

2.0 ADMINISTRATIVE AND LEGAL PROCEDURES

2.1 DEPARTMENTAL ROLES AND RESPONSIBILITIES

A diagram of the City departments within the City can be found in the City of Encinitas Organizational Chart presented in Appendix A. Personnel from various City departments are involved in the implementation of the City's storm water program. Primary urban runoff program management and implementation functions are conducted by the following departments:

Engineering Services

The City of Encinitas Clean Water Program serves as a division of the Engineering Services Department, providing core programmatic oversight, planning, development, and management functions, including inspection and enforcement activities, water quality monitoring and assessment, watershed management, data tracking, complaint response, and education and outreach. Additionally, the Engineering Services Department handles oversight of the development and re-development review process related to water quality management including SUSMP implementation, post-construction BMP data tracking and inspection, administration of maintenance agreements and covenants, and capital project design incorporating appropriate BMPs.

Public Works

The Public Works Department implements all activities associated with the operations and maintenance of the City's municipal separate storm sewer system (MS4) and structural controls. This includes all required inspection and maintenance activities for catch basins, storm drain inlets, and open channels. The Moonlight Beach Ultra Violet (UV) facility is maintained and monitored by Public Works staff to ensure proper function and efficiency. The Public Works Department also oversees the City street sweeping program, and conducts routine and preventative maintenance of the sanitary sewer system.

Planning & Building

The Planning & Building Department serves a key role in coordination of the development review process and ensuring water quality requirements are met. Specifically, the Planning Department processes critical environmental documents including Environmental Impact Reports and Initial Studies. In addition, the Code Enforcement Division supports the enforcement of the City's Watercourse Protection, Stormwater Management and Discharge Control Ordinance.

The following departments, divisions, and sections within the City of Encinitas have adopted supporting activities, actions, or roles for the City's Clean Water Program:

Parks and Recreation

The Parks and Recreation Department manages the maintenance of all City parks and open space, including trash and debris removal.

Information Technology (IT) / Geographic Information Systems (GIS)

The IT / GIS divisions provide critical mapping and data management tools in support of the Clean Water Program. The City employs an enterprise work management system, based upon spatially oriented tracking of City functions and activities.

Fire & Marine Safety

The Fire & Marine Safety departments provide a number of water quality supportive functions including hazardous spill response, beach and coastal zone management, and illegal discharge response and reporting.

City Attorneys Office

The City Attorneys office provides legal council and review of regulatory standards, council actions, agreements and contracts, and high level enforcement actions of the City's Stormwater Ordinance as needed.

2.2 LEGAL AUTHORITY

The City has established and maintains the legal authority to control pollutant discharges into and from its MS4 as specified in Section C.1 of the Permit. The City will ensure that it has the legal authority to require BMP implementation, prohibit all identified illicit discharges which are not exempt, pursuant to Section B.2 of the Permit, prohibit and eliminate illicit connections to the MS4, and control the discharge of spills, dumping, and disposal of materials other than storm water to its MS4. Section 3 of this JURMP document provides more information on discharge prohibitions.

The City has local ordinances and Municipal Code sections that provide legal authority for enforcing storm water requirements. The major ordinances relating to storm water include the following:

- City of Encinitas Watercourse Protection, Stormwater Management and Discharge Control Ordinance (Municipal Code Chapter 20.08)
- City of Encinitas Grading, Erosion and Sediment Control Ordinance (Municipal Code Chapter 23.24)

Applicable City documents and ordinances have been updated as required by the Municipal Permit. The Ordinances referenced above are included in Appendix A of this JURMP document. Additionally, the Watercourse Protection, Stormwater Management and Discharge Control Ordinance (Stormwater Ordinance) references the City of Encinitas Best Management Practice Manual I & II (BMP Manual I & BMP Manual II). BMP Manual I establishes minimum BMPs for construction, commercial, industrial, residential, and municipal facilities and activities. BMP Manual II prescribes BMPs for new development and significant redevelopment, and includes the City's Standard Urban Stormwater Mitigation Plan (SUSMP) requirements. BMP Manual I & II are adopted and enforceable through reference in both the Stormwater Ordinance and Grading Ordinance. BMP Manual I & II are included in Appendix C of this document.

2.2.1 CERTIFICATION OF LEGAL AUTHORITY

The chief legal counsel of the City of Encinitas has prepared a letter certifying that the City has adequate legal authority to implement and enforce the requirements contained in 40 CFR 122.26(d)(2)(i)(A-F) and RWQCB Order No. R9-2007-0001. This letter is included in Appendix A.

2.2.2 ENFORCEMENT PROCEDURES

Compliance with the City’s ordinances will be assessed through a variety of means, including facility inspections, responses to hotline calls {(760) 633-2787} and emails (npdesmail@ci.encinitas.ca.us), and the City’s Illicit Discharge Detection and Elimination Program (IDDE Program). Where violations are observed, administrative and judicial procedures may be employed to enforce storm water requirements. The goals of the City’s enforcement program are the following:

- To educate the regulated community
- To encourage compliance with the laws and regulations within the regulated community
- To return violators to compliance in a timely manner to eliminate any threats posed due to noncompliance
- To initiate and conclude enforcement activities in a timely manner
- To penalize violators, as appropriate, and to deprive violators of any significant benefit gained from violations
- To prevent any business from having an unfair advantage through noncompliance
- To treat similar facility owners and operators equally and consistently with regard to the same types of violations

The City employs a tiered, escalating enforcement system. However, the City reserves the right to determine most appropriate enforcement course for a given situation, as dictated by the specifics of each case. For example, a stricter initial enforcement measure may be applied where significant noncompliance is noted or when a potential rain event increases the potential for the violation to have a negative impact on water quality.

The following subsections provide more detail about the City’s enforcement procedures.

2.2.2.1 ADMINISTRATIVE ENFORCEMENT PROCEDURES

The various administrative enforcement measures employed by the City, in order of increasing severity, are discussed below. The City’s appeals process is summarized following the list of enforcement measures.

Verbal Warnings and Education

Verbal warnings and education will typically be the initial enforcement methods employed; assuming that a) the site or individual does not have a history of noncompliance with storm water regulations and b) there is has not been an observed

illegal discharge to the MS4. The inspector will a) educate the violator on what actions need to be taken to prevent a violation from occurring or to correct the violation and b) document the violation and verbal warning in the inspection file. A time frame will be given for an identified violation to be corrected and a follow-up inspection date will be scheduled, which will also be documented.

Written Warnings

A written warning is typically issued to violators that should a) already be aware of the City's storm water regulations, or b) when deficiencies already noted in a verbal warning are not corrected prior to follow-up actions. Written warnings can be given using a variety of methods, including the issuance of a Notice of Violation (NOV) or Stop / Correct Work Notice. The NOV will provide a description of the violation to be corrected, the time frame for correction, and a follow-up inspection date. All Stop Work Notices issued by the City are reported to the RWQCB per the reporting requirements of the Municipal Permit.

Stormwater Pollution Prevention Plan

Stormwater enforcement officials have the authority to require any owner or occupier of any premises that is in violation of the City's Watercourse Protection, Stormwater Management and Discharge Control Ordinance to adopt and implement elements of a storm water pollution prevention plan. (Encinitas Municipal Code (EMC) 20.08.180) Creation of a storm water pollution prevention plan may also include development of an employee training program and/or a storm water monitoring plan. If required elements of the storm water pollution prevention plan are not prepared by the violator within the time frame allotted by the enforcement official, additional enforcement action may be taken until the required elements of the storm water pollution prevention plan are implemented.

Enforcement of Contracts

Compliance with the City's storm water regulations is a condition of any contract approved, granted, or issued by the City of Encinitas. Non-compliance with storm water regulations shall be grounds for permit revocation. (EMC 20.08.210)

Public Nuisance Abatement

Any violation of the City's storm water regulations has been declared a public nuisance in EMC 20.08.230, and applicable enforcement actions may be used to abate an identified nuisance.

Administrative Citations

Civil penalties for violations of the Municipal Code are established in Chapter 1.08, and determined violations of storm water regulations may be subject to administrative citations and associated administrative fines. Administrative citations and fines are used in addition to other legal remedies as described in the paragraphs above.

Hearing & Appeals Process

Any person issued an Administrative Citation may contest the issuance of the Citation by filing a written request for a hearing no later than fifteen (15) calendar days from the

effective date of the citation, including a detailed written explanation of the reasons for contesting the citation. Upon receipt of a hearing request, hearing procedures pursuant to EMC 1.08.080 are conducted.

2.2.2.2 JUDICIAL ENFORCEMENT PROCEDURES

In addition to administrative enforcement procedures, the Watercourse Protection, Stormwater Management and Discharge Control Ordinance includes provisions for judicial actions. EMC 20.08.320.F states *This Chapter is enforceable by any judicial actions allowed by the law, including, but not limited to, injunctive relief.* Further, the following specific civil enforcement actions are included in EMC 1.08.0560.

Civil Lawsuit

A violation of provisions in the City of Encinitas Municipal Code may be addressed by civil action which seeks, among other things, declaratory and injunctive relief.

Recovery of Costs

In seeking a civil judgment against any person who creates causes, commits or maintains a public nuisance within the City, the City may seek an award of damages in an amount equal to the expenses incurred by the City in abating the nuisance.