NPDES Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities, and any amendments thereto.

Stop Work Order: means an order issued which requires that specifically identified activity or all activity on a site be stopped.

Storm Water: means surface runoff and drainage associated with storm events.

Stormwater Conveyance System: means private and public drainage facilities other than sanitary sewers within the unincorporated area of San Diego County by which urban run-off may be conveyed to Receiving Waters, and includes but is not limited to roads, streets, constructed channels, aqueducts, storm drains, pipes, street gutters, inlets to storm drains or pipes, or catch basins.

Stormwater Management: means the use of structural or non-structural BMPs that are designed to reduce urban run-off pollutant loads, discharge volumes, and/or peak discharge flow rates or velocities. When applied to the County or another municipality, stormwater management also includes planning and programmatic measures.

Stormwater Management Plan: means a plan, submitted on a County form or in a County-specific format in connection with an application for a County permit or other County approval, identifying the measures that will be used for stormwater and non-stormwater management during the permitted activity.

Stormwater Pollution Prevention Plan [“SWPPP”]: means a document (other than a Stormwater Management Plan), which meets the requirements for a Stormwater Pollution Prevention Plan set out in the State General Construction Stormwater Permit or State General Industrial Stormwater Permit. A Stormwater Pollution Prevention Plan submitted to the County must describe the BMPs to be implemented and other steps to be taken by the Discharger to meet the requirements of this Ordinance.

Storm Water Retrofit: means a stormwater management BMP designed for an existing development site or activity that previously had either no stormwater management BMPs in place or that relied on BMPs inadequate to meet the stormwater management requirements of the site or activity.

Structural BMP: means a BMP that relies on either a physical condition (other than an entirely natural and undisturbed condition), or on a constructed or installed device to reduce or prevent pollutants in stormwater discharges and authorized non-stormwater discharges. Constructed or enhanced BMPs that depend on natural materials and processes (e.g., constructed drainage swales or buffers, or constructed wetlands), and that require periodic maintenance to function as designed, are Structural BMPs.

Structural Post-Construction BMP: means a structural BMP (other than a temporary construction-related BMP) put in place in connection with a land development or redevelopment project to prevent or reduce contamination in stormwater or Receiving Waters, or to prevent or reduce erosion downstream from the project.

Structural Treatment BMPs: means a structural post construction BMP that treats or filters stormwater to remove pollutants, or that infiltrates stormwater to soils.

SUSMP: means Standard Urban Stormwater Mitigation Plan For Land Development Projects and Public Improvement Projects, adopted by the County Board of Supervisors on November 13, 2002, as it may thereafter be revised by the Director, Department of Public Works.

SWPPP: means Stormwater Pollution Prevention Plan.

SWRCB: means the State Water Resources Control Board.

Trauma Scene Post-Clean Up Residues: means residues that remain at a trauma scene after trauma scene wastes are removed pursuant to the Trauma Scene Waste Management Act, and after any spilled materials and fluids from vehicles are cleaned up. Bleach and similar chemicals used to clean a trauma scene are not trauma scene post-clean up residues

Tributary To an Impaired Water Body: a facility or activity is tributary to an impaired water body if urban runoff from that facility or activity enters (1) the stormwater conveyance system at a place and in a manner that will carry pollutants for which that water body is impaired in that discharge to the impaired water; (2) a flowing stream that will carry pollutants for which that water body is impaired in that discharge to the impaired water; or (3) an ephemeral stream that reaches the impaired water during storm events and that will carry pollutants for which that water body is impaired from the facility or activity to the impaired water body during such storm events.

Upset: means an exceptional incident in which there is unintentional and temporary noncompliance with technology based effluent limitations because of factors beyond the

reasonable control of the discharger. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

Urban Run-off: means all flows in a stormwater conveyance system in the County Urban Area other than point source discharges in violation of a site-specific NPDES permit. Urban run-off includes but is not limited to storm water, exempt non-stormwater discharges, and illicit discharges.

Water Main: means a potable or recycled water delivery line greater than or equal to four (4) inches in diameter.

Watercourse: means a permanent or intermittent stream or other body of water, either natural or improved, which gathers or carries surface water.

Water Quality Standards: are defined as the beneficial uses (e.g., swimming, fishing, municipal drinking water supply, etc.) of water and the water quality objectives adopted by the State or the United States Environmental Protection Agency to protect those uses.

Waters of the United States: means water subject to the regulatory jurisdiction of the United States under the Federal Clean Water Act and applicable case law. (In general, this includes “navigable” waters, waters tributary to “navigable” waters, and adjacent wetlands.)

#### **SEC. 67.804. GENERAL PROVISIONS.**

- (a) Responsibility for Administration. This Ordinance shall be administered for the County of San Diego by its Authorized Enforcement Officials.
- (b) Effective Date. This Ordinance shall take effect on February 20, 2002.
- (c) Construction and Application. Interpretation of the meanings of parts of this Ordinance shall assure consistency with the purpose and intent of this Ordinance. This includes but is not limited to consistency with the requirements of NPDES Permit No. CAS 108758. This Ordinance is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this Ordinance should be considered minimum requirements, and where any provision of this Ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall take precedence. Stormwater and non-stormwater discharges regulated under a valid facility-specific NPDES permit or facility-specific RWQCB Waste Discharge Requirements permit are not subject to this Ordinance, but shall instead be regulated exclusively by the RWQCB.

- (d) Exemption of Certain RWQCB-Permitted Discharges. Stormwater and non-stormwater discharges regulated under a valid facility-specific NPDES permit or facility-specific RWQCB Waste Discharge Requirements (WDR) permit (not including a state General Permit) are not subject to this Ordinance, but shall instead be regulated exclusively by the RWQCB, provided compliance with all relevant NPDES or WDR permit conditions is maintained to the satisfaction of the RWQCB. This subsection does not exempt Stormwater discharges at a facility with an NPDES or WDR permit that only addresses process discharges or non-stormwater discharges. This exemption also does not apply to County review of proposed development projects. These projects must still comply with County design requirements, even if future discharges from the project will be regulated under an RWQCB permit.
- (e) Recycled Water. This ordinance is not intended to prohibit or prevent the use of recycled water, or the discharge of recycled water after use. This ordinance is intended to require the use of BMPs for such uses and discharges as necessary to protect human health and the environment.
- (f) Severability and Validity. If any section of this Chapter is declared invalid by a court of law, the remaining sections shall remain valid.
- (g) County Permits and Approvals.
  - (1) An application for any of the following discretionary permits or approvals shall be accompanied by plans demonstrating how the requirements of this Ordinance will be met, and the permit or approval shall not be approved unless the decision maker determines that the application complies with the requirements of this Ordinance:
    - a. Administrative Permit for Clearing
    - b. Final Map Modification
    - c. Grading Plans or Grading Permits, if approval is discretionary (including Modification or Renewal)
    - d. Improvement Plan (including Modification)
    - e. Landscape Plan
    - f. Major Use Permit (including Modification, Minor Deviation, or Extension)
    - g. Minor Use Permit (including Modification, Minor Deviation, or Extension)
    - h. Parcel Map Modification
    - i. Reclamation Plan
    - j. Site Plan (including Modification, Minor Deviation, or Extension)
    - k. Solid Waste Facility Permit

- l. Tentative Map (including Resolution Amendment, Time Extension, Expired Tentative Map and Revised Tentative Map)
  - m. Tentative Parcel Map (including Resolution Amendment, Time Extension, Expired Tentative Parcel Map and Revised Tentative Parcel Map)
  - n. Watercourse Permit
- (2) An application for any of the following ministerial permits or approvals shall be accompanied by plans demonstrating how the specifically applicable requirements, if any, set out in corresponding sections of Appendix A of this Ordinance will be met, and the permit or approval shall not be approved unless the decision maker determines that the application complies with those requirements.
- a. Building Permit
  - b. Construction Right of Way Permit
  - c. Encroachment Permit
  - d. Excavation Permit
  - e. Grading Plans or Grading Permits, if approval is ministerial (including Modification or Renewal)
  - f. On-site wastewater system Permit
  - g. Underground Tank Permit
  - h. Well Permit
- (h) Stormwater Standards Manual. The Stormwater Standards Manual attached as Appendix A is a part of this Ordinance. In most cases, the manual provides a choice of compliance methods. Authorized Enforcement Officials may provide additional flexibility using the Guidance Documents authorized in subsection (i) below. The SUSMP is not a part of this Ordinance; it is a guidance document.
- (i) Guidance Documents. Any Authorized Enforcement Official may prepare, circulate for public comment, disseminate and maintain guidance documents addressing the use of pollution prevention practices and best management practices for specific activities or facilities, illicit connections, and illegal disposal.

These guidance documents may set out additional compliance alternatives that, in specified circumstances, can provide the same environmental protection that is afforded by the BMPs required by this Ordinance or specified in the Stormwater Standards Manual.

These guidance documents may also identify practices that have been determined by the Authorized Enforcement Official to be additional Best Management



Practices that may be implemented for Land Disturbance Activities and Land Development Activities to prevent or control pollution to the Maximum Extent Practicable. These additional Best Management Practices shall become mandatory for affected Dischargers only after being adopted into the Code, unless an Order is issued pursuant to subsection 67.804(i) of this Ordinance.

Authorized Enforcement Officials and Authorized Enforcement Staff may also take these guidance documents into account when determining whether any practices used by a Discharger, or proposed in a grading plan, a SWPPP, an enforcement settlement offer, or any other submittal to the County, are Best Management Practices that will prevent or control pollution to the Maximum Extent Practicable. These case-specific discretionary decisions may involve circumstances that were not anticipated when general guidance documents were prepared. Therefore, these guidance documents do not confer rights on Dischargers in these circumstances and do not constrain the discretion of Authorized Enforcement Officials or Authorized Enforcement Staff. Where appropriate, and provided the same protection is provided to the environment, Authorized Enforcement Officials and Authorized Enforcement Staff may depart from these guidance documents when making case-specific decisions authorized by this Ordinance.

- (j) Significant Sources of Pollutants. Authorized Enforcement Officials shall identify Discharges and categories of facilities and activities that are a significant source of contaminants to Waters of the United States, despite compliance with this Ordinance. If any such contamination problem identified by the Authorized Enforcement Official involves more than five identified sources having similar characteristics, the Authorized Enforcement Official shall propose appropriate amendments to this Ordinance to better control the contamination at issue. If the contamination problem identified by the Authorized Enforcement Official is limited to fewer than five identified sources, the appropriate Dischargers shall be Ordered by the Authorized Enforcement Official or by Authorized Enforcement Staff to install, implement and maintain additional BMPs to prevent or reduce contamination in storm water and non-storm water to the maximum extent practicable. Any such Order shall specify a reasonable date by which those BMPs must be put in place. A failure to install, implement, or maintain additional BMPs as required by any such Order is a violation of this Ordinance.
  
- (k) Determining Whether a Discharge is “Tributary To” an Impaired Water Body: Areas within which facilities and sources will be presumed to be tributary to an impaired water body are identified on the maps in Appendices C and D of this Ordinance. The presumption that a discharge is tributary to an impaired water body can be overcome for a particular discharge based on specific facts and analysis presented by a Discharger. In making a site-specific determination as to whether a discharge is tributary to an impaired water body, consideration may be given to the amount of water and pollutant discharged; to whether the pollutant

for which the water body is impaired is a suspended or dissolved pollutant; to whether the pollutant is volatile or degradable; and to whether the pollutant is substantially removed during transport by any natural or man-made features (sinks, infiltration areas, ponds or impoundments, vegetated swales or wetlands, media filtration devices, etc.) located between the site and the impaired water body. Any such analysis must consider common mechanisms for pollutant mobilization, remobilization, and transport over time. Any such analysis and determination shall be disclosed for public review and comment to the extent required by CEQA or by County procedures for permit issuance.

- (l) Compliance Schedules: Existing facilities required to retrofit BMPs specified in the Stormwater Standards Manual shall complete those retrofits by July 1, 2003.
- (m) Collection and Use of Storm water. An Authorized Enforcement Official may modify any requirement imposed by this Ordinance to allow the on-site collection and use of storm water, or the collection of storm water for delivery to and use at County-designated sites, provided the modified requirements are enforceable and provide equivalent environmental protection.
- (n) Equivalent Methods Defense to asserted grading-related violations. Subject to the limitations set out in subsection (o) below, at sites where “major grading” activities as defined in section 87.208 of this code are undertaken pursuant to a valid County permit, any County-issued administrative citation or warning alleging that the absence or failure of a specific BMP at a construction site constitutes a violation of this Ordinance or an applicable County permit or approval, shall be subject to the following defenses:
  - i. The system of BMPs approved for use at the site in a County permit or other approval did not require that the missing or failed BMP be used;
  - ii. The absence of failure of the specific BMP was minor and temporary, and the “maximum extent practicable” standard in the Ordinance was met at all times because of the presence other BMPs at the site;
  - iii. The absence or failure of the specific BMP was minor and temporary, and would have been promptly corrected even in the absence of County enforcement under a previously existing program for inspection, repair and maintenance of BMPS, that ensured the timely correction of the condition; or,
  - iv. The absence or failure of the specific BMP was minor and temporary, and the other BMPs implemented at the site are shown, by reasonably contemporaneous sampling of stormwater runoff, to be reducing or eliminating pollutants as required by the ordinance.

- (o) Limitations. The defenses set out in subsection (n) above shall not be available where the violation at issue consists of or was caused by any of the following:
- i. Substitution of a less reliable or effective BMP for a BMP expressly required by this Ordinance, taking any applicable permit into account;
  - ii. Use of a BMP for slope erosion protection (e.g., an alternative spray) that has not been approved for use by the County;
  - iii. Any failure to install slope erosion BMPs when and where required;
  - iv. Significant violations, as determined by a hearing officer or court, that are also violations of the State General Construction Stormwater Permit, where applicable, excluding however violations of Number 5 of Section C of that permit, entitled “Special Provisions for Construction Activity”; or
  - v. Violations that are the subject of a separate and formal valid written Order issued by an Authorized Enforcement Official pursuant to subsections (a)(2), (a)(3) or (a)(5) of section 67.823 of this Ordinance, after a reasonable opportunity to cure the violations in response to the Order is provided, excluding however Orders issued pursuant to subsection (a)(2) to comply with section 67.807(a).



## **ARTICLE 2. DISCHARGE REGULATIONS, EXEMPT DISCHARGES, AND REQUIRED ACTIVITIES**

### **SEC. 67.805. DISCHARGE PROHIBITIONS.**

- (a) Illegal Discharges. The discharge of Pollutants directly or indirectly into the Stormwater Conveyance System or Receiving Waters in non-stormwater is prohibited, except as exempted in Section 67.806 of this Ordinance. The discharge of Pollutants directly or indirectly into the Stormwater Conveyance System or Receiving Waters in stormwater is prohibited, unless the applicable requirements of this Ordinance have been met.
- (b) Illicit Connection. The establishment of Illicit Connections is prohibited. The use of Illicit Connections is prohibited, even if the connection was established pursuant to a valid County permit and was legal at the time it was constructed.
- (c) Litter, Dumps, and Stockpiles. Throwing, depositing, leaving, abandoning, maintaining or keeping materials or wastes on public or private lands in a manner and place where they may result in an Illegal Discharge is prohibited.

### **SEC. 67.806. DISCHARGES EXEMPTED FROM DISCHARGE PROHIBITIONS.**

- (a) Separately Permitted Discharges. Discharges called out in and regulated under a valid facility-specific NPDES permit or facility-specific RWQCB Waste Discharge Requirements (WDR) permit, not including a state General Permit, shall be regulated exclusively by the RWQCB and are exempt from discharge prohibitions established by this Ordinance, provided compliance with all relevant permit conditions is maintained to the satisfaction of the RWQCB. See subsection 67.804(d). Stormwater discharges at a facility with an NPDES or WDR permit that only addresses process discharges or non-stormwater discharges are not exempted by this subsection or by subsection 67.804(c).
- (b) State General Permit Discharges. Stormwater discharges regulated under the State General Industrial Stormwater Permit or State General Construction Stormwater Permit, are exempt from discharge prohibitions established by this Ordinance, provided compliance with all relevant general permit conditions is maintained to the satisfaction of the RWQCB. These discharges are not otherwise exempted from this Ordinance.
- (c) Certain Agricultural Discharges. Non-stormwater agricultural discharges that the SWRCB or RWQCB have explicitly determined to allow pursuant to a written waiver or formal policy, including any such discharges from commercial nurseries and greenhouses that are covered by such waivers or policies, are exempt from the discharge prohibitions established by this Ordinance, provided compliance with all relevant permit, waiver or policy conditions established by the SWRCB or

RWQCB are maintained to the satisfaction of the SWRCB or RWQCB. These discharges are not otherwise exempt from this Ordinance.

(d) Categorically Allowed Discharges Subject to Section 67.807. The following categories of non-stormwater discharges are exempt from discharge prohibitions established by this Ordinance, but Dischargers must install, implement and maintain the applicable BMPs set out in section 67.807 of this Ordinance, and any applicable BMPs specified in the Stormwater Standards Manual:

- discharges from potable water sources other than water main breaks;
- diverted stream flows (provided required permits are obtained);
- flows from riparian habitats and wetlands;
- foundation drains (not including active groundwater dewatering systems);
- individual residential washing of vehicles;
- irrigation water including recycled water used for irrigation;
- landscape irrigation;
- lawn watering;
- rising ground water;
- swimming pool discharges (if dechlorinated to less than one PPM chlorine);
- uncontaminated ground water infiltration to storm drains;
- uncontaminated pumped ground water;
- water from crawl space pumps; and
- water from footing drains (not including active groundwater dewatering systems).

(e) Categorically Allowed Discharges Not Subject to Section 67.807. The following categories of non-stormwater discharges are exempt from discharge prohibitions established by this Ordinance and are not subject to section 67.807. Dischargers must however comply with any Order issued pursuant to section 67.804(i) of this Ordinance; and must install, implement and maintain the specifically applicable minimum BMPs, if any, set out in the Stormwater Standards Manual:

- air conditioning condensation;
- flows from emergency fire fighting activities;
- springs; and
- water line flushing.

(f) Exemptions to Protect Public Health and Safety. Discharges of trauma scene post-cleanup residues, and other discharges determined by any Authorized Enforcement Official or by Authorized Enforcement Staff to be necessary to protect public health and safety are exempt from discharge prohibitions established by this Ordinance, provided any conditions on such discharges imposed by the Authorized Enforcement Official or Authorized Enforcement Staff are satisfied. In emergency circumstances, the determination of an Authorized

Enforcement Official or Authorized Enforcement Staff that a discharge is necessary may initially be oral but must be promptly confirmed in writing by an Authorized Enforcement Official or by Authorized Enforcement Staff. In non-emergency situations, a prior written determination is required to exempt a discharge.

- (g) On-site wastewater systems. Discharges to the subsurface from permitted properly functioning on-site wastewater systems are not prohibited by this Ordinance.
- (h) Exemptions Not Absolute. Any discharge category described in subsection (b) above that is a significant source of pollutant to waters of the United States shall be prohibited from entering the stormwater conveyance system, or shall be subjected to a requirement to implement additional BMPs to reduce pollutants in that discharge to the maximum extent practicable. Such prohibitions shall be effective on a schedule specified by an Authorized Enforcement Official in a written notice to the Discharger. That schedule may take into account the nature and severity of any effects caused by the discharge; and the time required to design, engineer, fund, procure, construct and make appropriate BMPs operational.

**SEC. 67.807. BEST MANAGEMENT PRACTICE REQUIREMENTS AND GENERAL REQUIREMENTS APPLICABLE TO ALL DISCHARGERS.**

- (a) Applicable Requirements. All Dischargers in the County Urban Area must comply with the generally applicable prohibitions and requirements in sections 67.801 through 67.807 of this Ordinance, and must also comply with any other parts of this Ordinance (including relevant parts of Appendix A) that are applicable to the type of facility or activity owned or operated by that Discharger.
- (b) Minimum Best Management Practices for All Dischargers. All dischargers in the County Urban Area must install, implement and maintain at least the following minimum Best Management Practices:
  - (1) Eroded soils. Prior to the rainy season, Dischargers must remove or secure any significant accumulations of eroded soils from slopes previously disturbed by clearing or grading, if those eroded soils could otherwise enter the Stormwater Conveyance System or Receiving Waters during the rainy season.
  - (2) Pollution Prevention. Dischargers employing ten or more persons on a full-time basis shall implement those stormwater pollution prevention practices that are generally recognized in that Discharger's industry or business as being effective and economically advantageous.

- (3) Prevention of Illegal Discharges. Illicit connections must be eliminated (even if the connection was established pursuant to a valid permit and was legal at the time it was constructed), and illegal discharge practices eliminated.
  - (4) Slopes. Completed slopes that are more than five feet in height, more than 250 square feet in total area, and steeper than 3:1 (run-to-rise) that have been disturbed at any time by clearing, grading, or landscaping, shall be protected from erosion prior to the first rainy season following completion of the slope, and continuously thereafter.
  - (5) Storage of Materials and Wastes. All materials and wastes with the potential to pollute urban runoff shall be stored in a manner that either prevents contact with rainfall and storm water, or contains contaminated runoff for treatment and disposal.
  - (6) Use of Materials. All materials with the potential to pollute urban run off (including but not limited to cleaning and maintenance products used outdoors, fertilizers, pesticides and herbicides, etc.) shall be used in accordance with label directions. No such product may be disposed of or rinsed into Receiving Waters or the Stormwater Conveyance System.
- (c) Inspection, Maintenance, Repair and Upgrading of BMPs. BMPs at manned facilities must be inspected by the Discharger before and following predicted rain events. BMPs at unmanned facilities must be inspected by the Discharger at least once during the rainy season and at least once between each rainy season. These BMPs must be maintained so that they continue to function as designed. BMPs which fail must be repaired as soon as it is safe to do so. If the failure of a BMP indicates that the BMPs in use are inappropriate or inadequate to the circumstances, the BMPs must be modified or upgraded to prevent any further failure in the same or similar circumstances.
- (d) Stormwater Pollution Prevention Plan. An Authorized Enforcement Official may require a Commercial, Industrial or Land Disturbance Activities Discharger to prepare and submit a Stormwater Pollution Prevention Plan (SWPPP) for approval by that official if (1) the Discharger does not come into compliance with this Ordinance after one or more warnings or other enforcement action, because BMPs are inadequate or are not being adequately maintained; or (2) the facility or activity at issue is a significant source of contaminants to Receiving Waters despite compliance with this Ordinance. Any Discharger required to submit and to obtain approval of a SWPPP shall install, implement and maintain the BMPs specified in the approved SWPPP.

The SWPPP shall identify the BMPs that will be used by the Discharger to prevent or control pollution of storm water to the Maximum Extent Practicable. If



the facility is an industrial facility, the SWPPP submitted to the County shall at a minimum meet the requirements of the State NPDES General Industrial Stormwater Permit. If the activity at issue is a construction or land disturbance activity, the SWPPP submitted to the County shall at a minimum meet the requirements of the State NPDES General Construction Stormwater Permit. If a facility required to submit a SWPPP to the County discharges non-stormwater to ground water, the facility shall obtain an RWQCB permit as required by the State Water Code, and shall describe the requirements of that permit in the SWPPP.

Whenever submission of a SWPPP is required pursuant to this ordinance, an Authorized Enforcement Official or Authorized Enforcement Staff may take existing County guidance documents into account when determining whether the practices proposed in the SWPPP are best management practices that will prevent or control pollution to the required level of maximum extent practicable.

- (e) Notification of Spills, Releases and Illegal Discharges. Spills, releases, and illegal discharges of Pollutants to Receiving Waters or to the Stormwater Conveyance System shall be reported by the Discharger as required by all applicable state and federal laws. In addition, any such spills, releases and illegal discharges with the potential to endanger health, safety or the environment shall be reported to the Director or Assistant Director, Department of Public Works within 24-hours after discovery of the spill, release or discharge. If safe to do so, necessary actions shall be taken to contain and minimize the spill, release or illegal discharge.
  
- (f) Sampling, Testing, Monitoring, and Reporting. Commercial, Industrial or Land Disturbance Activities Dischargers shall perform the sampling, testing, monitoring and reporting required by this Ordinance. In addition, an Authorized Enforcement Official or Authorized Enforcement Staff may order a Discharger to conduct testing or monitoring and to report the results to the County if (1) the Authorized Enforcement Official determines that testing or monitoring is needed to determine whether BMPs are effectively preventing or reducing pollution in stormwater to the maximum extent practicable, or to determine whether the facility is a significant source of contaminants to Receiving Waters; or (2) the Authorized Enforcement Official or Authorized Enforcement Staff determines that testing or monitoring is needed to assess the impacts of an illegal discharge on health, safety or the environment; or (3) an Illegal Discharge has not been eliminated after written notice by an Authorized Enforcement Official or Authorized Enforcement Staff; or (4) repeated violations have been documented by written notices from Authorized Enforcement Officials or Authorized Enforcement Staff; or (5) the RWQCB requires the County to provide any information related to the Discharger's activities.

Testing and monitoring ordered pursuant to this subsection may include the following:

- (1) Visual monitoring of dry weather flows, wet weather erosion, and/or BMPs;
- (2) Visual monitoring of premises for spills or discharges;
- (3) Laboratory analyses of stormwater or non-stormwater discharges for Pollutants;
- (4) Background or baseline monitoring or analysis; and
- (5) Monitoring of Receiving Waters or sediments that may be affected by Pollutant discharges by the Discharger (or by a group of Dischargers including the Discharger).

The Authorized Enforcement Official or Authorized Enforcement Staff may direct the manner in which the results of required testing and monitoring are reported, and may determine when required sampling, testing or monitoring may be discontinued.

- (g) Mitigation. All Illegal Discharges must be mitigated within a reasonable period of time to correct or compensate for all damage to the environment caused by the illegal discharge. The Authorized Enforcement Official or Authorized Enforcement Staff who issued notice to the Discharger that a discharge was illegal, or Authorized Enforcement Staff designated by that official, shall determine whether mitigation measures proposed or completed by the discharger meet this standard. The Authorized Enforcement Official or Authorized Enforcement Staff shall require the Discharger to submit a mitigation plan and schedule by a specified date prior to taking action, and to submit a summary of completed mitigation by a specified date.
- (h) Access for inspections. All dischargers shall provide access to authorized enforcement staff, upon reasonable notice, for inspection of facilities and discharges subject to this ordinance.

**SEC. 67.808. ADDITIONAL MINIMUM BEST MANAGEMENT PRACTICE REQUIREMENTS FOR RESIDENTIAL ACTIVITIES AND FACILITIES.**

- (a) Applicable Requirements. The requirements in this section apply to all Residential Dischargers within the County Urban Area and within County-designated high priority non-urban residential discharge areas, as shown on the map at Appendix B. All Residential Dischargers in this mapped area must install, implement and maintain the BMPs identified in Section 67.807(b) for all Dischargers, and at least the additional minimum BMPs specified below for the category of activities conducted by that Discharger.

(b) Motor Vehicle or Boat Repair and Maintenance.

- (1) Motor Vehicle and boat repair and maintenance activity shall be performed under a permanent roof or other permanent cover, if such space is available. Maintenance and repair activities that are conducted without cover or without BMPs to prevent pollutant discharges are prohibited during times of precipitation.
- (2) Any release of fluids during repair or maintenance shall be promptly contained and cleaned up. Any absorbent materials used must be disposed of properly.
- (3) Automotive and boat materials and wastes must be stored indoors, or under cover, or in secure and watertight containers.

(c) Motor Vehicle Washing.

- (1) Vehicles shall be washed over porous surfaces such as lawns and gravel areas where feasible.
- (2) Remaining detergent solutions prepared for use in vehicle washing, but not used up in that process, may not be disposed by emptying buckets or other containers directly or indirectly to the stormwater conveyance system or Receiving Waters. Disposal to the sanitary sewer (e.g., through a sink, toilet or floor drain) or to a porous surface is required.
- (3) The use of “hose off” or single use engine degreasing chemicals is prohibited, unless captured and disposed of properly.
- (4) Motor vehicle washing other than individual residential motor vehicle washing is prohibited, unless all wash and rinse water is diverted to or contained and disposed to a porous area or the sanitary sewer.

(d) Motor Vehicle Parking.

- (1) Residents shall remove excessive accumulations of oil and grease deposited by vehicles they own from parking areas, using dry cleaning methods (e.g., absorbents, scraping, vacuuming, or sweeping).
- (2) Residents shall move vehicles from streets when notified to do so to allow street cleaning.

(e) Home and Garden Care Activities and Product Use.

- (1) Irrigation systems should be adjusted to avoid excessive runoff.

- (2) Spills of gardening chemicals, fertilizers or soils to non-porous surfaces must be cleaned up, and properly disposed.
- (3) Lawn and garden care products must be stored in closed labeled containers; or in covered areas; or off the ground under protective tarps.
- (4) Household hazardous waste may not be disposed directly or indirectly to the trash or to the street, gutter or storm drain.

(f) Home Care and Maintenance.

- (1) Painting equipment may not be cleaned out in or over streets, sidewalks or gutters.
- (2) Action shall be taken to minimize and contain all spills of hazardous materials, if it is safe to do so.
- (3) Household hazardous materials must be stored indoors or under cover, and in closed and labeled containers.
- (4) Household wash waters (carpet cleaning, mop water, washing machine effluent, other gray water, paint wash-up water, etc.) may not be disposed of to the street, gutter or storm drain or to Receiving Waters. Washing machine effluent and sink wastes may not be discharged to the ground. Disposal to the sanitary sewer (e.g., through a sink, toilet or floor drain) or (where not prohibited) to a porous surface is required.

(g) Manure and Pet Waste Management.

- (1) Manure deposited by confined livestock, horses or other large animals on uncovered areas, from which runoff could enter receiving waters or the stormwater conveyance systems, must be cleaned up at least twice weekly and either be composted, or be stored prior to disposal in a manner that prevents contact with runoff to receiving waters or the stormwater conveyance system.
- (2) Areas used for composting such manure must be located, configured or managed to prevent runoff to receiving waters or the stormwater conveyance system.
- (3) Pet waste shall not be disposed to the stormwater conveyance system or receiving waters.

(h) Private Sewer Laterals and On-site wastewater systems.

- (1) Private sewer laterals shall be cleaned, maintained and when necessary replaced to prevent seepage and spills. On-site wastewater systems shall be pumped, maintained and when necessary modified or replaced to prevent spills.
- (2) Spills from private sewer laterals and on-site wastewater systems shall be contained and cleaned-up in a manner that minimizes any release of pollutants to the stormwater conveyance system or receiving waters.
- (3) Any release from a private sewer lateral that enters the stormwater conveyance system or receiving waters shall be immediately reported to the County.
- (4) Failed on-site wastewater systems shall be repaired or replaced, after issuance of all required permits and approvals.

**SEC. 67.809. ADDITIONAL MINIMUM BEST MANAGEMENT PRACTICE REQUIREMENTS FOR COMMERCIAL ACTIVITIES AND FACILITIES.**

(a) Priorities and Requirements. Regulated Commercial Facilities are classified in this section as High Priority or All Other, and additional requirements are imposed on those facilities by this section based on those classifications. All commercial Dischargers must install, implement and maintain at least the additional minimum Best Management Practices, if any, specified in this section or in the County Stormwater Standards Manual for the priority classification and category of activity or facility owned or operated by that Discharger. All Regulated Commercial Facilities shall review their facilities, activities, operations and procedures at least annually to detect and eliminate illicit connections and illegal discharges. Corrective training shall be provided as needed (and documented in training records) whenever an illegal disposal practice is discovered.

(b) High Priority Commercial Facilities Identified. As required by NPDES Permit No. CAS 0108758, facilities in the County Urban Area having one or more of the following characteristics are High Priority Commercial Facilities:

- (1) The facility is a Regulated Commercial Facilities primarily engaged in one of the following commercial activities:
  - Airplane mechanical repair, maintenance, fueling, or cleaning;
  - Motor Vehicle (or other vehicle) parking lots and storage facilities;
  - Motor Vehicle and other vehicle body repair or painting;
  - Motor Vehicle mechanical repair, maintenance, fueling, or cleaning;

- Boat mechanical repair, maintenance, fueling, or cleaning;
- Botanical or zoological gardens and exhibits;
- Cement mixing or cutting;
- Cemeteries;
- Eating or drinking establishments;
- Equipment repair, maintenance, fueling, or cleaning;
- Golf courses, parks and other recreational areas/facilities;
- Landscaping;
- Marinas;
- Masonry installation;
- Mobile Motor Vehicle or other vehicle washing;
- Mobile carpet, drape or furniture cleaning;
- Nurseries and greenhouses;
- Painting and coating;
- Pest control services;
- Pool and fountain cleaning;
- Port-a-Potty servicing; or
- Retail or wholesale fueling.

- (2) The facility is a Regulated Commercial Facility that has outdoor Industrial Areas totaling two (2) acres or more or an outdoor parking lot for 100 or more vehicles; and stormwater or runoff from the facility may adversely affect impaired waters or waters within an environmentally sensitive area.
- (3) The facility is a Regulated Commercial Facility and has been notified in writing by an Authorized Enforcement Official or Authorized Enforcement Staff that it is a High Priority Commercial Facility. Such designations shall take effect 90 days after mailing or service of this notice. These designations shall be made where the facility discharges a pollutant load in storm water or runoff that causes or contributes to the violation of water quality standards.

(c) Additional Minimum Best Management Practices for All Regulated Commercial Facilities. All Regulated Commercial Facilities shall install, implement and maintain the BMPs specified in the County Stormwater Standards Manual (Appendix A of this Ordinance) in the following areas:

- Employee training
- Stormwater pollution prevention plans;
- Storm drain tileage and signing;
- Annual review of facilities and activities;
- Pollution prevention;
- Materials and waste management
- Vehicles and equipment;

- Outdoor areas.
- (d) Additional Minimum Best Management Practices for Specific Types of Regulated Commercial Facilities. Regulated Commercial Facilities, including but not limited to the types of facilities and activities listed below, shall install, implement and maintain the BMPs specified in the County Stormwater Standards Manual for each such type of facility or activity.
- Vehicle and equipment repair and maintenance;
  - Outdoor storage of vehicles and equipment;
  - Retail and wholesale fueling;
  - Vehicle body repair and painting;
  - Painting and coating;
  - Eating and drinking establishments;
  - Marinas;
  - Botanical and zoological gardens and exhibits;
  - Golf courses, parks, and other recreational facilities;
  - Parking lots and storage facilities
  - Cement mixing and cutting;
  - Mobile carpet, drape, and furniture cleaning;
  - Nurseries and greenhouses;
  - Masonry storage or installation;
  - Pool and fountain cleaning;
  - Portable sanitary toilet servicing;
  - Mobile vehicle washing;
  - Pest control;
  - Landscaping.

**SEC. 67.810. ADDITIONAL MINIMUM BEST MANAGEMENT PRACTICE REQUIREMENTS FOR INDUSTRIAL ACTIVITIES AND FACILITIES.**

- (a) Priorities and Requirements. Regulated Industrial Facilities are classified in this section as High, Medium and Low priority, and additional requirements are imposed on those facilities by this section based on those classifications. All Industrial Dischargers must install, implement and maintain at least the additional minimum BMPs, if any, specified in this section or in the County Stormwater Standards Manual for the priority classification and category of activity or facility owned or operated by that Discharger. All Regulated Industrial Facilities shall review their facilities, activities, operations and procedures at least annually to detect and eliminate illicit connections and illegal discharges. Corrective training shall be provided as needed (and documented in training records) whenever an illegal disposal practice is discovered.

- (b) High Priority Industrial Facilities. Regulated Industrial Facilities that have one or more of the characteristics listed below are High Priority Industrial Facilities:
- (1) The facility is subject to the State General Industrial Stormwater Permit, taking into account all of the provisions of that permit.
  - (2) The facility is a Regulated Industrial Facility and Stormwater or runoff from the facility is Tributary To an Impaired Water Body, and the facility generates a pollutant for which that water body is impaired. Appendix C maps areas that the County has determined are potentially tributary to impaired water bodies.
  - (3) The facility is a Regulated Industrial Facility and is located within or adjacent to (i.e., within 200 ft. of), or discharges directly to, a coastal lagoon or a receiving water body within an ESA. Appendix D maps coastal lagoons and receiving waters within ESAs, plus a 200-foot adjacent area.
  - (4) The facility is subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA).
  - (5) The facility was notified in writing by an Authorized Enforcement Official or Authorized Enforcement Staff that it has been designated a High Priority Industrial Facility. Such designations shall take effect 90 days after mailing or service of notice. These designations shall be made where the facility discharges a pollutant load in stormwater or runoff that causes or contributes to the violation of water quality standards.
- (c) Medium Priority Industrial Facilities. Regulated Industrial Facilities that are not High Priority Industrial Facilities, but which employ 50 or more persons, are Medium Priority Industrial Facilities.
- (d) Low Priority Industrial Facilities. Regulated Industrial Facilities that are not High Priority Industrial Facilities or Medium Priority Industrial Facilities are Low Priority Industrial Facilities.
- (e) Additional Minimum BMPs and Other Additional Requirements for High Priority Industrial Facilities.
- (1) Notice of Intent. High Priority Industrial Dischargers required to comply with the State Industrial General Stormwater Permit shall maintain on site and make available for inspection on request by the County the state-issued Waste Discharge Identification Number (WDID) for the facility, and a copy of the Notice of Intent (NOI) filed with the SWRCB pursuant to that permit. The Discharger shall submit the WDID and a copy of that



NOI to the County by mail if directed to do so by an Authorized Enforcement Official or Authorized Enforcement Staff.

- (2) Stormwater Pollution Prevention Plan. Dischargers required to prepare a SWPPP under the State General Industrial Stormwater Permit must prepare the Plan, implement the Plan and maintain it at the site readily available for review. If a High Priority Industrial Facility is not required to prepare a state SWPPP, the facility shall prepare a SWPPP, submit that SWPPP for County approval or modification and approval, implement the SWPPP, and maintain it on site. Failure to comply with an applicable state-required or County-required SWPPP is a violation of this Ordinance.
- (3) Pollution Prevention Practices. High Priority Industrial Facilities shall consider and where determined to be appropriate by the facility shall implement the following measures to prevent the pollution of stormwater and runoff:
  - The use of smaller quantities of toxic materials or substitution of less toxic materials;
  - Changes to production processes to reduce waste;
  - Decreases in waste water flows;
  - Recycling of wastes as part of the production process;.
  - Segregation of wastes, and
  - Treatment of wastes on site to decrease volume and/or toxicity.
- (4) Non-Structural BMPs. High Priority Industrial Facilities shall incorporate into the SWPPP, and install implement and maintain, the following non-structural BMPs. The implementation of these practices shall be consistent with specifications, if any, contained in the County Stormwater Standards Manual.
  - BMPs for material handling and storage of significant materials;
  - BMPs for non-hazardous waste handling and recycling;
  - Employee training programs;
  - Good housekeeping practices;
  - Preventive maintenance practices;
  - Self inspection and quality assurance practices; and
  - Spill response planning.
- (5) BMPs for Specific Activities. High Priority Industrial Facilities shall incorporate into the SWPPP, and install implement and maintain BMPs as specified in the County Stormwater Standards Manual for any commercial activities conducted at the facility (as identified in section 67.809(c)), and for areas at the facility where industrial activities are conducted. Industrial activities include but are not limited to the following:

- Raw or processes materials bulk storage;
- Mixing, where there is the potential for release of a pollutant;
- Cutting, trimming or grinding in connection with a production process;
- Casting, forging, or forming;
- Hazardous materials storage (including tanks);
- Construction, painting and coating;
- Pesticide or other chemical products formulation or packaging;
- Process water pre-treatment;
- Solid waste storage;
- Waste water treatment;
- Welding;
- Blasting;
- Chemical treatment; and
- Power washing.

(6) Additional Structural BMPs. High Priority Industrial Facilities shall incorporate into the SWPPP, and install, implement and maintain one or more of the additional structural BMPs listed below where practicable, if use of such BMPs would significantly reduce pollution in run-off from the facility. The Discharger shall determine in the first instance which of these BMPs to implement. However, an Authorized Enforcement Official or Authorized Enforcement Staff can order that additional BMPs be used at a particular facility pursuant to section 67.804(i).

- Overhead coverage of outdoor work areas or chemical storage;
- Retention ponds, basins, or surface impoundments that confine stormwater to the site;
- Berms and concrete swales or channels that divert run-on and runoff away from contact with pollutant sources;
- Secondary containment structures; and
- Treatment controls, e.g., infiltration devices and oil/water separators, to reduce pollutants in stormwater or authorized non-stormwater discharges.

(f) Monitoring at High Priority Industrial Facilities. Dischargers owning or operating High Priority Industrial Facilities required to conduct monitoring under the State Industrial General Stormwater Permit shall make records of such monitoring available for inspection, and submit a copy of such records to the County if directed to do so by an Authorized Enforcement Official or Authorized Enforcement Staff. State exceptions from monitoring requirements are also applicable to this requirement, and group monitoring approved by the State is also acceptable to the County. The County may direct that any required records be submitted in a specified electronic format.

Dischargers owning or operating manned High Priority Industrial Facilities that are not required to conduct monitoring under the State Industrial General Stormwater Permit, and which would not qualify for an exemption from monitoring under the terms of that permit if the permit were applicable, must develop and implement a monitoring program that meets the following minimum criteria:

- (1) Quantitative stormwater data must be obtained from two storm events in a year;
- (2) These monitoring events must address:
  - Pollutants listed in any effluent guidelines subcategories applicable to the facility;
  - Pollutants with effluent limits established by an existing NPDES permit for that facility;
  - Oil/grease or total organic carbon;
  - pH;
  - Total suspended solids;
  - Specific conductance; and
  - Toxic chemicals and other pollutants likely to be present in stormwater discharges.

This monitoring must be conducted under the conditions set out in the State Industrial General Stormwater Permit. The Discharger must retain records of such monitoring on site, make such records available for inspection, and submit a copy of such records to the County if directed to do so by an Authorized Enforcement Official or Authorized Enforcement Staff.

- (g) Medium Priority Industrial Facilities. Medium Priority Industrial Facilities must prepare and retain on site, and make available for inspection, a written report verifying that they have assessed their status with respect to the criteria for classifying High Priority Industrial Facilities set out in subsection (b) above. These facilities must also meet the requirements for Low Priority Industrial Facilities set out in subsection (h) below.
- (h) Low Priority Industrial Facilities. Low Priority Industrial Facilities must meet the requirements set out in Sections 67.804 through 67.807 of this Ordinance for all Discharges, the requirements set out in section 67.809 of this Ordinance for High Priority Commercial Facilities, and any applicable requirements in sections 67.813 through 67.816 of this Ordinance.

**SEC. 67.811. ADDITIONAL MINIMUM BEST MANAGEMENT PRACTICE REQUIREMENTS FOR AGRICULTURAL OPERATIONS.**

- (a) Nursery and Greenhouse Operations. Pursuant to NPDES Permit No. CAS 0108758, nursery and greenhouse operations are classified as commercial operations for purposes of this Ordinance, and are subject to all requirements for Regulated Commercial Facilities set out in this Ordinance.
- (b) Agricultural Grading and Clearing. The BMP requirements imposed by section 67.817 of this Ordinance for land disturbance activities apply to agricultural grading and clearing, whether or not a County-issued grading and clearing permit is required for that activity. Tilling or cultivating land exclusively for the purpose of growing plants or animals is not considered to be grading or clearing, provided all disturbed material remains on the same site, the tilling or cultivating will not block or divert any natural drainage way, and the land to be tilled or cultivated has been in agricultural production for at least one (1) of the preceding five (5) years.
- (c) Land Development Associated with Agricultural Operations. The requirements imposed by section 67.818 of this Ordinance for land development activities apply to such activities when they are associated with agricultural operations.
- (d) Manure Management.
  - (1) Where practicable, all runoff from areas where livestock, horses or other large animals are confined must be collected and managed in a manner that avoids a discharge to the stormwater conveyance system or receiving waters. Where this is not practicable, manure must be cleaned up at least twice weekly; and must either be composted, or stored prior to disposal.
  - (2) Areas used for storing or composting manure must be located, configured or managed to prevent runoff to receiving waters or the stormwater conveyance system.
  - (3) Animal wastes shall not be disposed to the stormwater conveyance system or receiving waters.
- (e) Other Agricultural Operations. Other agricultural operations are subject to the discharge prohibitions and other requirements set out in sections 67.801 through 67.806 of this Ordinance. Agricultural operations located within or adjacent to (i.e., within 200 ft. of), or which discharge directly to an impaired water body (Appendix C) or a coastal lagoon or a receiving water body within an ESA (Appendix D), are also subject to the requirements set out in section 67.807.

**SEC. 67.812. ADDITIONAL MINIMUM BEST MANAGEMENT PRACTICE REQUIREMENTS FOR MUNICIPAL AND COUNTY OF SAN DIEGO ACTIVITIES AND FACILITIES.**

- (a) Municipal Facilities. Municipal Facilities must meet the requirements set out in sections 67.801 through 67.807, and where applicable, sections 67.817 and 67.818 of this Ordinance. In addition, these facilities and activities must install, implement and maintain at least the additional minimum Best Management Practices, if any, specified in section 67.810 or in the County Stormwater Standards Manual, for industrial areas and activities at the municipal facility.
- (b) Public Improvement Projects. It is the policy of the County that public improvement projects in the County shall conform to the requirements this ordinance would impose on similar private development projects within the county urban area. These projects must meet the requirements set out in sections 67.801 through 67.807, and where applicable, sections 67.817 and 67.818 of this Ordinance, and must be designed and constructed in accordance with the SUSMP.

**SEC. 67.813. COUNTY STORMWATER STANDARDS MANUALS.**

- (a) Manual a Part of this Ordinance. The County Stormwater Standards Manual contained in Appendix A of this Ordinance is a part of this Ordinance. All Dischargers who are required by this Ordinance to install, implement and maintain BMPs shall ensure that their selection of BMPs is consistent with the applicable specifications, if any, contained in the County Stormwater Standards Manual, for the category and priority of activity or facility owned or operated by that Discharger. All BMPs installed, implemented or maintained to meet the requirements of this ordinance must conform to the applicable specifications, if any, set out in this Manual.
- (b) Existing Facilities: The Stormwater Standards Manual sets out minimum BMPs and other objective specifications for specific types and categories of existing facilities and activities. Where minimum BMPs and objective specification are specified, they are mandatory. Where no minimum BMPs have been specified in the Stormwater Standards Manual for a type and category of facility or activity, only the requirements set out in this Ordinance are applicable. Deviations from the minimum BMPs set out in the manual are allowed in the following circumstances: (1) the County determines pursuant to subsection 67.804(j) of this Ordinance to issue an Order to require alternative BMPs, and provides the required written notice; or (2) a County Guidance Document prepared pursuant to subsection 67.804(i) sets out additional compliance alternatives that may be used in lieu of the BMPs specified in the manual, and the Discharger secures a permit enforceable by the County that requires the use of specific equally effective alternative BMPs.

- (c) Ministerial Land Development Projects: Requirements applicable to development projects requiring only the kinds of ministerial permits listed in subsection 67.804(g)(2) of this Ordinance are set out in separately identified sections of the manual. Other requirements in the manual are not applicable to these projects during the development process. However, some additional requirements will apply to completed projects when they become subject to this Ordinance as residential, commercial or industrial facilities.
- (d) Discretionary Land Development and Redevelopment Projects: The manual sets out minimum BMPs, other objective specifications, and Performance Standards for Land Development projects requiring one or more of discretionary permits listed in subsection 67.804(g)(1) of this Ordinance. The minimum BMPs and other objective specifications in the manual are applicable to both ministerial and discretionary land development projects. The Performance Standards in the manual are applicable to projects that require a discretionary County permit or approval, and shall be implemented through specific permit conditions. Development project proponents must determine whether their project design and associated BMPs will meet these Performance Standards for their facility or activity, and must redesign their project and/or install, implement and maintain additional BMPs where needed to meet applicable Performance Standards.
- (e) Conflicting or More Detailed Requirements. In case of any conflict between any applicable minimum BMPs specified in sections 67.807 and 67.807.2 of this Ordinance, and any applicable requirements described in more detail for a particular type of facility or activity in the County Stormwater Standards Manual, the requirement in the Manual shall prevail.

**SEC. 67.814. [Reserved]**

**SEC. 67.815. [Reserved]**

**SEC. 67.816. [Reserved]**

**SEC. 67.817. ADDITIONAL REQUIREMENTS FOR LAND DISTURBANCE ACTIVITIES.**

- (a) Permit Issuance. No land owner or development project proponent shall receive any County grading, clearing, building or other land development permit required for Land Disturbance Activity without first meeting the requirements of this Ordinance with respect to the portion of the development project and the Land Disturbance Activity to which the permit at issue would apply.
- (b) Owners and Operators Both Responsible and Liable. Persons or entities performing Land Disturbance Activities (including but not limited to construction activities) in the County, and the owners of land on which Land Disturbance

Activities are performed, are Dischargers for purposes of this Ordinance; provided however that a local government or public authority is not a Discharger as to activities conducted by others in public rights of way.

- (c) Stormwater Management Plan. All applications to the County for a permit or approval associated with a Land Disturbance Activity must be accompanied by a Stormwater Management Plan, on a form or in a format specified by the County. The Stormwater Management Plan shall specify the manner in which the Discharger/Applicant will implement the BMPs required by this Ordinance for the activity at issue, including but not limited to the applicable BMPs required by subsection (d) below.
  
- (d) Additional Minimum BMPs for Land Disturbance Activities. Whether a County permit or approval is required or not, and whether a Stormwater Management Plan is required to be submitted or not, all Discharges engaged in Land Disturbance Activities shall implement BMPs as detailed in the County Stormwater Standards Manual in the following additional areas if applicable to the project:
  - (1) Erosion control on slopes;
  - (2) Erosion control on flat areas; or BMPs to prevent runoff from or to desilt runoff from flat areas;
  - (3) Runoff velocity reduction;
  - (4) Sediment control;
  - (5) Offsite sediment tracking control;
  - (6) Materials management;
  - (7) Waste management;
  - (8) Vehicle and equipment management;
  - (9) Water conservation;
  - (10) Structure construction and painting;
  - (11) Paving operations;
  - (12) Dewatering operations;
  - (13) Planned construction operations;
  - (14) Downstream erosion control;
  - (15) Prevention of non-stormwater discharges;
  - (16) Protection of ground water; and
  - (17) Well development.
  
- (e) Control to the Maximum Extent Practicable. All Dischargers engaged in Land Disturbance Activities must install, implement and maintain those additional BMPs, if any, that are needed to prevent or reduce pollutant discharges in stormwater from land disturbance to the MEP.
  
- (f) Notice of Intent. Dischargers required to comply with the State Construction General Stormwater Permit shall maintain on site and make available for

inspection on request by the County any state-issued Waste Discharge Identification Number (WDID) for the site, and a copy of the Notice of Intent (NOI) filed with the SWRCB pursuant to that permit.

- (g) Stormwater Pollution Prevention Plan. Dischargers required to prepare a SWPPP under the State General Construction Stormwater Permit must prepare the Plan, implement the Plan and maintain it at the site, readily available for review. Failure to comply with an applicable state-required SWPPP is a violation of this Ordinance.
- (h) Facility Monitoring. Dischargers required to conduct monitoring under the State Construction General Stormwater Permit must conduct such monitoring in conformance with requirements specified by the State, retain records of such monitoring on site, and make such records available for inspection by an Authorized Enforcement Official or Authorized Enforcement Staff.

**SEC. 67.818. ADDITIONAL PLANNING, DESIGN AND POST-CONSTRUCTION REQUIREMENTS FOR ALL LAND DEVELOPMENT AND REDEVELOPMENT PROJECTS.**

- (a) Application to Development and Redevelopment Projects. No land owner or development project proponent in the County Urban Area shall receive any County permit or approval listed in section 67.804(g) of this Ordinance for Land Development Activity or significant redevelopment activity unless the project meets or will meet the requirements of this Ordinance. Post-Construction BMP requirements imposed by this section and by the Stormwater Standards Manual shall not apply to those physical aspects of the project that have been completed or substantially completed pursuant to and as required by a valid County permit or approval, at the time a complete application for a subsequent permit or approval is submitted.
- (b) Owners and Developers Responsible and Liable. Developers, Development Project Proponents, and Land Owners for land on which Development Activities are performed, are Dischargers for purposes of this Ordinance; provided however that a local government or public authority is not a Discharger as to activities conducted by others in public rights of way.
- (c) Post-construction Best Management Practices Required. Land development and redevelopment projects with the potential to add pollutants to storm water or to affect the flow rate or velocity of stormwater runoff after construction is completed, shall be designed to include and shall implement post-construction BMPs to ensure that pollutants and runoff from the development will be reduced to the Maximum Extent Practicable, will not significantly degrade receiving water quality, and will not cause or contribute to an exceedance of receiving water quality objectives.



- (d) Natural BMPs. Natural BMPs, such as constructed wetlands, grassed swales, biofilters, wet ponds, and vegetated filter strips, shall be utilized whenever practicable for post-construction BMPs that are proposed by a discharger.
- (e) Post-Construction Stormwater Management Plan. All applications to the County for a permit or approval associated with a land development or redevelopment activity must be accompanied by a Post-Construction Stormwater Management Plan on a form or in a format specified by the County. The plan shall specify the manner in which the Discharger/Applicant will implement the post-construction BMPs required by this Ordinance. The plan must address those aspects of the project that, at the time a complete application is submitted, are subject to further environmental review pursuant to section 15162 of the California Environmental Quality Act. Post-Construction BMPs for other aspects of the project need not be addressed in this plan.
- (f) Stormwater Management Plan Review Deposit. **[Reserved]**
- (g) Additional Minimum Post-Construction BMPs for Land Development Activities. Whether a County permit or approval is required or not, and whether a Post-Construction Stormwater Management Plan is required to be submitted or not, all Dischargers engaged in land development or significant redevelopment activities in the County Urban Area shall implement post-construction BMPs in the following areas if applicable to the project:
  - (1) BMPs for permanent control of erosion from slopes. These BMPs can include structures to convey runoff safely from the tops of slopes, vegetation or alternative stabilization of all disturbed slopes, the use of natural drainage systems to the Maximum Extent Practicable, flow and velocity controls upstream of sites; and stabilization or permanent channel crossings, unless the crossing is not publicly accessible and is not frequently used.
  - (2) BMPs to control flows, velocity and erosion. These BMPs can include but are not limited to the use of energy dissipaters, such as riprap, at the outlets of storm drains, culverts, conduits, or lined channels that enter unlined channels to minimize erosion; installation of retention or equalization basins, or other measures. Flow control and downstream erosion protection measures shall prevent any significant increase in downstream erosion as a result of the new development, but shall not prevent flows needed to sustain downstream riparian habitats or wetlands.
  - (3) Pollution prevention and source control BMPs, to minimize the release of pollutants into Stormwater.

- (4) Site design BMPs, such as impervious surface minimization; and appropriate use of buffer areas to protect natural water bodies.
  - (5) Site planning BMPs, such as siting and clustering of development to conserve natural areas to the extent practicable.
  - (6) The installation of storm drain tiles or concrete stamping, and appropriate signage to discourage illegal discharges.
  - (7) BMPs for trash storage and disposal and materials storage areas.
  - (8) Structural BMPs to treat and/or to infiltrate stormwater where a development project would otherwise cause or contribute to a violation of water quality standards in receiving waters. Off-site structural BMPs may be used for treatment and infiltration necessary to meet water quality standards only if the conveyance of run-off to those facilities prior to treatment will not cause or contribute to an exceedance of water quality standards, or deprive wetlands or riparian habitats of needed flows. Offsite facilities shall not substitute for the use of any on-site source control BMPs required by the Stormwater Standards Manual.
  - (9) When an Infiltration BMPs is used, related BMPs set out in the Stormwater Standards Manual (including but not limited to siting constraints), to protect present uses of ground water, and future uses of that ground water as currently designated in the applicable RWQCB Basin Plan. (Discharges to infiltration BMPs may also require an RWQCB permit, and additional state requirements may also be applicable to these discharges.)
  - (10) Other applicable BMPs required by the County Stormwater Standards Manual.
- (h) Control to the Maximum Extent Practicable. All Dischargers engaged in Land Development and Significant Redevelopment Activities shall install, implement and maintain post-construction BMPs as needed to prevent or reduce pollutant discharges in stormwater from land disturbance to the Maximum Extent Practicable.
- (i) Priority Development Projects. All priority development projects and significant redevelopment projects (including ministerial projects) shall be designed using the methods and including the studies and reviews described in the SUSMP. In addition to the other requirements of this ordinance, and except as provided in subsections (j) (k) and (l) below, all such projects shall be constructed to include structural treatment BMPs as specified in Section G, Part 6 of Appendix A to this Chapter (i.e., the Stormwater Standards Manual).

- (j) Waivers based on infeasibility. An authorized enforcement official with responsibility for a discretionary permit or approval sought for a project otherwise subject to subsection (i) of this section, may waive the requirements of that subsection if compliance would be infeasible. A waiver shall only be granted if all available structural treatment BMPs have been considered and rejected as infeasible. If a waiver is granted, the authorized enforcement official may impose alternative, feasible runoff treatment requirements, or may impose other conditions consistent with state law and County ordinances to facilitate the construction of a shared treatment facility in the future.
- (k) Localized Equivalent Area Drainage (LEAD) Proposals. With the prior written approval of the Deputy Chief Administrative Officer, Land Use and Environment Group (DCAO LUEG), the proponent of an in-fill or redevelopment project that would otherwise be subject to subsection (i) may instead propose to treat stormwater for an alternative treatment area, as provided in Section VI of the Final Model SUSMP approved by the RWQCB on June 12, 2002. The DCAO LUEG shall determine whether proposed private projects and County projects meets the requirements of this subsection, and shall recommend to the Board of Supervisors whether specific projects should be accepted as one of the three such projects the County is authorized to approve or construct prior to February 20, 2007. Proposed LEAD projects must meet the following criteria:
- The alternative treatment area shall be located within the proximity of the project;
  - The alternative treatment area shall discharge to the same receiving water as the project;
  - The alternative treatment area shall be equivalent or greater than the project footprint;
  - The alternative treatment area shall have an equivalent or greater impervious surface area than the project;
  - The alternative treatment area shall have an equivalent or greater pollutant load than the project;
  - Site Design and Source Control BMPs shall be required in the project design.

(l) Site Design Stormwater Treatment Credits [Reserved]

#### **SEC. 67.819. MAINTENANCE OF BMPs.**

- (a) Existing Development. Residential, commercial, industrial, agricultural and municipal dischargers shall maintain the BMPs they rely upon to achieve and maintain compliance with this Ordinance.

- (b) New Development. The owners and occupants of lands on which structural post-construction BMPs have been installed to meet the requirements of this Ordinance shall ensure the maintenance of those BMPs, and shall themselves maintain those BMPs if other persons or entities who are also obliged to maintain those BMPs (by contract or covenant, or pursuant to this Ordinance) fail to do so.
- (c) Maintenance Obligations Assumed by Contract or Other Agreement. Primary responsibility to maintain a BMP may be transferred through a contract or other agreement. If that contract provides that it will be submitted to the County pursuant to this Ordinance as part of a development permit application, and if that contract is so submitted, the person or entity accepting a maintenance obligation in such a contact or agreement will also be legally obliged to maintain that BMP pursuant to this Ordinance.
- (d) Obligation to Maintain BMPs Not Avoided by Contracts or Other Agreements. For purposes of County enforcement, no contract or other agreement imposing an obligation to maintain a BMP can relieve a person or entity of any obligation to maintain a BMP imposed by this Ordinance.
- (e) Disclosure of Maintenance Obligations: Any developer who transfers ownership of land on which a BMP is located or will be located, or who otherwise transfers ownership of a BMP or responsibility for the maintenance of a BMP to another person or entity, shall provide clear written notice of the maintenance obligations associated with that BMP to the new or additional responsible party prior to that transfer.
- (f) Maintenance Plans for Land Development Projects. The proponents of any land development project or significant redevelopment project that requires a discretionary County permit, shall provide to the County for review and approval prior to issuance of such permit, a plan for maintenance of all post-construction structural BMPs associated with the project. The plan shall specify the persons or entities responsible for maintenance activity, the persons or entities responsible for funding, schedules and procedures for inspection and maintenance of the BMPs, worker training requirements, and any other activities necessary to ensure BMP maintenance. The plan shall provide for servicing of all post-construction structural BMPs at least annually, and for the retention of inspection and maintenance records for at least three (3) years.
- (g) Access Easement/Agreement. The proponents of any land development project or significant redevelopment project that requires a discretionary County permit, shall provide to the County for review and approval prior to issuance of such permit an executed, permanent, easement onto the land on which post-construction structural BMPs will be located (and across other lands as necessary for access), to allow inspection and/or maintenance of those BMPs.

- (h) Assurance of Maintenance for Land Development Projects. Except as provided in subsection (i) below, the proponents of any land development or significant redevelopment project that requires a discretionary County permit, shall provide to the County prior to issuance of such permit, proof of a mechanism acceptable to the County which will ensure ongoing long-term maintenance of all structural post-construction BMPs associated with the proposed project. The proponents shall be responsible for maintenance, repair and replacement of BMPs unless and until an alternative mechanism for ensuring maintenance is accepted by the County and becomes effective.
  
- (i) Acceptance of Maintenance Responsibilities by a Public Entity. The County or another public entity may accept responsibility for maintenance of any BMP, under such conditions as the County or other public entity determines are appropriate. Where a maintenance obligation is proposed to be accepted by a public entity other than the County, the County shall be involved in the negotiations with that agency and with the resource agencies responsible for issuing permits for the construction and/or maintenance of the BMP, and no such agreement shall be made without the approval of the County. The County must be identified as a third party beneficiary empowered to enforce any such maintenance agreement.



**ARTICLE 3. [Reserved]**

**SEC. 67.820. [Reserved]**

**SEC. 67.821. [Reserved]**





## **ARTICLE 4. INSPECTION, ENFORCEMENT, VIOLATIONS, AND PENALTIES**

### **SEC. 67.822. INSPECTION/SAMPLING.**

- (a) Regulatory Inspections. Authorized Enforcement Officials and Authorized Enforcement Staff may inspect facilities, activities and residences subject to this Ordinance at reasonable times and in a reasonable manner to carry out the purposes of this Ordinance. If entry for a regulatory inspection is refused by the facility owner or operator, or by the occupant of a residence, an inspection warrant shall be obtained prior to inspection.
  
- (b) Access Easements. When any new structural BMP is installed on private property as part of a project that requires a County permit, in order to comply with this Ordinance, the property owner shall grant to the County an easement to enter the property at reasonable times and in a reasonable manner to ensure that the BMP is working properly. This includes the right to enter the property without prior notice once per year for routine inspections, to enter as needed for additional inspections when the County has a reasonable basis to believe that the BMP is not working properly, to enter for any needed follow-up inspections, and to enter when necessary for abatement of a nuisance or correction of a violation of this Ordinance.
  
- (c) Scope of Inspections. Inspections may include all actions necessary to determine whether any Illegal Discharges or Illicit Connections exist, whether the BMPs installed and implemented are adequate to comply with this Ordinance, whether those BMPs are being properly maintained, and whether the facility or activity complies with the other requirements of this Ordinance. This may include but may not be limited to sampling, metering, visual inspections, and records review. Where samples are collected the owner or operator may request and receive split samples. Records, reports, analyses, or other information required under this Ordinance may be inspected and copied, and photographs taken to document a condition and/or a violation of this Ordinance.

### **SEC. 67.823. ENFORCEMENT.**

Authorized Enforcement Officials and Authorized Enforcement Staff may enforce this Ordinance and abate public nuisances as follows:

- (a) Administrative Authorities.
  - (1) Administrative Penalties. Administrative penalties may be imposed pursuant to Chapter 1, Division 8 of Title 1 of the County Code of Regulatory Ordinances (Sections 18.101 et seq.). Any later-enacted administrative penalty provision in the County Code shall also be applicable to this Ordinance, unless otherwise provided therein.

- (2) Cease and Desist Orders. Written and/or verbal orders may be issued to stop Illegal Discharges and/or remove Illicit Connections.
  - (3) Notice and Order to Clean, Test, or Abate. Written and/or verbal orders may be issues to perform activities listed in Section 67.807 where conditions warrant.
  - (4) Public Nuisance Abatement. Violations of this Ordinance are deemed a threat to public health, safety, and welfare; and are identified as a public nuisance. If actions ordered under Sections 67.823(a)(2) and (3) are not performed, the Authorized Enforcement Official may abate any public nuisance pursuant to the Uniform Public Nuisance Abatement Procedure (sections 16.201 and following of the County Code). County costs for pollution detection and abatement, if not paid in full by the Discharger in addition to any other penalties, may be made a lien against the property in accordance with this procedure.
  - (5) Stop Work Orders. Whenever any work is being done contrary to the provisions of this Ordinance, or other laws implemented through enforcement of this Ordinance, an Authorized Enforcement Official may order the work stopped by notice in writing served on any person engaged in the doing or causing such work to be done, and any such person shall immediately stop such work until authorized by the Authorized Enforcement Official to proceed with the work.
  - (6) Permit Suspension or Revocation. Violations of this Ordinance my be grounds for permit and/or other County license suspension or revocation. The procedures for suspensions and revocations set out at Chapter 1 of Division 6 of the County Code (sections 16.110 et seq.) shall apply.
- (b) Judicial Authorities.
- (1) Civil penalties and remedies. County Counsel is hereby authorized to file civil actions in Superior Court to enforce this Ordinance, seeking civil penalties and/or other remedies as provided in this section and in Section 67.825 of this Ordinance. There is no requirement that administrative enforcement procedures be pursued before such actions are filed.
  - (2) Injunctive Relief. Any violation of this Ordinance may be enforced by a judicial action for injunctive relief.
  - (3) Arrest or Issue Citations. The assistance of a peace officer may be enlisted to arrest violators as provided in California Penal Code, Ordinance 5, 5c, and 5d, Title 3, Part 2 (or as amended) and/or a citation and notice to

appear as prescribed in Ordinance 5c of Title 3, Part 2 of the Penal Code, including Section 853.6 (or as amended) may be issued. There is no requirement that administrative enforcement authorities be used before such actions are filed. The immunities prescribed in Section 836.5 of the Penal Code are applicable to Authorized Enforcement Officials and Authorized Enforcement Staff acting in the course and scope of their employment pursuant to this Ordinance.

#### **SEC. 67.824. OTHER ACTS AND OMISSIONS THAT ARE VIOLATIONS.**

In addition to the violations identified in sections 67.801 through 67.822 of this Ordinance, the following acts and omissions are violations of this Ordinance, whether committed by a Discharger or by another person or entity:

- (a) Causing, Permitting, Aiding, or Abetting Non-compliance. Causing, permitting, aiding, or abetting non-compliance with any part of this Ordinance constitutes a violation of this Ordinance.
- (b) Concealment, Misrepresentation and False Statements. Any falsification or misrepresentation made to the County concerning compliance with this Ordinance, including any misrepresentation in a voluntary disclosure, any submission of a report that omits required material facts without disclosing such omission, and any withholding of information required to be submitted by or pursuant to this Ordinance in order to delay County enforcement action, is a violation of this Ordinance. Concealing a violation of this Ordinance is a violation of this Ordinance.
- (c) Failure to Promptly Correct Non-compliance. Violations of this Ordinance must be corrected with the time period specified by an Authorized Enforcement Official or Authorized Enforcement Staff. Each day (or part thereof) in excess of that period during which action necessary to correct a violation is not initiated and diligently pursued is a separate violation of this Ordinance.
- (d) County Permits and SWPPPs. Any failure to conform to an applicable stormwater pollution prevention plan (SWPPP) prepared pursuant to this Ordinance; any failure to comply with stormwater-related provisions of a County-issued grading permit or grading plan prepared to secure such a permit; and any failure to comply with stormwater-related provisions in any other County permit or approval, is also a violation of this Ordinance. For purposes of this Ordinance a permit provision or condition of approval is “stormwater-related” if compliance with the provision or condition would have the effect of preventing or reducing contamination of stormwater or of moderating run-off flows rates or velocities, whether or not the provision or condition was initially imposed to promote those outcomes.

## SEC. 67.825. PENALTIES.

- (a) Administrative Penalties. Administrative penalties may be imposed pursuant to Code of Regulatory Ordinances, Division 8, title 1, sections 18.101 et seq. Any later-enacted administrative penalty provision in the County Code shall also be applicable to Ordinance, unless otherwise provided therein.
- (b) Misdemeanor Penalties. Non-compliance with any part of this Ordinance, other than section 67.808 (Residential Activities), constitutes a misdemeanor and may be enforced and punished as prescribed in the Penal Code and Government Code of the State of California.
- (c) Penalties For Infractions. Authorized Enforcement Officials and Authorized Enforcement Staff may charge any violation of this Ordinance as an infraction at their discretion. Infractions may be abated as a nuisance or enforced and punished as prescribed in the Penal Code and Government Code of the State of California.
- (d) For Civil Actions. In addition to other penalties and remedies permitted in this Ordinance, a violation of this Ordinance may result in civil actions. Except where a maximum monetary amount is specified, the following may also be awarded without monetary limitations in any civil action:
- Injunctive relief;
  - Costs to investigate, inspect, monitor, survey, or litigate;
  - Costs to place or remove soils or erosion control materials, costs to correct any violation, and costs to restore environmental damage or to end any other adverse effects of a violation;
  - Compensatory damages for losses to the County or any other plaintiff caused by violations; and/or Restitution to third parties for losses caused by violations; and
  - Civil Penalties.

As part of a civil action filed by the County to enforce provisions of this Ordinance, a court may assess a maximum civil penalty of \$2500 per violation of this Ordinance for each day during which any violation of any provision of this Ordinance is committed, continued, permitted or maintained by such person(s).

In determining the amount of any civil liability to be imposed pursuant to this Ordinance, the superior court shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, whether any discharge caused the violation is susceptible to cleanup or abatement, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any resulting from the violation, and such other matters as justice may require.

- (e) Penalties and Remedies Not Exclusive. Penalties and remedies under this Article may be cumulative and in addition to other administrative, civil or criminal remedies.



## **APPENDIX “A”**

[Reserved]

## **APPENDIX “B”**

Appendix B is that certain map entitled “Appendix B - Urban and Environmentally Sensitive Areas / Municipal Stormwater Permit – NPDES: CAS0108758,” dated 04/18/2002, on file with the Clerk of the Board as Document Number 0769212.

This map is also available on the Internet, through the SANGIS Interactive Map Site, at <SANGIS.org>.

## **APPENDIX “C”**

Appendix C is that certain map entitled “Appendix C – Tributary to EPA 303(d) Water Bodies Impaired for Sediment / Municipal Stormwater Permit – NPDES: CAS0108758,” dated 04/19/2002, on file with the Clerk of the Board as Document Number 0769213.

This map is also available on the Internet, through the SANGIS Interactive Map Site, at <SANGIS.org>.

## **APPENDIX “D”**

Appendix D is that certain map entitled “Appendix D - Environmentally Sensitive Areas / Municipal Stormwater Permit – NPDES: CAS0108758,” dated 04/18/2002, on file with the Clerk of the Board as Document Number 0769214.

This map is also available on the Internet, through the SANGIS Interactive Map Site, at <SANGIS.org>.

(Amended by Ordinance No. 9589 (N.S.), adopted 8/5/03)  
(Amended by Ordinance No. 9518 (N.S.) adopted 1/10/03)  
(Ordinance No. 9424 (N.S.) adopted 2/1/02)