

Appendix II. Storm Water Ordinance

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Article 3: Environmental Health Quality Controls
(Retitled from “Water Quality Controls” on 3-8-1994 by O-18047 N.S.)

**Division 3: Stormwater Management
and Discharge Control**
(“Stormwater Management and Discharge Control”
added 9–27–1993 by O–17988 N.S.)

§43.0301 Purpose and Intent

The purposes of this Division are to further ensure the health, safety and general welfare of the citizens of the City of San Diego by controlling Non–Storm Water Discharges to the Storm Water Conveyance System; by eliminating discharges to the Storm Water Conveyance System from spills, dumping, or disposal of materials other than Storm Water; and by reducing Pollutants in urban Storm Water discharges to the maximum extent practicable.

The intent of this Division is to protect and enhance the water quality of our watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Federal Water Pollution Control Act [Clean Water Act, 33 U.S.C. section 1251 et seq.] and National Pollutant Discharge Elimination System [NPDES] Permit No. CA0108758, as amended.
(Amended 9-10-2001 by O–18975 N.S.)

§43.0302 Definitions

For purposes of this Division:

“Basin Plan” means the Comprehensive Water Quality Control Plan for the San Diego Basin, adopted by the Regional Water Quality Control Board, San Diego Region in July 1975, and all subsequent amendments, on file in the office of the City Clerk as Document No. OO–17988–1.

“Best Available Technology” [BAT] means best available technology economically achievable. BAT is the technology-based standard established by Congress in Clean Water Act section 402(p)(3)(A) for industrial dischargers of Storm Water. Technology-based standards establish the level of Pollutant reductions that dischargers must achieve, typically by treatment or by a combination of treatment and Best Management Practices.

“Best Conventional Technology” [BCT] means the treatment techniques, process and procedure innovations, and operating methods that eliminate chemical, physical, and biological Pollutants to the degree of reduction attainable through the application of the Best Management Practices to the Maximum Extent Practicable.

“Best Management Practices” [BMP] means schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce to the maximum extent practicable the discharge of Pollutants directly or indirectly to waters of the United States. Best Management Practices also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw materials storage.

“California Ocean Plan” means the California Ocean Plan: Water Quality Control Plan for Ocean Waters of California, adopted by the State Water Resources Control Board in September 1991, and all subsequent amendments, on file in the office of the City Clerk as Document No. OO-17988-2.

“Employee Training Program” means a documented employee training program which may be required to be implemented by a business pursuant to a Storm Water Pollution Prevention Plan for the purpose of educating its employees on methods of reducing discharge of Pollutants to the Storm Water Conveyance System.

“Enclosed Bays and Estuaries Plan” means the “California Enclosed Bays and Estuaries Plan: Water Quality Control Plan for Enclosed Bays and Estuaries of California,” adopted by the State Water Resources Control Board April 11, 1991, and all subsequent amendments, on file in the office of the City Clerk as Document No. OO-17988-3.

“Enforcement Agency” means The City of San Diego or its authorized agents charged with ensuring compliance with this Division.

“Enforcement Official” means the City Manager or his designee or any agent of the City authorized to enforce compliance with this Division.

“General Storm Water NPDES Permit” means any NPDES Permit issued by the State Water Resources Control Board in accordance with 40 Code of Federal Regulations section 122.28.

“Illegal Connection” means any physical connection to the Storm Water Conveyance System which has not been permitted by the City of San Diego or the San Diego Regional Water Quality Control Board.

“Illegal Discharge” means any discharge to the Storm Water Conveyance System that is not composed entirely of Storm Water, or is prohibited by federal, state, or local laws, or degrades the quality of Receiving Waters in violation of any Plan Water Quality Objective.

“Inland Surface Water Plan” means the California Inland Surface Waters Plan: Water Quality Control Plan for Inland Surface Waters of California adopted by the State Water Resources Control Board on April 11, 1991, and all amendments thereto, on file in the office of the City Clerk as Document No. OO-17988-4.

“Maximum Extent Practicable” [MEP] means the technology-based standard established by Congress in Clean Water Act section 402(p)(3)(B)(iii) that municipal dischargers of Storm Water dischargers must meet. MEP generally emphasizes pollution prevention and source control BMP primarily in combination with treatment methods serving as a backup.

“National Pollution Discharge Elimination System (“NPDES”) Permit” means a permit issued by the San Diego Regional Water Quality Control Board or the State Water Resources Control Board pursuant to Division 7 of the California Water Code to control discharges from point sources to waters of the United States.

“Non-Storm Water Discharge” means any discharge to the Storm Water Conveyance System that is not entirely composed of Storm Water.

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

“Pollutant” means solid waste, sewage, garbage, medical waste, wrecked or discarded equipment, radioactive materials, dredged spoil, rock, sand, industrial waste, and any organic or inorganic contaminant whose presence degrades the quality of the Receiving Waters in violation of any Plan Water Quality Objective. Pollutant includes fecal coliform, fecal streptococcus, enterococcus, volatile organic surfactants, oil and grease, petroleum hydrocarbons, total organic lead, copper, chromium, cadmium, silver, nickel, zinc, cyanides, phenols, and biocides. A Pollutant also includes any contaminant which can degrade the quality of the Receiving Waters in violation of any Plan Water Quality Objectives.

“Premises” means any building, lot parcel, land or portion of land whether improved or unimproved.

“Receiving Waters” means surface bodies of water which serve as discharge points for the Storm Water Conveyance System, including creeks, rivers, reservoirs, lakes, lagoons, estuaries, harbors, bays and the Pacific Ocean.

“Storm Water” is urban runoff and snow melt runoff consisting of only those discharges which originate from precipitation events. Storm Water is that portion of precipitation that flows across a surface to the Storm Water Conveyance System or Receiving Waters.

“Storm Water Conveyance System” means those municipal and natural facilities within the City of San Diego by which Storm Water may be conveyed to waters of the United States, including any roads with drainage systems, municipal streets, catch basins, natural and artificial channels, aqueducts, canyons, stream beds, gullies, curbs, gutters, ditches, natural and artificial channels or storm drains.

“Storm Water Pollution Prevention Plan” means a document which describes the BMP to be implemented by the owner or operator to eliminate or reduce to the MEP Pollutant discharges to the Storm Water Conveyance System.
(Amended 9-10-2001 by O-18975 N.S.)

§43.0303 Construction and Application

This Division shall be interpreted to assure consistency with the requirements of applicable federal and state laws, regulations, orders and permits, and with the purposes and intent of this Division.

(“Construction and Application” added 9-27-1993 by O-17988 N.S.)

§43.0304 Prohibited Discharges

- (a) Except as provided in Municipal Code section 43.0305, it is unlawful for any person to discharge Non-Storm Water to a Storm Water Conveyance System.
- (b) It is unlawful for any person to cause either individually or jointly any discharge into or from the Storm Water Conveyance System which results in or contributes to a violation of NPDES Permit No. CA0108758.

(Retitled from “Discharge of Non-Stormwater Prohibited” and amended 9-10-2001 by O-18975 N.S.)

§43.0305 Exemptions from Discharge Prohibition

The following discharges are exempt from the prohibition set forth in Section 43.0305:

- (a) Any discharge or connection regulated under a NPDES permit issued to the discharger and administered by the State of California pursuant to Division 7 of the California Water Code, provided that the discharger is in compliance with all requirements of the permit and other applicable laws and regulations.
- (b) Discharges from the following activities which do not cause or contribute to the violation of any Plan Water Quality Objective and are not a significant source of pollutants into or from the *Storm Water Conveyance System*:
 - (1) diverted stream flows;
 - (2) rising ground waters;
 - (3) uncontaminated ground water infiltration [as defined at 40 CFR 35.2005(20)] to the *Storm Water Conveyance System*;
 - (4) uncontaminated pumped ground water;
 - (5) foundation drains;
 - (6) springs;
 - (7) water from crawl space pumps;
 - (8) footing drains;
 - (9) air conditioning condensation, provided such discharges comply with *Best Management Practices* adopted under Section 43.0307(a);
 - (10) flows from riparian habitats and wetlands;
 - (11) water line flushing, provided that such discharges comply with *Best Management Practices* adopted under Section 43.0307(a);
 - (12) irrigation water, provided such discharges comply with *Best Management Practices* adopted under Section 43.0307(a);

- (13) discharges from potable water sources not subject to NPDES Permit No. CAG679001, other than water main breaks;
 - (14) individual residential car washing, provided such discharges comply with *Best Management Practices* adopted under Section 43.0307(a);
 - (15) dechlorinated swimming pool discharges, provided such discharges comply with *Best Management Practices* adopted under Section 43.0307(a);
 - (16) emergency fire fighting flows necessary for the protection of life or property; and
 - (17) non-emergency fire fighting flows from controlled or practice blazes and fire suppression equipment maintenance activities, provided that such discharges are not prohibited categorically by *Best Management Practices* established by the *Enforcement Official* pursuant to Section 43.0307(a), and provided further that such discharges comply with all *Best Management Practices* established by the *Enforcement Official* under Section 43.0307(a).
- (c) Any discharge which the Enforcement Official, the local health officer, the Regional Water Quality Control Board, or U.S. Environmental Protection Agency determines in writing are necessary for the protection of the public health and safety.
- (d) Notwithstanding the exemptions provided by Municipal Code section 43.0305(a) and (b), if the Regional Water Quality Control Board or the Enforcement Official determines that any of these otherwise exempt discharges cause or significantly contribute to violations of any Plan Water Quality Objective, or convey significant quantities of Pollutants to surface waters, are a danger to public health or safety, are causing a public nuisance, such discharges shall be prohibited from entering the Storm Water Conveyance System.

(Amended 9-10-2001 by O-18975 N.S.)

(Amended 2-19-2008 by O-19716 N.S.; effective 3-24-2008.)

§43.0306 Illegal Connections Prohibited

It is unlawful for any person to establish, use, or maintain any Illegal Connection to the Storm Water Conveyance System. This section expressly supersedes any City permit or earlier authorization for said discharge, but is subject to the exemption provisions of San Diego Municipal Code section 43.0305(a).

(“Discharge in Violation of Permit Prohibited” repealed; “Illegal Connections Prohibited” renumbered from Sec. 43.0307 and amended 9–10–2001 by O–18975 N.S.)

§43.0307 Reduction of Pollutants in Storm Water

Any person engaged in activities which may result in Pollutants entering the Storm Water Conveyance System shall, to the MEP, undertake all measures to reduce the risk of Non–Storm Water or Pollutant discharges. The following requirements shall apply:

(a) Best Management Practices Implementation:

Every person undertaking any activity or use of a Premises which may cause or contribute to Storm Water pollution or contamination, Illegal Discharges, or Non-Storm Water Discharges shall comply with BMP guidelines or pollution control requirements as may be established by the Enforcement Official. BMP shall be maintained routinely throughout the life of the activity. Such BMP include, but are not limited to, the following:

(1) Controlling Pollutants From Parking Lots: Any owner or operator of vehicle parking lots that are located in areas potentially exposed to Storm Water shall be required to conduct regular sweepings and other effective measures to control Pollutant runoff.

(b) Storm Water Pollution Prevention Plan: The Enforcement Official may require any business and operations of other land uses in the City that are engaged in activities which may result in Pollutant discharges to develop and implement a Storm Water Pollution Prevention Plan, which must include, but is not limited to, an Employee Training Program.

- (c) Coordination with Hazardous Materials Release Response Plans and Inventory: Any activity subject to the Hazardous Materials Release Response Plan, Chapter 6.95 of the California Health and Safety Code, shall include in that Plan provisions for compliance with this Division, including the prohibitions on Non-Storm Water Discharges and Illegal Discharges, and the requirement to reduce release of Pollutants to the MEP.
- (d) New Developments and Redevelopments.

All new development and redevelopment activities shall comply with Chapter 14, Article 2, Division 1 (Grading Regulations) and Chapter 14, Article 2, Division 2 (Storm Water Runoff Control and Drainage Regulations) of this Municipal Code.

- (e) Compliance with General Storm Water NPDES Permits.

Each discharger, subject to any General Storm Water NPDES permit shall comply with BAT, BCT, and all requirements of such permit. Those activities that have General Storm Water NPDES Permits shall submit their monitoring data and analytical evaluation/assessment to the City at the same time their reports are submitted to the Regional Water Quality Control Board.

(“Illegal Connections Prohibited” renumbered to Sec. 43.0306; “Reduction of Pollutants in Stormwater” renumbered from Sec. 43.0308, retitled and amended 9–10–2001 by O–18975 N.S.)

§43.0308 Containment and Notification of Spills

Any person owning or occupying a premises who has knowledge of any significant release of Pollutants or Non–Storm Water from those premises which might enter the Storm Water Conveyance System shall immediately take all reasonable action to contain the release and minimize any Non–Storm Water Discharge. Such person shall notify the Enforcement Agency within 24 hours of the Non– Storm Water release.

(“Reduction of Pollutants in Stormwater” renumbered to Sec. 43.0307; “Containment and Notification of Spills” renumbered from Sec. 43.0309 and amended 9–10–2001 by O–18975 N.S.)

§43.0309 Storm Water Conveyance System Protection

- (a) Every person owning or occupying property through which a natural watercourse of a Storm Water Conveyance System passes shall:
 - (1) Keep and maintain that part of the watercourse within the property reasonably free of trash, debris and other obstacles which would pollute, contaminate, or retard the flow of water through the Storm Water Conveyance System; and
 - (2) Maintain existing structures within or adjacent to such a watercourse so that those structures will not become a hazard to the use, function, or physical integrity of the Storm Water Conveyance System; and
- (b) It is unlawful for any person to commit or cause to be committed any of the following acts, without a written permit from the Regional Water Quality Control Board:
 - (1) Discharge pollutants into, or connect any pipe or channel, to a natural watercourse.
 - (2) Modify the natural flow of water in a watercourse.
 - (3) Deposit or disposal of any Pollutant in a watercourse, or remove any material from a watercourse, including its banks.
- (c) All development and redevelopment activities shall comply with Chapter 14, Article 2, Division 1 (Grading Regulations) and Chapter 14, Article 2, Division 2 (Storm Water Runoff Control and Drainage Regulations) of this Municipal Code.

(“Containment and Notification of Spills” renumbered to Sec. 43.0308; “Stormwater Conveyance System Protection” renumbered from Sec. 43.0310, retitled and amended 9-10-2001 by O-18975 N.S.)

§43.0310 Enforcement Authority

- (a) The Enforcement Agency and Enforcement Official can exercise any enforcement powers as provided in San Diego Municipal Code Chapter 1, Article 3, as may be necessary to effectively implement and enforce this Division.
- (b) In addition to the general enforcement powers provided in Municipal Code Chapter 1, the Enforcement Agency and Enforcement Official may exercise any of the following supplemental enforcement powers as may be necessary under the circumstances:

- (1) Sampling Authority: During any inspection, the Enforcement Official may take samples deemed necessary in order to implement and enforce the provisions of this Division. This may include the installation of sampling and metering devices on private property, or requiring the person owning or occupying the Premises to supply samples.
- (2) Notice of Violation: The Enforcement Official may issue an administrative order to any person owning or occupying a Premises to cease and desist all activities that may cause or contribute to a discharge in violation of this Division. This order may also require the responsible person to: (i) comply with the applicable provisions and policies that govern this Division; (ii) comply within the designated time frame for compliance; (iii) take appropriate remedial or preventative action to keep the violation from recurring.
- (3) Monitoring and Mitigation: The Enforcement Official may require reasonable monitoring of discharges from any Premises to the Storm Water Conveyance System and shall have authority to order the mitigation of circumstances which may result in Illegal Discharges to the MEP.
- (4) Storm Water Pollution Prevention Plan: The Enforcement Official shall have the authority to establish elements of a Storm Water Pollution Prevention Plan, and to require any activity to adopt and implement such a Plan pursuant to San Diego Municipal Code section 43.0307(b), as may be reasonably necessary to fulfill the purposes of this Division.
- (5) Employee Training Program: The Enforcement Official shall have the authority to establish the elements of an Employee Training Program, as may be necessary to fulfill the purposes of this Division, where such a Program has been required as an element of a Storm Water Pollution Prevention Plan.
- (6) Best Management Practices: The Enforcement Official may establish the requirements of BMP for any Premises pursuant to Municipal Code section 43.0307(a).

(“Stormwater Conveyance System Protection” renumbered to Sec. 43.0309; “Enforcement Authority” renumbered from Sec. 43.0311 and amended 9–10–2001 by O–18975 N.S.)

§43.0311 Enforcement Remedies

- (a) It is unlawful for any person, corporation or association to violate the provisions and requirements of San Diego Municipal Code sections 43.0301 through 43.0313. Violations of these provisions can be prosecuted as misdemeanors subject to the penalties provided in San Diego Municipal Code section 12.0201. The Enforcement Official alternatively can seek injunctive relief or civil penalties in the Superior Court pursuant to San Diego Municipal Code section 12.0202, or pursue any administrative remedy provided in San Diego Municipal Code Chapter I, Article 2, Divisions 3 through 10.
- (b) Administrative civil penalties assessed pursuant to San Diego Municipal Code Chapter 1, Article 2, Division 8 for violations of any of the provisions and requirements of San Diego Municipal Code sections 43.0301 through 43.0313 shall be assessed at a maximum rate of \$10,000 per day per violation. The maximum amount of civil penalties shall not exceed \$100,000 per parcel or structure for any related series of violations.
- (c) As part of any civil action filed pursuant to San Diego Municipal Code section 12.0202 to enforce any provisions of San Diego Municipal Code sections 43.0301 through 43.0313, a court may assess a maximum civil penalty of \$10,000 per day per violation.

(“Enforcement Authority” renumbered to Sec. 43.0310; “Enforcement Remedies” renumbered from Sec. 43.0312 and amended 9-10-2001 by O-18975 N.S.)

§43.0312 Remedies Not Exclusive

Remedies under this Article are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(“Enforcement Remedies” renumbered to Sec. 43.0311; “Remedies Not Exclusive” renumbered from Sec. 43.0313 and amended 9-10-2001 by O-18975 N.S.)