



- 1 - Establishing requirements for development project site design, to reduce urban  
2 runoff pollution and erosion;
- 3 - Establishing requirements for the management of stormwater flows from  
4 development projects, both to prevent erosion and to protect and enhance existing  
5 water-dependent habitats;
- 6 - Establishing standards for the use of off-site facilities for urban runoff  
7 management to supplement on-site practices at new development sites; and
- 8 - Establishing notice procedures and standards for adjusting stormwater and non-  
9 stormwater management requirements where necessary.

10 SECTION 40.1.3. DEFINITIONS.

11 The following definitions shall be applicable when the following words or phrases are  
12 used hereafter in this Ordinance (including use in the City’s Urban Runoff Manuals), whether  
13 or not these words or phrases are capitalized:

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

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

20 Authorized Enforcement Official: means the Director of the Water/Utilities Department,  
21 Director of Public Works; the Director of the Planning Department; the Director of the Housing  
22 Department; the Director of Building & Safety, the Chief of the Police Department, and the  
23 Chief of the Fire Department.

24 Best Management Practices: means schedules of activities, pollution treatment practices  
25 or devices, prohibitions of practices, general good housekeeping practices, pollution prevention  
26 and educational practices, maintenance procedures, and other management practices or devices  
27 to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, Receiving  
28 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,

1 spillage or leaks, sludge or water disposal, or drainage from raw materials storage. Best  
2 Management Practices may include any type of pollution prevention and pollution control  
3 measure that can help to achieve compliance with this Ordinance.

4 BMPs: means Best Management Practices.

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

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

9 City: means the City of Oceanside.

10 City Urban Runoff Standards Manuals: means the manuals described in Section  
11 40.1.4(g) of this Ordinance, attached to this Ordinance as Appendix “A”.

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

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

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

19 Development Project Proponent: means Developer.

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

25 Discharger: means any person or entity engaged in activities or operations or owning  
26 facilities or property, which will or may result in pollutants entering stormwater, the  
27 Stormwater Conveyance System, or Receiving Waters; and the owners of real property on  
28 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 or

1 around public rights-of-way.

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

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

7 Environmentally Sensitive Area: means Impaired Water Bodies, areas designated as  
8 Areas of Special Biological Significance or with the RARE beneficial use by the SWRCB in  
9 the Water Quality Control Plan for the San Diego Basin (1994 and amendments), National  
10 Wildlife Refuges, areas designated as preserves for species-protection purposes by the State of  
11 California or a local government, and pre-approved mitigation areas identified in agreements  
12 between the City and state or federal natural resources agencies.

13 Erosion Control Plan: means a Stormwater Management Plan that is designed to  
14 minimize the Accelerated Erosion and sediment runoff at a site during construction activities.

15 ESA: means Environmentally Sensitive Area.

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

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

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

Illegal Discharge: means any discharge into Stormwater, the Stormwater Conveyance

1 System, or Receiving Waters that is prohibited by this Ordinance. This includes but is not  
2 limited to discharges of non-stormwater that are not exempt discharges listed in Section 40.2.2,  
3 any discharge from an Illegal Connection, and any discharge that contains additional pollutants  
4 due to the absence of a required BMP or the failure of a BMP. Discharges that require a City  
5 permit or an RWQCB permit that has not been issued or has not been acknowledged by the  
6 Discharger to be applicable are Illegal Discharges. Discharges regulated under an applicable  
7 RWQCB or City permit or SWPPP are Illegal Discharges for purposes of this Ordinance unless  
8 compliance with all applicable permit and SWPPP conditions is maintained.

9 Impaired Water Body: means a water body that is listed by the SWRCB as impaired by  
10 a particular pollutant or pollutants, pursuant to section 303(d) of the Federal Clean Water Act.  
11 “303(d) listed water body” has the same meaning.

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

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

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

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

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

3 Infiltration: means the process of percolating stormwater or non-stormwater into the  
4 subsoil.

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

10 Land Development Activity: means any activity or proposed activity that requires any  
11 of the permits or approvals listed in Section 40.2.1(f) of this Ordinance.

12 Land Disturbance Activity: means any activity that moves soils or substantially alters  
13 the pre-existing vegetated or man-made cover of any land. This includes, but is not limited to,  
14 grading, digging, cutting, scraping, stockpiling or excavating of soil; placement of fill  
15 materials; paving, pavement removal, exterior construction; substantial removal of vegetation  
16 where soils are disturbed including but not limited to removal by clearing or grubbing; or any  
17 activity which bares soil or rock or involves streambed alterations or the diversion or piping of  
18 any watercourse. Land Disturbance Activity does not include routine maintenance to maintain  
19 original line and grade, hydraulic capacity, or the original purpose of the facility, nor does it  
20 include emergency construction activities (i.e., land disturbances) required to protect public  
21 health and safety.

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

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

Maximum Extent Practicable: is an acceptability standard for Best Management

1 Practices (BMPs). When BMPs are required to meet this standard, the BMPs must be the most  
2 effective set of BMPs that is still practicable. A BMP is effective if it prevents, reduces or  
3 removes the pollutants that would otherwise be present in runoff due to human activity. A  
4 BMP is practicable if it complies with other regulations as well as urban runoff regulations; is  
5 compatible with the area’s land use, character, facilities, and activities; is technically feasible  
6 (considering area soil, geography, water resources, and other resources available); is  
7 economically feasible; and provides benefits that are reasonable in relation to costs.

8 MEP: means Maximum Extent Practicable.

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

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

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

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

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

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

1 project-specific requirements intended to achieve the result required by the performance  
2 standard.)

3 Person: any individual, organization, business, trust, company, partnership, entity, firm,  
4 association, or other business form.

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

18 Rainy Season: means, from October 1 through April 31.

19 Receiving Waters: means all waters that are “Waters of the State” within the scope of  
20 the State Water Code, including but not limited to natural streams, creeks, rivers, reservoirs,  
21 lakes, ponds, water in vernal pools, lagoons, estuaries, bays, the Pacific Ocean, and ground  
22 water. The following bodies of water are considered receiving waters: Oceanside Harbor, San  
23 Luis Rey River, Loma Alta Creek, Buena Vista Creek, Buena Vista Lagoon, and the Pacific  
24 Ocean.

25 Redevelopment: means any construction, alteration or improvement at an already  
26 developed site that will increase the total impervious surface area of that site, or that involves  
27 activities that could expose contaminants to rainfall. Redevelopment can include but is not  
28 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

1 part of a routine maintenance activity, and other activities that create additional impervious  
2 surface.

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

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

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

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

19 Standard Urban Runoff Management Plan: [Reserved]

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

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

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

28 Stormwater: means surface runoff and drainage associated with storm events.

Stormwater Conveyance System: means private and public drainage facilities other than

1 sanitary sewers within the City by which urban run-off may be conveyed to Receiving Waters,  
2 and includes but is not limited to roads, streets, constructed channels, aqueducts, storm drains,  
3 pipes, street gutters, inlets to storm drains or pipes, or catch basins.

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

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

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

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

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

27 Structural Post-Construction BMP: means a structural BMP (other than a temporary  
28 construction-related BMP) put in place in connection with a land development or

1 redevelopment project to prevent or reduce contamination in stormwater or Receiving Waters,  
2 or to prevent or reduce erosion downstream from the project.

3 Structural Treatment BMPs: [Reserved]

4 SUSMP: means Standard Urban Stormwater Management Plan.

5 SWPPP: means Stormwater Pollution Prevention Plan.

6 SWRCB: means the State Water Resources Control Board.

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

15 Urban Run-Off: means all flows in a Stormwater Conveyance System other than point  
16 source discharges in violation of a site-specific NPDES permit. Urban run-off includes but is  
17 not limited to stormwater, exempt non-stormwater discharges, and illicit discharges.

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

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

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

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

28 SECTION 40.1.4. GENERAL PROVISIONS.

(a) Responsibility for Administration. This Ordinance shall be administered for the

1 City by its Authorized Enforcement Officials.

2 (b) Effective Date. This Ordinance shall take effect on the thirtieth (30<sup>th</sup>) day after its  
3 final passage.

4 (c) Construction and Application. Interpretation of the meanings of parts of this  
5 Ordinance shall assure consistency with the purpose and intent of this Ordinance. This  
6 includes but is not limited to consistency with the requirements of NPDES Permit No. CAS  
7 108758. This Ordinance is not intended to interfere with, abrogate or annul any other  
8 ordinance, rule or regulation, statute, or other provision of law. The requirements of this  
9 Ordinance should be considered minimum requirements, and where any provision of this  
10 Ordinance imposes restrictions different from those imposed by any other ordinance, rule or  
11 regulation, or other provision of law, whichever provisions are more restrictive or impose  
12 higher protective standards for human health or the environment shall take precedence.  
13 Stormwater and non-stormwater discharges regulated under a valid facility-specific NPDES  
14 permit or facility-specific RWQCB Waste Discharge Requirements permit are not subject to  
15 this Ordinance, but shall instead be regulated exclusively by the RWQCB.

16 (d) Recycled Water. This Ordinance is not intended to prohibit or prevent the use of  
17 recycled water, or the discharge of recycled water after use. This Ordinance is intended to  
18 require the use of BMPs for such uses and discharges as necessary to protect human health and  
19 the environment.

20 (e) Severability and Validity. If any section of this Ordinance is declared invalid by  
21 a court of law, the remaining sections shall remain valid.

22 (f) City Permits and Approvals.

23 (1) An application for any of the following discretionary permits, approvals,  
24 or exemptions shall be accompanied by plans demonstrating how the requirements of this  
25 Ordinance will be met, and the permits, approvals, or exemptions shall not be approved unless  
26 the decision maker determines that the application complies with the requirements of this  
27 Ordinance:

28 (a) Administrative Permit for Clearing or Grubbing

(b) Agricultural Exemption

- 1 (c) Lot Line Adjustment
- 2 (d) Final Map Modification
- 3 (e) Grading Plan (including Modification or Renewal)
- 4 (f) Improvement Plan (including Modification)
- 5 (g) Landscape Plan
- 6 (h) Major Use Permit (including Modification, Minor Deviation, or
- 7 Extension)
- 8 (i) Minor Use Permit (including Modification, Minor Deviation, or
- 9 Extension)
- 10 (j) Parcel Map Modification
- 11 (k) Reclamation Plan
- 12 (l) Site Plan (including Amendment)
- 13 (m) Solid Waste Facility Permit
- 14 (n) Tentative Map (including Resolution Amendment or Time
- 15 Extension)
- 16 (o) Tentative Parcel Map
- 17 (p) Variance
- 18 (q) Local Coastal Permit

19 (2) An application for any of the following ministerial permits or approvals  
20 shall be accompanied by plans demonstrating how the specifically  
21 applicable requirements, if any, set out in corresponding sections of  
22 Appendix A of this Ordinance will be met, and the permit or approval  
23 shall not be approved unless the decision maker determines that the  
24 application complies with those requirements.

- 25 (a) Building Permit
- 26 (b) Construction Right of Way Permit
- 27 (c) Encroachment Permit
- 28 (d) Excavation Permit
- (e) On-site wastewater system Permit

1 (f) Underground Tank Permit

2 (g) Well Permit

3 (g) Urban Runoff Standards Manuals. The Urban Runoff Standards Manuals  
4 attached as Appendix “A” are a part of this Ordinance. In most cases, the manuals provide a  
5 choice of compliance methods. The following Urban Runoff Standards Manuals are attached  
6 as Appendix “A” and are incorporated by this reference.

7 (1) Commercial Urban Runoff Requirements Manual

8 (2) Industrial Urban Runoff Requirements Manual

9 (3) Residential Urban Runoff Requirements Manual

10 (4) Construction Urban Runoff Requirements Manual

11 (h) Compliance Schedules. Existing facilities required to retrofit BMPs specified in  
12 the Urban Runoff Standards Manual shall complete those retrofits by July 1, 2003.

13 (i) Collection and Use of Stormwater. An Authorized Enforcement Official may  
14 modify any requirement imposed by this Ordinance to allow the on-site collection and use of  
15 stormwater, or the collection of stormwater for delivery to and use at City-designated sites,  
16 provided the modified requirements are enforceable and provide equivalent environmental  
17 protection.

18 SECTION 40.2. DISCHARGE REGULATIONS, EXEMPT DISCHARGES, AND  
19 REQUIRED ACTIVITIES

20 SECTION 40.2.1. DISCHARGE PROHIBITIONS.

21 (a) Illegal Discharges. The discharge of Pollutants directly or indirectly into the  
22 Stormwater Conveyance System or Receiving Waters is prohibited, except as exempted in  
23 Section 40.2.2 of this Ordinance.

24 (b) Illegal Connection. The establishment, maintenance, use, or continuation of  
25 Illegal Connections is prohibited, even if the connection was established pursuant to a valid  
26 City permit and was legal at the time it was constructed.

27 (c) Litter, Dumps, and Stockpiles. Throwing, depositing, leaving, abandoning,  
28 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.

1 (d) Violation of NPDES Permit. Any discharge that would result in or contribute to  
2 a violation of NPDES Permit No. CAS0108758 and any amendment, revision, or reissuance  
3 thereof, either separately considered or when combined with other discharges, is prohibited.

4 SECTION 40.2.2. DISCHARGES EXEMPTED FROM DISCHARGE  
5 PROHIBITIONS.

6 (a) Separately Permitted Discharges. Stormwater discharges regulated under a valid  
7 facility-specific NPDES permit or facility-specific RWQCB Waste Discharge Requirements  
8 permit, or under a general NPDES permit (including the State General Industrial Stormwater  
9 Permit or State General Construction Stormwater Permit), are exempt from discharge  
10 prohibitions established by this Ordinance, provided compliance with all relevant permit  
11 conditions is maintained to the satisfaction of the RWQCB. Except as provided in Subsection  
12 40.2.1(c), these discharges are not otherwise exempted from this Ordinance.

13 (b) Categorically Allowed Discharges Subject to Section 40.2.3. The following  
14 categories of non-stormwater discharges are exempt from discharge prohibitions established by  
15 this Ordinance, but Dischargers must install, implement and maintain the applicable BMPs set  
16 out in Section 40.2.3 of this Ordinance, and any applicable BMPs specified in the Stormwater  
17 Standards Manual:

- 18 • discharges from potable water sources other than water main breaks;
- 19 • diverted stream flows (provided required permits are obtained);
- 20 • flows from riparian habitats and wetlands;
- 21 • foundation drains (not including active groundwater dewatering systems);
- 22 • individual residential washing of vehicles;
- 23 • irrigation water including recycled water used for irrigation;
- 24 • landscape irrigation;
- 25 • lawn watering;
- 26 • rising ground water;
- 27 • swimming pool discharges (if dechlorinated to less than one PPM chlorine);
- 28 • 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).

(c) Liability for Illegal Discharge. Liability for any Illegal Discharge shall be the responsibility of the person(s) causing, contributing, or responsible for the Illegal Discharge, and such person(s) shall defend, indemnify, and hold harmless the City in any administrative or judicial enforcement action relating to such discharge.

(d) Categorically Allowed Discharges Not Subject to Section 40.2.3. The following categories of non-stormwater discharges are exempt from discharge prohibitions established by this Ordinance and are not subject to Section 40.2.3. Dischargers must, however, must install, implement, and maintain the specifically applicable minimum BMPs, if any, set out in this Ordinance or in any applicable Stormwater Standards Manual:

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

(e) Exemptions to Protect Public Health and Safety. 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 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.

(f) On-site wastewater systems. Discharges to the subsurface from permitted properly functioning on-site wastewater systems are not prohibited by this Ordinance.

1 (g) Unimproved property. Stormwater discharges which may contain sediment from  
2 vacant, unimproved property where no Land Disturbance Activity has ever occurred.

3 (h) Stormwater discharges, which may contain some Pollutants, provided that either  
4 the City or the Regional Water Quality Control Board has determined that BMPs have been  
5 implemented to the MEP to reduce and prevent the discharge of Pollutants into Receiving  
6 Waters or into the Stormwater Conveyance System, and the applicable requirements of this  
7 Ordinance, have been met.

8 (i) Exemptions Not Absolute. Any discharge category described in subsections (b)  
9 and (h) above that is a significant source of pollutant to waters of the United States shall be  
10 prohibited from entering the Stormwater Conveyance System, or shall be subjected to a  
11 requirement to implement additional BMPs to reduce pollutants in that discharge to the MEP.  
12 Such prohibitions shall be effective on a schedule specified by an Authorized Enforcement  
13 Official in a written notice to the Discharger. That schedule may take into account the nature  
14 and severity of any effects caused by the discharge; and the time required to design, engineer,  
15 fund, procure, construct and make appropriate BMPs operational.

16 SECTION 40.2.3. BEST MANAGEMENT PRACTICE REQUIREMENTS AND  
17 GENERAL REQUIREMENTS APPLICABLE TO ALL DISCHARGERS.

18 (a) Applicable Requirements. All Dischargers in the City must comply with the  
19 generally applicable prohibitions and requirements in Sections 40.1 through 40.2 of this  
20 Ordinance, and must also comply with any other parts of this Ordinance (including relevant  
21 parts of Appendix “A”) that are applicable to the type of facility or activity owned or operated  
22 by that Discharger.

23 (b) Minimum Best Management Practices for All Dischargers. All dischargers in the  
24 City must install, implement and maintain at least the following minimum BMPs:

- 25 (1) Eroded soils. Prior to the rainy season, Dischargers must remove or secure  
26 any significant accumulations of eroded soils from slopes previously  
27 disturbed by clearing or grading, if those eroded soils could otherwise  
28 enter the Stormwater Conveyance System or Receiving Waters during the  
rainy season.

- 1 (2) Pollution Prevention. Dischargers employing ten or more persons on a  
2 full-time basis shall implement those stormwater pollution prevention  
3 practices that are generally recognized in that Discharger's industry or  
4 business as being effective and economically advantageous.
- 5 (3) Prevention of Illegal Discharges. Illicit connections must be eliminated  
6 (even if the connection was established pursuant to a valid permit and was  
7 legal at the time it was constructed), and illegal discharge practices  
8 eliminated.
- 9 (4) Slopes. Completed slopes that are more than five feet in height, more than  
10 250 square feet in total area, and steeper than 3:1 (run-to-rise) that have  
11 been disturbed at any time by clearing, grading, or landscaping, shall be  
12 protected from erosion prior to the first rainy season following completion  
13 of the slope, and continuously thereafter.
- 14 (5) Storage of Materials and Wastes. All materials and wastes with the  
15 potential to pollute urban runoff shall be stored in a manner that either  
16 prevents contact with rainfall and stormwater, or contains contaminated  
17 runoff for treatment and disposal.
- 18 (6) Use of Materials. All materials with the potential to pollute urban run off  
19 (including but not limited to cleaning and maintenance products used  
20 outdoors, fertilizers, pesticides and herbicides, etc.) shall be used in  
21 accordance with label directions. No such product may be disposed of or  
22 rinsed into Receiving Waters or the Stormwater Conveyance System.

23 (c) Inspection, Maintenance, Repair and Upgrading of BMPs. BMPs at manned  
24 facilities must be inspected by the Discharger before and following predicted rain events.  
25 BMPs at unmanned facilities must be inspected by the Discharger at least once during the rainy  
26 season and at least once between each rainy season. These BMPs must be maintained so that  
27 they continue to function as designed. BMPs that fail must be repaired as soon as it is safe to  
28 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

1 same or similar circumstances.

2 (d) Stormwater Pollution Prevention Plan. An Authorized Enforcement Official may  
3 require a Commercial, Industrial or Land Disturbance Activities Discharger to prepare and  
4 submit a SWPPP for approval by that official if (1) the Discharger does not come into  
5 compliance with this Ordinance after one or more warnings or other enforcement action,  
6 because BMPs are inadequate or are not being adequately maintained; or (2) the facility or  
7 activity at issue is a significant source of contaminants to Receiving Waters despite compliance  
8 with this Ordinance. Any Discharger required to submit and to obtain approval of a SWPPP  
9 shall install, implement and maintain the BMPs specified in the approved SWPPP.

10 The SWPPP shall identify the BMPs that will be used by the Discharger to prevent or  
11 control pollution of stormwater to the MEP. If the facility is an industrial facility, the SWPPP  
12 submitted to the City shall at a minimum meet the requirements of the State NPDES General  
13 Industrial Stormwater Permit. If the activity at issue is a construction or Land Disturbance  
14 Activity, the SWPPP submitted to the City shall at a minimum meet the requirements of the  
15 State NPDES General Construction Stormwater Permit. If a facility required to submit a  
16 SWPPP to the City discharges non-stormwater to ground water, the facility shall obtain an  
17 RWQCB permit as required by the State Water Code, and shall describe the requirements of  
18 that permit in the SWPPP.

19 (e) Notification of Spills, Releases and Illegal Discharges. Spills, releases, and  
20 illegal discharges of Pollutants into Receiving Waters or into the Stormwater Conveyance  
21 System shall be reported by the Discharger as required by all applicable state and federal laws.  
22 In addition, any such spills, releases and illegal discharges of Pollutants into Receiving Waters  
23 or into the Stormwater Conveyance System that pose a threat to human or environmental health  
24 shall be reported to the Director of the Water/Utilities Department within 24-hours after  
25 discovery of the spill, release or discharge. If safe to do so, necessary actions shall be taken to  
26 contain and minimize the spill, release or illegal discharge.

27 (f) Sampling, Testing, Monitoring, and Reporting. Commercial, Industrial or Land  
28 Disturbance Activities Dischargers shall perform the sampling, testing, monitoring and  
reporting required by this Ordinance. In addition, an Authorized Enforcement Official or

1 Authorized Enforcement Staff may order a Discharger to conduct testing or monitoring and to  
2 report the results to the City if (1) the Authorized Enforcement Official determines that testing  
3 or monitoring is needed to determine whether BMPs are effectively preventing or reducing  
4 pollution in stormwater to the MEP, or to determine whether the facility is a significant source  
5 of contaminants to Receiving Waters; or (2) the Authorized Enforcement Official or  
6 Authorized Enforcement Staff determines that testing or monitoring is needed to assess the  
7 impacts of an illegal discharge on health, safety or the environment; or (3) an Illegal Discharge  
8 has not been eliminated after written notice by an Authorized Enforcement Official or  
9 Authorized Enforcement Staff; or (4) repeated violations have been documented by written  
10 notices from Authorized Enforcement Officials or Authorized Enforcement Staff; or (5) the  
11 RWQCB requires the City to provide any information related to the Discharger's activities.

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

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

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

25 (g) Mitigation. All Illegal Discharges must be mitigated within a reasonable period  
26 of time to correct or compensate for all damage to the environment caused by the illegal  
27 discharge. The Authorized Enforcement Official or Authorized Enforcement Staff who issued  
28 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

1 by the discharger meet this standard. The Authorized Enforcement Official or Authorized  
2 Enforcement Staff shall require the Discharger to submit a mitigation plan and schedule by a  
3 specified date prior to taking action, and to submit a summary of completed mitigation by a  
4 specified date.

5 SECTION 40.2.4. CITY URBAN RUNOFF STANDARDS MANUALS.

6 (a) Manuals are a Part of this Ordinance. The City Urban Runoff Standards Manuals  
7 contained in Appendix “A” of this Ordinance are a part of this Ordinance. All Dischargers who  
8 are required to install, implement and maintain BMPs shall ensure that their selection of BMPs  
9 are consistent with the applicable specifications, if any, contained in the applicable City Urban  
10 Runoff Standards Manual, for the category and priority of activity or facility owned or operated  
11 by that Discharger. All BMPs installed, implemented or maintained to meet the requirements  
12 of this Ordinance must conform to the applicable specifications, if any, set out in these  
13 Manuals.

14 (b) Ministerial Land Development Projects. Requirements applicable to  
15 development projects requiring only the kinds of ministerial permits listed in Subsection  
16 40.1.4(f)(2) of this Ordinance are set out in separately identified sections of the manual. Other  
17 requirements in the manual are not applicable to these projects during the development process.  
18 However, some additional requirements will apply to completed projects when they become  
19 subject to this Ordinance as residential, commercial or industrial facilities.

20 (c) Discretionary Land Development and Redevelopment Projects. The manual sets  
21 out minimum BMPs, other objective specifications, and Performance Standards for Land  
22 Development projects requiring one or more of discretionary permits listed in Subsection  
23 40.1.4(f) of this Ordinance. The minimum BMPs and other objective specifications in the  
24 manual are applicable to both ministerial and discretionary land development projects. The  
25 Performance Standards in the manual are applicable to projects that require a discretionary City  
26 permit or approval, and shall be implemented through specific permit conditions. Development  
27 project proponents must determine whether their project design and associated BMPs will meet  
28 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

1 Standards.

2 (d) Conflicting or More Detailed Requirements. In case of any conflict between any  
3 applicable minimum BMPs specified in Section 40.2.3 of this Ordinance, and any applicable  
4 requirements described in more detail for a particular type of facility or activity in the City  
5 Urban Runoff Standards Manuals, the requirement in the Manual shall prevail.

6 SECTION 40.2.5. ADDITIONAL REQUIREMENTS FOR LAND DISTURBANCE  
7 ACTIVITIES.

8 (a) Permit Issuance. No land owner or development project proponent shall receive  
9 any City grading, clearing, building or other land development permit required for Land  
10 Disturbance Activity without first meeting the requirements of this Ordinance with respect to  
11 the portion of the development project and the Land Disturbance Activity to which the permit  
12 at issue would apply.

13 (b) Owners and Operators Both Responsible and Liable. Persons or entities  
14 performing Land Disturbance Activities (including but not limited to construction activities) in  
15 the City, and the owners of land on which Land Disturbance Activities are performed, are  
16 Dischargers for purposes of this Ordinance; provided however that a local government or  
17 public authority is not a Discharger as to activities conducted by others in public rights of way.

18 (c) Stormwater Management Plan. All applications to the City for a permit or  
19 approval associated with a Land Disturbance Activity must be accompanied by a Stormwater  
20 Management Plan, on a form or in a format specified by the City. The Stormwater  
21 Management Plan shall specify the manner in which the Discharger/Applicant will implement  
22 the BMPs required by this Ordinance for the activity at issue, including but not limited to the  
23 applicable BMPs required by subsection (d) below.

24 (d) Additional Minimum BMPs for Land Disturbance Activities. Whether a City  
25 permit or approval is required or not, and whether a Stormwater Management Plan is required  
26 to be submitted or not, all Dischargers engaged in Land Disturbance Activities shall implement  
27 BMPs as detailed in the City Stormwater Standards Manual in the following additional areas if  
28 applicable to the project:

- (1) Erosion control on slopes;

- (2) Erosion control on flat areas; or BMPs 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 City 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. Failure to obtain a WDID and NOI when required to do so by the State Construction General Stormwater Permit is a violation of this Ordinance.

(g) Stormwater Pollution Prevention Plan. Dischargers required to prepare a SWPPP under the State General Construction Stormwater Permit must prepare the Plan, implement the

1 Plan and maintain it at the site, readily available for review. Failure to comply with an  
2 applicable state-required SWPPP is a violation of this Ordinance.

3 (h) Facility Monitoring. Dischargers required to conduct monitoring under the State  
4 Construction General Stormwater Permit must conduct such monitoring in conformance with  
5 requirements specified by the State, retain records of such monitoring on site, and make such  
6 records available for inspection by an Authorized Enforcement Official or Authorized  
7 Enforcement Staff.

8 SECTION 40.2.6. ADDITIONAL PLANNING, DESIGN AND POST-  
9 CONSTRUCTION REQUIREMENTS FOR ALL LAND DEVELOPMENT AND  
10 REDEVELOPMENT PROJECTS.

11 (a) Application to Development and Redevelopment Projects. No land owner or  
12 development project proponent shall receive any City permit or approval listed in section  
13 40.1.4 (f) of this Ordinance for Land Development Activity or significant redevelopment  
14 activity unless the project meets or will meet the requirements of this Ordinance. Post-  
15 Construction BMP requirements imposed by this section and by the Stormwater Standards  
16 Manual shall not apply to those physical aspects of the project that have been completed or  
17 substantially completed pursuant to and as required by a valid City permit or approval, at the  
18 time a complete application for a subsequent permit or approval is submitted.

19 (b) Owners and Developers Responsible and Liable. Developers, Development  
20 Project Proponents, and Land Owners for land on which Development Activities are  
21 performed, are Dischargers for purposes of this Ordinance; provided however that a local  
22 government or public authority is not a Discharger as to activities conducted by others in public  
23 rights of way.

24 (c) Post-construction Best Management Practices Required. Land development and  
25 redevelopment projects with the potential to add pollutants to stormwater or to affect the flow  
26 rate or velocity of stormwater runoff after construction is completed, shall be designed to  
27 include and shall implement post-construction BMPs to ensure that pollutants and runoff from  
28 the development will be reduced to the MEP, will not significantly degrade receiving water  
quality, and will not cause or contribute to an exceedance of receiving water quality objectives.

1 (d) Natural BMPs. Natural BMPs, such as constructed wetlands, grassed swales,  
2 biofilters, wet ponds, and vegetated filter strips, shall be utilized whenever practicable for post-  
3 construction BMPs that are proposed by a discharger.

4 (e) Post-Construction Stormwater Management Plan. All applications to the City for  
5 a permit or approval associated with a land development or redevelopment activity must be  
6 accompanied by a Post-Construction Stormwater Management Plan on a form or in a format  
7 specified by the City. The plan shall specify the manner in which the Discharger/Applicant  
8 will implement the post-construction BMPs required by this Ordinance. The plan must address  
9 those aspects of the project that, at the time a complete application is submitted, are subject to  
10 further environmental review pursuant to section 15162 of the California Environmental  
11 Quality Act. Post-Construction BMPs for other aspects of the project need not be addressed in  
12 this plan.

13 (f) Urban Runoff Management Plan Review Deposit. **[Reserved]**

14 (g) Additional Minimum Post-Construction BMPs for Land Development Activities.  
15 Whether a City permit or approval is required or not, and whether a Post-Construction Urban  
16 Runoff Management Plan is required to be submitted or not, all Dischargers engaged in land  
17 development or significant redevelopment activities shall implement post-construction BMPs  
18 in the following areas if applicable to the project:

- 19 (1) BMPs for permanent control of erosion from slopes. These BMPs can  
20 include structures to convey runoff safely from the tops of slopes,  
21 vegetation or alternative stabilization of all disturbed slopes, the use of  
22 natural drainage systems to the MEP, flow and velocity controls upstream  
23 of sites; and stabilization or permanent channel crossings, unless the  
24 crossing is not publicly accessible and is not frequently used.
- 25 (2) BMPs to control flows, velocity and erosion. These BMPs can include but  
26 are not limited to the use of energy dissipaters, such as riprap, at the outlets  
27 of storm drains, culverts, conduits, or lined channels that enter unlined  
28 channels to minimize erosion; installation of retention or equalization  
basins, or other measures. Flow control and downstream erosion

1 protection measures shall prevent any significant increase in downstream  
2 erosion as a result of the new development, but shall not prevent flows  
3 needed to sustain downstream riparian habitats or wetlands.

4 (3) Pollution prevention and source control BMPs, to minimize the release of  
5 pollutants into Stormwater.

6 (4) Site design BMPs, such as impervious surface minimization; and  
7 appropriate use of buffer areas to protect natural water bodies.

8 (5) Site planning BMPs, such as siting and clustering of development to  
9 conserve natural areas to the extent practicable.

10 (6) The installation of storm drain tiles or concrete stamping, and appropriate  
11 signage to discourage illegal discharges.

12 (7) BMPs for trash storage and disposal and materials storage areas.

13 (8) Structural BMPs to treat and/or to infiltrate stormwater where a  
14 development project would otherwise cause or contribute to a violation of  
15 water quality standards in receiving waters. Off-site structural BMPs may  
16 be used for treatment and infiltration necessary to meet water quality  
17 standards only if the conveyance of run-off to those facilities prior to  
18 treatment will not cause or contribute to an exceedance of water quality  
19 standards, or deprive wetlands or riparian habitats of needed flows.  
20 Offsite facilities shall not substitute for the use of any on-site source  
21 control BMPs required by the Urban Runoff Standards Manual.

22 (9) When an Infiltration BMP is used, related BMPs set out in the Urban  
23 Runoff Standards Manuals (including but not limited to siting  
24 constraints), to protect present uses of ground water, and future uses of  
25 that ground water as currently designated in the applicable RWQCB Basin  
26 Plan. (Discharges to infiltration BMPs may also require an RWQCB  
27 permit, and additional state requirements may also be applicable to these  
28 discharges.)

1 (10) Other applicable BMPs required by the City Urban Runoff Standards  
2 Manual.

3 (h) Control to the Maximum Extent Practicable. All Dischargers engaged in Land  
4 Development and Significant Redevelopment Activities shall install, implement and maintain  
5 post-construction BMPs as needed to prevent or reduce pollutant discharges in stormwater from  
6 land disturbance to the MEP.

7 SECTION 40.2.7. MAINTENANCE OF BMPs.

8 (a) Existing Development. Residential, Commercial, Industrial and Developer,  
9 Dischargers, as well as other Dischargers required by this Ordinance to implement BMPs shall  
10 maintain the BMPs they rely upon to achieve and maintain compliance with this Ordinance.

11 (b) New Development. The owners and occupants of lands on which structural post-  
12 construction BMPs have been installed to meet the requirements of this Ordinance shall ensure  
13 the maintenance of those BMPs, and shall themselves maintain those BMPs if other persons or  
14 entities who are also obliged to maintain those BMPs (by contract or covenant, or pursuant to  
15 this Ordinance) fail to do so.

16 (c) Maintenance Obligations Assumed by Contract or Other Agreement. Primary  
17 responsibility to maintain a BMP may be transferred through a contract or other agreement. If  
18 that contract provides that it will be submitted to the City pursuant to this Ordinance as part of a  
19 development permit application, and if that contract is so submitted, the person or entity  
20 accepting a maintenance obligation in such a contact or agreement will also be legally obliged  
21 to maintain that BMP pursuant to this Ordinance.

22 (d) Obligation to Maintain BMPs Not Avoided by Contracts or Other Agreements.  
23 For purposes of City enforcement, no contract or other agreement imposing an obligation to  
24 maintain a BMP can relieve a person or entity of any obligation to maintain a BMP imposed by  
25 this Ordinance.

26 (e) Disclosure of Maintenance Obligations: Any developer who transfers ownership  
27 of land on which a BMP is located or will be located, or who otherwise transfers ownership of  
28 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

1 new or additional responsible party prior to that transfer.

2 (f) Maintenance Plans for Land Development Projects. The proponents of any land  
3 development project or significant redevelopment project that requires a discretionary City  
4 permit, shall provide to the City for review and approval prior to issuance of such permit, a  
5 plan for maintenance of all post-construction structural BMPs associated with the project. The  
6 plan shall specify the persons or entities responsible for maintenance activity, the persons or  
7 entities responsible for funding, schedules and procedures for inspection and maintenance of  
8 the BMPs, worker training requirements, and any other activities necessary to ensure BMP  
9 maintenance. The plan shall provide for servicing of all post-construction structural BMPs at  
10 least annually, and for the retention of inspection and maintenance records for at least three (3)  
11 years.

12 (g) Access Easement/Agreement. The proponents of any land development project  
13 or significant redevelopment project that requires a discretionary City permit, shall provide to  
14 the City for review and approval prior to issuance of such permit an executed, permanent,  
15 easement onto the land on which post-construction structural BMPs will be located (and across  
16 other lands as necessary for access), to allow inspection and/or maintenance of those BMPs.

17 (h) Assurance of Maintenance for Land Development Projects. Except as provided  
18 in subsection (i) below, the proponents of any land development or significant redevelopment  
19 project that requires a discretionary City permit, shall provide to the City prior to issuance of  
20 such permit, proof of a mechanism acceptable to the City which will ensure ongoing long-term  
21 maintenance of all structural post-construction BMPs associated with the proposed project.  
22 The proponents shall be responsible for maintenance of BMPs unless and until an alternative  
23 mechanism for ensuring maintenance is accepted by the City and becomes effective.

24 (i) Assurance of Maintenance for SUSMP Development Projects. **[Reserved]**

25 SECTION 40.3. INSPECTION, ENFORCEMENT, VIOLATIONS, AND PENALTIES

26 SECTION 40.3.1. INSPECTION/SAMPLING.

27 (a) Regulatory Inspections. Authorized Enforcement Officials and Authorized  
28 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. An

1 application for any of the permits, approvals, or exemptions described in Section 40.1.4(f) shall  
2 be deemed consent to the entry on the property that is the subject of the application for the  
3 purposes of confirming compliance with this Ordinance. If entry for a regulatory inspection is  
4 refused by the facility owner or operator, or by the occupant of a residence, an inspection  
5 warrant shall be obtained prior to inspection.

6 (b) Access Easements. When any new structural BMP is installed on private  
7 property as part of a project that requires a City permit, in order to comply with this Ordinance,  
8 the property owner shall grant to the City an easement to enter the property at reasonable times  
9 and in a reasonable manner to ensure that the BMP is working properly. This includes the right  
10 to enter the property without prior notice once per year for routine inspections, to enter as  
11 needed for additional inspections when the City has a reasonable basis to believe that the BMP  
12 is not working properly, to enter for any needed follow-up inspections, and to enter when  
13 necessary for abatement of a nuisance or correction of a violation of this Ordinance.

14 (c) Scope of Inspections. Inspections may include all actions necessary to determine  
15 whether any Illegal Discharges or Illegal Connections exist, whether the BMPs installed and  
16 implemented are adequate to comply with this Ordinance, whether those BMPs are being  
17 properly maintained, and whether the facility or activity complies with the other requirements  
18 of this Ordinance. This may include but may not be limited to sampling, metering, visual  
19 inspections, and records review. Where samples are collected the owner or operator may  
20 request and receive split samples. Records, reports, analyses, or other information required  
21 under this Ordinance may be inspected and copied, and photographs taken to document a  
22 condition and/or a violation of this Ordinance.

#### 23 SECTION 40.3.2. ENFORCEMENT.

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

26 (a) Administrative Authorities.

27 (1) Administrative Remedies and Penalties. Administrative remedies and  
28 penalties may be imposed pursuant to Chapter 1, Sections 1.14 et seq. Any later-enacted  
administrative remedy or penalty provision in the City Code shall also be applicable to this

1 Ordinance, unless otherwise provided therein.

2 (2) Cease and Desist Orders. Written and/or verbal orders may be issued to  
3 stop Illegal Discharges and/or remove Illegal Connections.

4 (3) Notice and Order to Clean, Test, or Abate. Written and/or verbal orders  
5 may be issued to perform activities listed in Section 40.2.3 where conditions warrant.

6 (4) Public Nuisance Abatement. Violations of this Ordinance are deemed  
7 hazardous to public health, safety, and welfare; and are declared a public nuisance. If actions  
8 ordered under Sections 40.3.2(a)(2) and (3) are not performed, the Authorized Enforcement  
9 Official may abate any public nuisance pursuant to the procedures in this Ordinance or in  
10 Sections 17.6 et seq. of the City Code.

11 (5) Stop Work Orders. Whenever any work is being done contrary to the  
12 provisions of this Ordinance, or other laws implemented through enforcement of this  
13 Ordinance, an Authorized Enforcement Official may order the work stopped by notice in  
14 writing served on any person engaged in the doing or causing such work to be done, and any  
15 such person shall immediately stop such work until authorized by the Authorized Enforcement  
16 Official to proceed with the work.

17 (6) If the person receiving a Notice and Order to clean, test, or abate or a  
18 Cease and Desist or Stop Work Order pursuant to this Ordinance, disputes the determination of  
19 a violation of this Ordinance, a hazardous condition or a public nuisance, they may file a  
20 written request for a hearing with the City Engineer within ten (10) days of service of the  
21 Notice or Order by certified mail . Failure to file a written request for a hearing within this  
22 time period shall be deemed a waiver of the right to a hearing.

23 (a) The City Engineer's determination and order for corrective action  
24 may be appealed by filing a written appeal with the City Engineer within ten (10) days of  
25 service by certified mail of the City Engineer's determination to the address listed in the written  
26 request for hearing. Failure to file this appeal request within this time period shall be deemed a  
27 waiver of the right to such appeal. Notice of the appeal hearing shall be served upon the  
28 owners of the affected property via certified mail at the address listed in the request for appeal,  
at least five (5) days prior to the date of the City Council hearing.

1 (b) The owner shall commence the corrective action ordered, and such  
2 work or submissions shall be completed within the specified time in the Notice or Order. If a  
3 written request for a hearing is filed, the corrective action shall be completed immediately  
4 following the finality of the determination and order of the hearing officer or, if appealed, the  
5 determination and order of the City Council.

6 (c) If the owner or agent in control fails to comply with any demand for  
7 corrective work or repairs, the City Engineer may cause emergency work to be done in order to  
8 protect potentially impacted property, or to protect Receiving Waters, the Stormwater  
9 Conveyance System, City roads, and rights-of-way.

10 (d) The City Engineer shall keep an account of the cost (including  
11 incidental expenses expended) on each separate lot or parcel of land on which emergency work  
12 is done and shall provide a written statement of such costs to the owner or agent in control.  
13 The owner or agent in control shall pay these costs within ten days of the service of the  
14 statement of costs via certified mail. If the owner or agent in control objects to the  
15 reasonableness of the costs, they shall file a written request for a costs hearing with the City  
16 Engineer within ten days of the service of the statement by certified mail. Failure to file a  
17 written request for a cost hearing within this time period shall be deemed a waiver of the right  
18 to such hearing.

19 (e) The determination of the reasonableness of costs by the City  
20 Engineer may be appealed to the City Council by filing a written appeal with the City Engineer  
21 within ten (10) days after service of the determination by certified mail at the address listed in  
22 the request for hearing.

23 (f) Before placing the delinquent costs on the tax roll or imposing the  
24 costs as a lien on the property, the City Engineer shall schedule a hearing before the City  
25 Council to confirm the reasonableness of the costs.

26 (g) Notice of the City Council hearing, along with a copy of the  
27 Statement of Costs, shall be served upon the owners of the affected property via certified mail,  
28 at least five (5) days prior to the date of the City Council hearing.

(h) The term “incidental expenses” shall include, but not be limited to,

1 the actual expenses and costs of the City in preparation of notices, specifications, and contracts,  
2 inspection of the site and work, monitoring costs, testing, reports, the costs of printing and  
3 mailing notices and reasonable attorney's fees.

4 (i) Emergency work cost statement. At the time and place fixed for  
5 receiving and considering the statement, the City Council shall hear and consider the cost  
6 statement, together with any objections or protests to it. The City Council may make such  
7 revisions, corrections, or modifications to the statement as the City Council deems necessary.  
8 The statement as submitted, or as revised, corrected, or modified, shall be confirmed by  
9 resolution. The decision of the City Council on all protests and objections that may be made  
10 shall be final and conclusive.

11 (i) Assessment of costs against property; lien. The total cost for the  
12 emergency work, as confirmed by the City Council, shall constitute a special assessment  
13 against the respective lot or parcel of land to which it relates, and upon recordation of a notice  
14 of lien in the office of the County Recorder, the cost assessment shall constitute a lien on the  
15 property.

16 (1) After confirmation and recordation, a certified copy  
17 of the City Council's decision shall be sent to the tax division of the County Assessor's office,  
18 where it shall be the duty of the County Assessor to add the amounts of the respective  
19 assessments to the next regular tax bills levied against the respective lots and parcels of land for  
20 municipal purposes, and thereafter the amounts shall be collected at the same time and in the  
21 same manner as ordinary municipal taxes are collected, and shall be subject to the same  
22 penalties and same procedure under foreclosure and sale in case of delinquency as provided for  
23 ordinary municipal taxes.

24 (2) The notice of lien for recordation shall be in a form  
25 substantially as follows:

26 **NOTICE OF LIEN-CLAIM OF THE CITY OF OCEANSIDE**

27 Pursuant to the authority vested by the provisions of Chapter 40 of the City of Oceanside  
28 Urban Runoff Management Ordinance, the Enforcement Officer of the City of Oceanside (or  
his or her designee) did on or about the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, cause

1 emergency \_\_\_\_\_ to correct a hazardous condition on real property; and the City  
2 Council of the City of Oceanside did on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, assess  
3 the costs of the correction of the hazardous condition upon the real property hereinafter  
4 described; and the costs or any part of the costs have not been paid. The City of Oceanside

5 The City of Oceanside hereby claims a lien on the property in the amount of the  
6 assessment for correction of the hazardous condition, to wit: the sum of \$ \_\_\_\_\_;  
7 and this amount shall be a lien upon the real property until the sum has been paid in full and  
8 discharged of record. The real property upon which a lien is claimed is that certain parcel of  
9 land lying and being in the City of Oceanside, County of San Diego, State of California, and  
10 more particularly described as follows:

11 [LEGAL DESCRIPTION OF PROPERTY]

12 Dated: City of Oceanside

13  
14 By: \_\_\_\_\_  
15 City Manager

16 (3) After recordation, the lien may be foreclosed by  
17 judicial or other sale in the manner and means provided by law.

18 (j) If any violation of this Ordinance constitutes a seasonal and  
19 recurrent nuisance, the City Engineer shall so declare and thereafter be abated every year  
20 without the necessity of any further hearing.

21 (7) Permit Suspension or Revocation. Violations of this Ordinance may be  
22 grounds for permit and/or other City license suspension or revocation. City permits, licenses,  
23 or other approvals may be suspended or revoked after notice and an opportunity for a hearing.  
24 The procedures set out in Section 4704 of the City's Zoning Ordinance shall apply to  
25 revocation of a discretionary land use permit. The procedures set forth in Section 15.3 (18) of  
26 the City Code shall apply to revocation of a business license.

27 (b) Judicial Authorities.

28 (1) Civil penalties and remedies. The City Attorney is hereby authorized to  
file civil actions in Superior Court to enforce this Ordinance, seeking civil penalties and/or

1 other remedies as provided in this section and in Section 40.3.4 of this Ordinance. There is no  
2 requirement that administrative enforcement procedures be pursued before such actions are  
3 filed.

4 (2) Injunctive Relief. Any violation of this Ordinance may be enforced by a  
5 judicial action for injunctive relief.

6 (3) Arrest or Issue Citations. The assistance of a peace officer may be enlisted  
7 to arrest violators as provided in California Penal Code, City Code section 1.7, Title 3, Part 2  
8 (or as amended) and/or a citation and notice to appear as prescribed in City Code section 1.12  
9 and Part 2 of the Penal Code, including Section 853.6 (or as amended) may be issued. There is  
10 no requirement that administrative enforcement authorities be used before such actions are  
11 filed. The immunities prescribed in Section 836.5 of the Penal Code are applicable to  
12 Authorized Enforcement Officials and Authorized Enforcement Staff acting in the course and  
13 scope of their employment pursuant to this Ordinance.

#### 14 SECTION 40.3.3. OTHER ACTS AND OMISSIONS THAT ARE VIOLATIONS.

15 In addition to the violations identified in Sections 40.1.1 through 40.3.1 of this  
16 Ordinance, the following acts and omissions are violations of this Ordinance, whether  
17 committed by a Discharger or by another person or entity:

18 (a) Causing, Permitting, Aiding, or Abetting Non-compliance. Causing, permitting,  
19 aiding, or abetting non-compliance with any part of this Ordinance constitutes a violation of  
20 this Ordinance.

21 (b) Concealment, Misrepresentation and False Statements. Any falsification or  
22 misrepresentation made to the City concerning compliance with this Ordinance, including any  
23 misrepresentation in a voluntary disclosure, any submission of a report that omits required  
24 material facts without disclosing such omission, and any withholding of information required to  
25 be submitted by or pursuant to this Ordinance in order to delay City enforcement action, is a  
26 violation of this Ordinance. Concealing a violation of this Ordinance is a violation of this  
27 Ordinance.

28 (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

1 Authorized Enforcement Staff. Each day (or part thereof) in excess of that period during which  
2 action necessary to correct a violation is not initiated and diligently pursued is a separate  
3 violation of this Ordinance.

4 (d) City Permits and SWPPPs. Any failure to conform to an applicable stormwater  
5 pollution prevention plan (SWPPP) prepared pursuant to this Ordinance; any failure to comply  
6 with stormwater-related provisions of a City-issued grading permit or grading plan prepared to  
7 secure such a permit; and any failure to comply with stormwater-related provisions in any other  
8 City permit or approval, is also a violation of this Ordinance. For purposes of this Ordinance a  
9 permit provision or condition of approval is “stormwater-related” if compliance with the  
10 provision or condition would have the effect of preventing or reducing contamination of  
11 stormwater or of moderating run-off flows rates or velocities, whether or not the provision or  
12 condition was initially imposed to promote those outcomes.

13 SECTION 40.3.4. PENALTIES.

14 (a) Misdemeanor Penalties. Non-compliance with any part of this Ordinance  
15 constitutes a misdemeanor and may be enforced and punished as prescribed in City Code  
16 section 1.7, the Penal Code, and the Government Code of the State of California.

17 (b) Penalties For Infractions. Authorized Enforcement Officials and Authorized  
18 Enforcement Staff may charge any violation of this Ordinance as an infraction at their  
19 discretion. Infractions may be abated as a nuisance or enforced and punished as prescribed in  
20 the Penal Code and Government Code of the State of California.

21 (c) For Civil Actions. In addition to other penalties and remedies permitted in this  
22 Ordinance, a violation of this Ordinance may result in civil actions. Except where a maximum  
23 monetary amount is specified, the following may also be awarded without monetary limitations  
24 in any civil action:

- 25 • Injunctive relief;
- 26 • Costs to investigate, inspect, monitor, survey, enforce, or litigate;
- 27 • Costs to place or remove soils or erosion control materials, costs to correct  
28 any violation, and costs to restore environmental damage or to end any other  
adverse effects of a violation;

- Compensatory damages for losses to the City or any other plaintiff caused by violations; and/or Restitution to third parties for losses caused by violations;
- Civil Penalties; and
- Attorney Fees and Court Costs.

(d) Civil Penalties. As part of a civil action filed by the City to enforce provisions of this Ordinance, a court may assess a maximum civil penalty of \$1000 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) Attorney Fees. In any action, administrative proceeding or special proceeding to enforce this Ordinance and abate a nuisance, the prevailing party may recover attorney fees. In no event shall the award of attorney fees to the prevailing party exceed the amount of reasonable attorney fees incurred by the City in the action or proceeding.

(f) 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”:**

1. Commercial Urban Runoff Requirements Manual
2. Industrial Urban Runoff Requirements Manual
3. Residential Urban Runoff Requirements Manual
4. Construction Urban Runoff Requirements Manual”

**SECTION 3. Effective Date.** This Ordinance shall take effect and be in force on the thirtieth (30<sup>th</sup>) day from and after its final passage.

