CHAPTER 20.08
STORM WATER MANAGEMENT
(Ordinance 2008-07)

20.08.010 Title. This Chapter shall be known as the "City of Encinitas Watercourse Protection, Storm Water Management and Discharge Control Ordinance".

20.08.020 Purpose and Intent. The purpose of this Chapter is to protect the health, safety and welfare of the public by regulating all discharges into the Storm Water Conveyance System and the Waters of the State in order to preserve and enhance water quality for beneficial uses by:

(A Prohibiting non-storm water discharges to the Storm Water Conveyance System;
(B) Eliminating pollutants in Storm Water to the Maximum Extent Practicable, including pollutants from both point and non-point sources;
(C) Prohibiting activities which cause, or contribute to, exceedance of state and federal Receiving Water quality objectives.
(D) Protecting Watercourses from disturbance and pollution.

The intent of this Chapter is to use the police power of the city to protect, enhance, and regulate water quality in a manner which complies with all applicable laws related to water quality, including the federal Clean Water Act, the state Porter-Cologne Water Quality Control Act, and the California Regional Water Quality Control Board San Diego Region Order No. R9-2007-0001 adopted on January 24, 2007, NPDES Permit Number CAS108758 and any subsequent amendments, revisions, or reissuance of the permit.

20.08.030 Definitions.
For purposes of this Chapter, only the terms below have the following meaning:

Beneficial Uses means uses of water necessary for the survival or well being of man, plants, and wildlife. These uses of water serve to promote the tangible and intangible economic, social, and environmental goals. "Beneficial Uses" of the Waters of the State that may be protected against include, but are not limited to, domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves. Existing beneficial uses are uses that were attained in the surface or ground water on or after November 28, 1975; and potential beneficial uses are uses that would probably develop in future years through the implementation of various control measures. Beneficial Uses are equivalent to Designated Uses under federal law. [California Water Code Section 13050(f)].

Best Management Practices or "BMPs" means schedules of activities, pollution treatment practices or devices, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, operation and maintenance procedures, and other management practices or devices to prevent or reduce the discharge of pollutants directly or indirectly to Storm Water, Receiving Waters, or the Storm Water Conveyance System. BMPs may be structural or non-structural. Best Management Practices include, but are not limited to, site design, source control, treatment control, natural design methods, low flow diversions to the sewer, and structures such as infiltration basins, clarifiers, , oil and grease separators and filters. BMPs may include any type of pollution prevention and pollution control measure the can help to achieve compliance with this Chapter.

Clean Water Act Section 303(d) Impaired Water Body or Impaired Water Body means an impaired water body in which water quality does not meet applicable water quality standards and/or is not expected to meet water quality standards, even after the application of technology based pollution controls required by the Clean Water Act. The discharge of urban runoff to these water bodies is significant because these discharges can cause or contribute to violations of applicable water quality standards.

Discharge when used as a verb, means to allow pollutants to directly or indirectly enter Storm Water, or to allow Storm Water or non-storm water to directly or indirectly enter the Storm Water Conveyance System or Receiving Waters, from an activity or operations. When used as a noun, "Discharge" means the pollutants, Storm Water and/or non-storm water that is discharged.

Discharger means any person engaged in activities or operations, or owning facilities, which may result in pollutants entering Storm Water, the Storm Water Conveyance System or Receiving Waters. "Dischargers" include, but are not limited to, real and personal property owners, occupants, tenants, lessees, contractors, developers, managers and employees.

Environmentally Sensitive Areas (ESA) include but are not limited to all Clean Water Act Section 303(d) impaired water bodies; areas designated as Areas of Special Biological Significance by the State Water Resources Control Board (Water Quality Control Plan for the San Diego Basin (1994) and amendments); water bodies designated with the RARE beneficial use by the State Water Resources Control Board (Water Quality Control Plan for the San Diego Basin (1994) and amendments); areas designated as preserves or their equivalent under the Multi Species Conservation Program within the Cities and County of San Diego; and any other similar environmentally sensitive areas which have been identified by the City Engineer. "Directly adjacent" means situated within 200 feet of the Environmentally Sensitive Area. "Discharging directly to" means outflow from a drainage conveyance system that is composed entirely of flows from the subject development or redevelopment site, and not commingled with flows from adjacent lands.

Illegal Connection means a physical connection to the Storm Water Conveyance System or Receiving Waters which has not been reviewed and authorized by the City; or a permitted connection which conveys Illegal Discharges.

Illegal Discharge is any discharge to the Storm Water Conveyance System that is not composed entirely of Storm Water or is not discharged in compliance with this Chapter

Impervious Surface means constructed or modified surfaces that cannot effectively infiltrate rainfall such as building rooftops, pavement, sidewalks, driveways, etc.

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

Low Impact Development (LID) means a stormwater management and land development strategy that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect pre-development hydrologic functions.

Maximum Extent Practicable or MEP refers to the standard established by Congress in Clean Water Act section 402(p)(3)(B)(iii) that municipal dischargers of Storm Water must meet; MEP is an acceptability standard for Best Management Practices based on a level of pollutant reduction that can be achieved by the most effective set of BMPs that can be implemented and still remain practicable; MEP generally emphasizes pollution prevention and source control BMPs as the first line of defense in combination with treatment methods as a backup.

Non Point Source refers to diffuse, widespread sources of pollution. These sources may be large or small, but are generally numerous throughout a watershed. Non Point Sources include but are not limited to urban, agricultural, or industrial areas, roads, highways, construction sites, communities served by septic systems, recreational boating activities, timber harvesting, mining, livestock grazing, as well as physical changes to stream channels, and habitat degradation. Non Point Source Pollution can occur year round any time rainfall, snow melt, irrigation, or any other source of water runs over land or through the ground, picks up pollutants from these numerous, diffuse sources and deposits them into rivers, lakes, and coastal waters or introduces them into ground water.

Non-Storm Water consists of all discharges to and from a Storm Water Conveyance System that do not originate from precipitation events, i.e., all discharges from a conveyance system other than Storm Water. Non-storm water includes illegal discharges, non-prohibited discharges, and NPDES permitted discharges.

NPDES Permit means a National Pollutant Discharge Elimination System permit issued by the U.S. Environmental Protection Agency, the State Water Resources Control Board ("SWRCB"), or the California Regional Water Quality Control Board for the San Diego Region ("RWQCB").

Person means an individual, corporation, partnership, limited liability company, joint venture, non-profit organization, trust, association or governmental agency.

Pollutant is broadly defined as any agent that may cause or contribute to the degradation of water quality such that a condition of pollution or contamination is created or aggravated, including but not limited to, dredged spoil, rock, sand, or silt (excluding sediment, silt, or substances in quantities which would enter Storm Water from a natural undeveloped watershed); solid waste, animal waste, sewage, garbage, or medical waste; wrecked or discarded equipment; radioactive materials; industrial waste; any organic or inorganic contaminant; fecal coliform, fecal streptococcus, and enterococcus bacteria and other pathogens that pose a threat to human health; volatile organic carbon, surfactants, oil and grease, petroleum hydrocarbons, total organic carbon, lead, copper, chromium, cadmium, silver, nickel, zinc, cyanides, phenols, and biocides; any contaminant which can significantly degrade the quality of Receiving Waters by altering pH, total suspended or settleable solids, biochemical oxygen demand, chemical oxygen demand, nutrients, or temperature.

Pollution is the alteration of the quality of the Receiving Waters to a degree that unreasonably affects the Beneficial Use of the Receiving Waters or the facilities that serve the beneficial uses. "Pollution" also includes contamination which creates a hazard to the public health through poisoning or the spread of disease.

Point Source means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operations, landfill leachate collection systems, vessel, or other floating craft from which pollutants are or may be discharged.

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

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

Significant Redevelopment means the creation or addition of at least 5,000 square feet of impervious surfaces on an already developed site. Significant Redevelopment includes, but is not limited to: the expansion of a building footprint or addition or replacement of a structure; structural development including an increase in gross floor area and/or exterior construction or remodeling; replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities related with structural or impervious surfaces.

Source Control Best Management Practice (BMP) means land use or site planning practices, or structural or non-structural measures that aim to prevent urban runoff pollution by reducing the potential for contamination at the source of pollution. Source control BMPs minimize the contact between pollutants and urban runoff.

State General Construction Storm Water Permit means State Water Resources Control Board Water Quality Order No. 99-08-DWQ, Waste Discharge Requirements for Discharges of Storm Water Associated with Construction Activities, and any amendments thereto.

State General Industrial Storm Water Permit means State Water Resources Control Board Water Quality Order No. 97-03-DWQ, Waste Discharge Requirements for discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities, and any amendments thereto.

Storm Water means runoff which originates from precipitation events. "Storm Water" is that portion of precipitation that flows across a surface to the storm drain system or Receiving Waters. Examples of this phenomenon include: the water that flows off a building's roof when it rains (runoff from an impervious surface); the water that flows into streams when snow on the ground begins to melt (runoff from a semi-pervious surface); and the water that flows from a vegetated surface when rainfall is in excess of the rate at which it can infiltrate into the underlying soil (runoff from a pervious surface). During precipitation events in urban areas, rain water picks up and transports pollutants through Storm Water Conveyance Systems, and ultimately to Receiving Waters.

Storm Water Conveyance System means private and public drainage facilities within the City of Encinitas by which Storm Water may be conveyed to waters of the United States, including but not limited to, streets, roads, catch basins, natural and artificial channels, natural and artificial drainage features, aqueducts, canyons, stream beds, gullies, curbs, gutters, ditches, and storm drains. Historic and current development make use of natural drainage patterns and features as conveyances for urban runoff. Urban streams used in this manner are part of the Storm Water Conveyance System regardless of whether they are natural, man-made, or partially modified features. In these cases, the urban stream is both a Storm Water Conveyance System and a Receiving Water.

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

SWRCB means the State Water Resources Control Board.

Treatment Control Best Management Practice (BMP) means any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media absorption or any other physical, biological, or chemical process.

Watercourse means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, arroyo or wash, in which surface waters flow in a definite direction or source, either continuously or intermittently, and which has a definite channel and a bed or banks. A channel is not limited to land covered by minimal or ordinary flow, but also includes land covered during times of high water.

Waters of the State means any water, surface or underground, including saline waters within the boundaries of California. The definition of the "Waters of the State" is broader than that for the "Waters of the United States" in that all water in the State is considered to be a "Waters of the State" regardless of circumstances or condition. Under this definition, a municipal storm sewer system (MS4) is always considered to be a "Waters of the State". [California Water Code Section 13050 (e)].

Waters of the United States means water subject to the regulatory jurisdiction of the United States under the Federal Clean Water Act and applicable case law. In general, this includes "navigable" waters, waters tributary to "navigable" waters, and adjacent wetlands. [40 Code of Federal Regulations section 122.2.]

Wet season means October 1 thru April 30 of each year.

20.08.040 Illegal Discharges.

A. Discharge of Storm Water. No person shall discharge Storm Water directly or indirectly into the Storm Water Conveyance System or Receiving Waters, unless discharged in compliance with this Chapter.

B. Discharge of Non-storm water Prohibited. No person shall discharge non-storm water directly or indirectly into the Storm Water Conveyance System or Receiving Waters.

C. Exemptions.

1. Separately Permitted Discharges. Storm Water discharges regulated under a valid facility-specific NPDES permit or facility specific RWQCB Waste Discharge Requirements permit are exempt from discharge prohibitions established by this Chapter, provided compliance with all relevant permit conditions is maintained to the satisfaction of the RWQCB and the City Engineer. Facilities and activities whose Storm Water discharges are regulated under a general permit, including the State General Industrial Storm Water Permit, State General Construction Storm Water Permit and the State General De-Watering Permit, are not exempted from this Chapter.

2. Categorically Exempt Discharges. The following categories of non-storm water discharges are exempt from discharge prohibitions established by this Chapter, if all required BMPs are installed, implemented and maintained:

a. air conditioning condensation;
b. discharges from potable water sources other than water main breaks;
c. diverted stream flows (provided required permits are obtained);
d. flows from emergency fire fighting activities;
e. flows from riparian habitats and wetlands;
f. foundation drains (not including active groundwater dewatering systems);
g. individual residential washing of vehicles;
h. irrigation water;
i. landscape irrigation;
j. lawn watering;
k. rising ground water;
l. springs;
m. swimming pool discharges (if dechlorinated to less than one PPM chlorine);
n. uncontaminated ground water infiltration to storm drains;
o. uncontaminated pumped ground water;
p. water from crawl space pumps;
q. water from footing drains (not including active groundwater dewatering systems);
r. water line flushing.

3. Public Health and Safety Exemptions. Discharges determined by the City Engineer to be necessary to protect public health and safety are exempt from discharge prohibitions established by this Chapter, provided any conditions on such discharges imposed by the City Engineer are satisfied and the City Engineer makes written findings supporting the exemption.

4. On-Site Wastewater Systems. Discharges to the subsurface from properly functioning permitted site waste water systems are not prohibited by this Chapter.

5. Exemptions Not Absolute. Any exempt discharge described above which the City Engineer determines is a significant source of pollutants to Receiving Waters shall be prohibited unless the Discharger complies with additional BMPs imposed by the City Engineer to reduce pollutants in the discharge to the Maximum Extent Practicable and the BMPs are effective. Such prohibitions shall take effect after written notice to the Discharger by the City Engineer containing a schedule for compliance based on the necessity to protect public health and safety or the environment.

20.08.050 Notification and Mitigation of Illegal Discharges.

A Discharger shall immediately notify the City Engineer of an Illegal Discharge and take immediate action to control and contain the Illegal Discharge. The Discharger shall also mitigate any damage caused by the Illegal Discharge.

The City Engineer may order the Discharger to prepare and implement an approved mitigation plan with a time schedule for completion.

20.08.060 Illegal Connections. No person shall establish, use, or maintain an Illegal Connection to the Storm Water Conveyance System or the Receiving Waters.

20.08.070 Littering and Sweeping.

No person shall throw, deposit, leave, maintain, keep or permit to be thrown, deposited, placed, left or maintained, any refuse, pet waste, rubbish, garbage, or other discarded or abandoned objects, in or upon any street, alley, parking lot, sidewalk, curb, gutter, storm drain, catch basin, conduit, or other drainage structure or lot except in receptacles maintained for the regular disposal of garbage. Impervious surfaces which drain directly or indirectly into the Storm Water Conveyance System shall be kept free of dirt and debris by regular sweeping. The sweepings shall be placed in garbage receptacles and shall not be allowed to enter the Storm Water Conveyance System.

20.08.080 Compliance with Best Management Practices.

No Discharger shall fail to implement, install, use or maintain Best Management Practices established by the City Engineer pursuant to this Chapter.

20.08.090 Conclusive Determination of Maximum Extent Practicable.

The Best Management Practices established by the City Engineer shall reduce pollutants from the use or activity to the Maximum Extent Practicable. For purposes of enforcement of this Chapter, the City Engineer's determination of the Maximum Extent Practicable shall be conclusive.

20.08.100 Establishment of Minimum Best Management Practices and Prioritization For Construction Activities, New Development, Significant Redevelopment and Existing Development.

A. The documents entitled "The City of Encinitas Best Management Practices Manual, Park I" and "the City of Encinitas Best Management Practices Manual, Part II" establish minimum required Best Management Practices for the following land uses:

1. Construction Activities
2. New Development and Significant Redevelopment
3. Existing Industrial Development
4. Existing Commercial Development
5. Existing Residential Development.
6. Existing Municipal Areas and Activities
7. Any other use as necessary to reduce Pollutants to the Maximum Extent Practicable. (MEP)

B. The City Engineer shall establish priorities for implementation and enforcement of Best Management Practices based on the threat to water quality for each use described in the subsection above.

1. Each site of Construction Activities shall be evaluated for threat to water quality by considering the following criteria:

a. All sites 50 acres or more in size and grading will occur during the wet season;
b. All sites 1 acre or more, and tributary to a Clean Water Act (CWA) section 303(b) water body segment impaired for sediment or within or directly connected to a receiving water within an ESA;
c. Other sites determined by the City as a significant threat to water quality in consideration of the following factors:

1. soil erosion potential;
2. site slope;

3. project size and type;
4. sensitivity of receiving water bodies;
5. proximity to receiving water bodies;
6. non-storm water discharges;
7. any other relevant factors.

2. Each site of New Development or Significant Redevelopment in the following list shall be categorized as a high priority threat to water quality:

a. Housing subdivisions of 10 or more dwelling units. This category includes single-family homes, multi-family homes, condominiums, and apartments.

b. Commercial developments greater than 1 acre. This category is defined as any development on private land that is not for heavy industrial or residential uses where the land area for development is greater than one acre. The category includes, but is not limited to: hospitals; laboratories and other medical facilities; educational institutions; recreational facilities; commercial nurseries; multi-apartment buildings; car wash facilities; mini-malls and other business complexes; shopping malls; hotels; office buildings; public warehouses; automotive dealerships; commercial airfields; and other light industrial facilities.

c. Automotive repair shops. This category is defined as a facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 7532-7534, or 7536-7539.

d. Restaurants. This category is defined as a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC code 5812), where the land area for development is greater than 5,000 square feet.

e. All hillside development greater than 5,000 square feet. This category is defined as any development which creates 5,000 square feet of impervious surface which is located in an area with known erosive soil conditions, where the development will grade on any natural slope that is twenty-five percent or greater.

f. Environmentally Sensitive Areas: All development and redevelopment located within or directly adjacent to or discharging directly to an environmentally sensitive area (where discharges from the development or redevelopment will enter Receiving Waters within the environmentally sensitive area), which either creates 2,500 square feet of impervious surface on a proposed project site or increases the area of imperviousness of a proposed project site to 10% or more of its naturally occurring condition.

g. Parking lots 5,000 square feet or more or with 15 or more

parking spaces and potentially exposed to urban runoff. Parking lot is defined as a land area or facility for the temporary parking or storage of motor vehicles used personally, for business, or for commerce.

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

i. Retail Gasoline Outlets (RGOs) This category includes RGOs that meet the following criteria: (a) 5,000 square feet or more or (b) a projected Average Daily Traffic of 100 or more vehicles per day.

Natural BMPs such as constructed wetlands, grassed swales, biofilters, wet ponds, and vegetated filter strips, shall be utilized whenever practicable for all New Development and Significant Redevelopment.

3. Each site of Existing Industrial and Commercial Development shall be evaluated for threat to water quality by considering the following:

a. type of industrial activity (SIC Code);
b. materials used at the facility;
c. wastes generated;
d. pollutant discharge potential;
e. non-storm water discharges;
f. size of facility;
g. proximity to receiving water bodies;
h. sensitivity of receiving water bodies;
i. whether the industrial site is subject to the statewide General Industrial Permit or an individual NPDES permit;
j. whether the facility has filed a No Exposure Certification/Notice of Non-Applicability;
k. facility design;
l. total area of the site, area of the site where industrial or commercial activities occur, and area of the site exposed to rainfall and runoff;
m. the facility's compliance history; and
n. any other relevant factors.

At a minimum the high priority industrial sites shall include the following:

a. industrial facilities that are subject to section 313 of Title III of the Superfund amendments and Reauthorization Act of 1986 (SARA);
b. industrial facilities tributary to a Clean Water Act Section 303(d) Impaired Water Body, where a facility generates pollutants for which the water body is impaired;

c. industrial facilities within or directly adjacent to or discharging directly to coastal lagoons or other Receiving Waters within Environmentally Sensitive Areas;

d. facilities subject to the statewide General Industrial Permit;

e. all other industrial facilities that the City Engineer determines are contributing significant pollutant loading to its Storm Water Conveyance System, regardless of whether such facilities are covered under the statewide General Industrial Permit or other NPDES permit.

4. Each site of Existing Commercial Development in the following list shall be evaluated for threat to water quality:

a. Automobile mechanical repair, maintenance, fueling, or cleaning;
b. Airplane mechanical repair, maintenance, fueling, or cleaning;
c. Boat mechanical repair, maintenance, fueling, or cleaning;
d. Equipment repair, maintenance, fueling, or cleaning;
e. Automobile and other vehicle body repair or painting;
f. Mobile automobile or other vehicle washing;
g. Automobile (or other vehicle) parking lots and storage facilities;
h. Retail or wholesale fueling;
i. Pest control services;
j. Eating or drinking establishments, including food markets;
k. Mobile carpet, drape or furniture cleaning;
l. Cement mixing or cutting;
m. Masonry;
n. Painting and coating;
o. Botanical or zoological gardens and exhibits;
p. Landscaping;
q. Nurseries and greenhouses;
r. Golf courses, parks and other recreational areas/facilities;
s. Cemeteries;
t. Pool and fountain cleaning;
u. Marinas;
v. Portable sanitary services;
w. Building material retailers and storage;
x. Animal facilities; and
y. Power washing services
z. Other commercial sites or sources that the City Engineer determines may contribute a significant pollutant load to the Storm Water Conveyance System;

aa. Any commercial site or source tributary to a Clean Water Act section 303(d) impaired water body, where the site or source generates

pollutants for which the water body is impaired;

bb. Any commercial site or source within or directly adjacent to or discharging directly to a coastal lagoon or other receiving water within an Environmentally Sensitive Area.

5. The City Engineer shall identify residential areas and activities which are a high priority threat to water quality. At a minimum, these shall include:

a. Automobile repair and maintenance, washing, and parking;
b. Automobile washing;
c. Automobile parking;
d. Home and garden care activities and product use (pesticides, herbicides, and fertilizers);
e. Disposal of household hazardous waste (e.g., paints, cleaning products);
f. Disposal of pet waste;
g. Disposal of green waste;
h. Any other residential source that the City Engineer determines may contribute a significant pollutant load to the Storm Water Conveyance System;
i. Any residence tributary to a Clean Water Act Section 303(d) Impaired Water Body, where the residence generates pollutants for which the water body is impaired;
j. Any residence within or directly adjacent to or discharging directly to a coastal lagoon or other Receiving Waters within an Environmentally Sensitive Area.

6. Each Existing Municipal Area or Activity in the following list shall be evaluated for threat to water quality:

(1) Roads, streets, highways, and parking facilities.
(2) Flood management projects and flood control devices.
(3) Areas and activities tributary to a Clean Water Act Section 303(d) Impaired Water Body, where an area or activity generates pollutants for which the water body is impaired.
(4) Areas and activities within or adjacent to or discharging directly to coastal lagoons or other Receiving Waters within Environmentally Sensitive Areas.
(5) Municipal waste facilities such as active or closed municipal landfills; publicly owned treatment works (including water and wastewater treatment plants) and sanitary sewage collection systems; municipal separate storm sewer systems; incinerators; solid waste

transfer facilities; land application sites; uncontrolled sanitary landfills; corporate yards including maintenance and storage yards for materials,

waste, equipment and vehicles; sites for disposing and treating sewage sludge; and hazardous waste treatment, disposal, and recovery facilities.

(6) Municipal airfields.

(7) Parks & Recreation facilities.

(8) Special Event Venues.

(9) Power Washing.

(10) Other municipal areas and activities that the City Engineer determines may contribute a significant pollutant load to the Storm Water Conveyance System.

7. All agricultural activities are subject to this Chapter, including activities that are not subject to a grading permit. The BMPs established by the City Engineer for agricultural activities shall be in addition to the BMPs established for the activity in another category such as Construction Activities, Existing Commercial, New Development or Significant Redevelopment

8. Special events will be subject to controls that manage trash and debris, as determined adequate and appropriate by the City Engineer, and specific to each event including, but not limited to:

a. Temporary screens n catch basins and storm drain inlets.

b. Temporary fencing to prevent windblown trash from entering adjacent waterbodies.

c. Catch basin cleaning following the special event.

d. Street sweeping of roads, streets, highways and parking facilities following special events.

e. Other equivalent controls.

<u>20.08.110 Site Specific Best Management Practices</u>.

The City Engineer may establish written Best Management Practices for a specific site or activity if necessary to reduce pollutants to the Maximum Extent Practicable or to comply with an order of the San Diego Regional Water Quality Control Board.

20.08.120 Alternative Best Management Practices.

The City Engineer may establish written alternative Best Management Practices. The allowable use of alternative BMPs at a specific site shall be determined at the sole discretion of the City Engineer.

20.08.130 Additional Best Management Practices.

The City Engineer may establish additional written Best Management Practices for a specific site if the City Engineer determines that the Best Management Practices implemented at the site have not reduced the pollutants to the Maximum Extent Practicable.

20.08.140 Minimum Best Management Practices.

All Dischargers shall install, implement and maintain at least the following minimum Best Management Practices:

A. Eroded soils. Prior to the rainy season, Dischargers must remove or secure any significant accumulations of eroded soils from slopes previously disturbed by clearing or grading, if those eroded soils could otherwise enter the Storm Water Conveyance System or Receiving Waters during the rainy season. Slopes more than five feet in height, more than 250 square feet in total area, and steeper than 3:1 (run-to-rise) that have been disturbed at any time by clearing, grading, or landscaping, shall be continuously protected from erosion.

B. Parking Lots. Dischargers with parking lots or impervious surfaces used for similar purposes shall clean the surfaces frequently and thoroughly in a manner that does not cause non-storm water discharge to the Storm Water Conveyance System. In most cases, this will require dry cleaning methods such as sweeping and removal of dirt and debris. The dirt and debris shall be disposed of in a manner which prevents it from entering the Storm Water Conveyance System or the Receiving Waters. At least one cleaning shall be completed in September of each year.

C. Storage of Materials and Wastes. All materials and wastes with the potential to pollute urban runoff shall be stored in a manner that either prevents contact with rainfall and Storm Water, or contains contaminated runoff for treatment and disposal.

D. Use of Materials. All materials with the potential to pollute urban run off, including but not limited to, cleaning and maintenance products used outdoors, fertilizers, pesticides and herbicides, shall be used in accordance with label directions. If a label cautions against use of a product where it may enter water or waterways, or cautions that the product may be toxic or have toxic effects, the product may not be disposed of or rinsed into Receiving Waters or the Storm Water Conveyance System.

E. Self Inspection for Illegal Discharges. All Dischargers, except residential single family home Dischargers, shall inspect their facilities, activities, operations and procedures at least annually to detect illegal connections and illegal discharges. The self inspection shall be documented in records kept on the premises for at least five years

F. Inspection, Maintenance, Repair and Upgrading of BMPs. Treatment Control BMPs must be inspected by the Discharger or responsible party before the start of the rainy season and following actual rain events. These BMPs must be maintained so that they continue to function as designed. Treatment BMPs which fail must be repaired as soon as it is safe to do so. If the failure of a structural or nonstructural BMP indicates that the BMPs in use are inappropriate or inadequate to the circumstances, the BMPs must be modified or upgraded to prevent any further failure in the same or similar circumstances. All sediment and debris in catch basins must be removed prior to the wet season and disposed of in a manner which prevents it from entering the Storm Water Conveyance System or the Receiving Waters.

20.08.150 Discharger Sampling, Testing, Monitoring, and Reporting.

The City Engineer may require Dischargers to perform sampling, testing, monitoring and reporting of results as a Best Management Practice. In addition, the City Engineer may order a Discharger to conduct testing or monitoring and to report the results to the City if

1. the city Engineer determines that testing or monitoring is needed to determine whether BMPs are effectively preventing or reducing pollutants in Storm Water to the Maximum Extent Practicable, or to determine whether the facility is a significant source of contaminants to Waters of the State; or

2. the City Engineer determines that testing or monitoring is needed to assess the impacts of an illegal discharge on health, safety or the environment; or

3. an Illegal Discharge has not been eliminated after written notice by the City Engineer; or

4. the Discharger is in violation of any provision of this Chapter; or the Regional Water Quality Control Board requires the City to provide information on the Discharger's activities.

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

1. Visual monitoring of dry weather flows, wet weather erosion, or BMPs;
2. Visual monitoring of premises for spills or discharges;

3. **Laboratory analyses of Storm Water or non-storm water discharges for Pollutants;**
4. **Background or baseline monitoring or analysis; and**
5. **Monitoring of Receiving Waters or sediments that may be affected by Pollutant discharges by the Discharger.**

The City Engineer may direct the time and manner in which the results of required testing and monitoring are reported, and shall determine when required sampling, testing or monitoring may be discontinued. The sampling, testing, monitoring and reporting shall be at the expense of the Discharger.

20.08.160 City Authority to Sample, Inspect and Monitor.

A. Regulatory Inspections. The City Engineer or his designee may inspect the premises of any Discharger at reasonable times and in a reasonable manner to carry out the purposes of this Chapter. If a Discharger refuses to allow entry for an inspection, an inspection warrant shall be obtained prior to inspection.

B. Scope of Inspections. Inspections may include all actions necessary to determine whether any Illegal Discharges or Illegal Connections exist, whether the BMPs installed and implemented are adequate to comply with this Chapter, whether those BMPs are being properly maintained, and whether the Discharger complies with other requirements of this Chapter. This may include sampling, metering, monitoring, visual inspections, and records review. Where samples are collected the Discharger may request and receive split samples. Records, reports, analyses, or other required information may be inspected and copied, and photographs taken for purposes of enforcement of this Chapter.

C. Installation of Sampling Devices. As part of the inspection, the City Engineer may authorize the installation of sampling or metering devices.

20.08.170 Establishment of a Fee.

The City Council may establish a fee by resolution to recover the cost of inspection, sampling, metering or monitoring by the City Engineer.

20.08.180 Local Storm Water Pollution Prevention Plan.

The City Engineer may require a Discharger to prepare and submit a Local Storm Water Pollution Prevention Plan (Local SWPPP) for approval as a Best Management Practice (BMP). In addition, the City Engineer may require a Discharger to prepare and submit a Local SWPPP for approval if (1) the Discharger is not in compliance with this Chapter; or (2) the facility or activity is a significant source of pollutants to the Receiving Waters despite

compliance with this Chapter. Any Discharger required to submit and to obtain approval of a Local SWPPP shall install, implement and maintain the BMPs specified in the approved Local SWPPP.

The Local SWPPP shall identify the BMPs that will be used by the Discharger to prevent or control pollutants in Storm Water to the Maximum Extent Practicable. If the facility is an industrial facility, the Local SWPPP submitted to the City shall at a minimum meet the requirements of the State NPDES General Industrial Storm Water Permit. If the activity at issue is a construction or land disturbance activity, the Local SWPPP submitted to the City shall at a minimum meet the requirements of the State NPDES General Construction Storm Water Permit.

Additional minimum Local SWPPP requirements are;

1. An inventory of all materials on site that may adversely affect Storm Water quality.

2 A description of measures which will be taken to reduce the possibility of accidental spillage resulting from equipment failure or employee error.

3. A description of onsite spill control procedures and equipment to prevent pollutants from entering the Storm Water Conveyance System.

4. A site map showing all building structures, materials and waste storage areas, outdoor equipment storage areas, vehicle service areas, paved areas, areas of existing and potential erosion, storm drain inlets, points of discharge to the Storm Water Conveyance System, and an estimate of the size of the facility and the size of the Impervious Surface Area.

5. A description of the Storm Water monitoring program conducted on the site, if any.

6. A documented employee training program which includes, but is not limited to, the following topics:

a. Laws, regulations and local ordinances relating to Storm Water pollution prevention, and an overview of the potential impacts of pollutants in Storm Water on the Receiving Waters.

b. Proper handling of all materials and wastes to prevent spillage.

c. Proper mitigation of spills, including spill response, containment and cleanup procedures.

d. Visual monitoring of all effluent streams to ensure that no Illegal Discharges enter the Storm Water Conveyance System.

e. Discussion of the differences between the Storm Water Conveyance System and the sanitary sewer system.

f. Identification of all onsite connections to the Storm Water Conveyance System.

g. Preventative maintenance and good housekeeping procedures.

h. Material management practices employed by the facility to reduce or eliminate pollutant contact with Storm Water.

Training materials shall be kept onsite and records of attendance shall be retained for at least five years.

20..08.190 Violation of a State NPDES Permit. A violation of a State NPDES General Construction Storm Water Permit , a State NPDES General Industrial Storm Water Permit or a State General De Watering Permit shall also be considered a violation of this Chapter and may be enforced as such.

20.08.200 Watercourse Protection.

A. Every person owning or occupying real property through which a Watercourse passes shall keep and maintain the Watercourse within the property free of trash, debris, excessive vegetation, and other obstacles which would pollute, contaminate or retard the flow of water through the Watercourse; shall maintain the private structures on the property in a manner which will prevent the structures from interfering with the use, maintenance and physical integrity of the Watercourse; shall not remove vegetation in a manner which will increase erosion or remove more healthy vegetation than is necessary for maintenance of the flow.

B. No person shall commit, or cause to be committed, the following acts, unless a written permit has been obtained from the City Engineer and the appropriate state and federal agencies:

1. Discharge pollutants into or connect any pipe or channel to a Watercourse;

2. Modify the natural flow of water in a Watercourse;

3. Carry out development within fifty feet of any Receiving Water;

4. Deposit in, plant in, remove any material from a Watercourse, including its banks, except as required for ordinary and necessary maintenance;

5. Construct, alter, enlarge, connect to , change, or remove any structure in a Watercourse; or

6. Place any loose or unconsolidated material (including animal manure) along side of or within a Watercourse so as to cause a diversion of the flow, or to allow the material to be carried away by Storm Water.

7. A grading permit or building permit may satisfy the requirements of this subsection at the discretion of the City Engineer. Any City permit does not affect the permit requirements of state or federal agencies.

20.08.210 Permits and Approvals.

Compliance with this Chapter shall be a condition of every permit or approval granted or issued by the City. Failure to comply with this Chapter shall be grounds for revocation of any such permit or approval.

20.08.220 Violation is a Nuisance.

The City Council hereby declares that any violation of this Chapter is a threat to public health, safety, and welfare and is deemed a public nuisance.

20.08.230 Enforcement of this Chapter.

A. Misdemeanor Violation. Notwithstanding any other provision of this Code, a violation of this Chapter is a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000) or imprisonment in the County Jail for a period of not more than six months or both fine and imprisonment. Any such violation may be charged as an infraction at the discretion of the City Attorney. Any person convicted of an infraction under the provisions of this Chapter shall be punishable by a fine not to exceed two hundred fifty dollars ($250) for a first or second offense in one year, and not to exceed five hundred dollars ($500) for a third violation in one year.

B. Orders of the City Engineer. The City Engineer is authorized to issue Cease and Desist Orders or Stop Work Orders to any person who is in violation of this Chapter. Failure to comply with a written order of the City Engineer shall be a violation of this Chapter and shall be grounds for the imposition of the civil penalties described in this section.

C. Civil Penalties. Any person who violates a provision of this Chapter may be assessed a civil penalty not to exceed one thousand dollars ($1,000) for each violation, for each day the violation is committed, continued, permitted or maintained. The civil penalties may be imposed by the City Manager after written notice and a hearing before the City Manager or his designee at which the person may present evidence and cross examine the witnesses in support of the charges. Civil penalties may also be assessed by the court in a civil action filed by the City to enforce the provisions of this Chapter.

D. Abatement. Any violation of this Chapter may be abated as a public nuisance and costs of abatement may be recovered by the City as allowed by law.

E. Administrative Fines. Any violation of this Chapter is subject to administrative fines as provided by this Code.

F. Judicial Action. This Chapter is enforceable by any judicial action allowed by law, including, but not limited to, injunctive relief.

G. Liens. Costs of enforcement of this Chapter, including but not limited to, costs of investigation, sampling and monitoring costs, and unpaid administrative fines and civil penalties, shall constitute a lien against the real property on which the violation occurs and on the real property of any person who violates this Chapter until such lien is satisfied. The lien may be recorded and executed in the same manner as a judgment lien. Prior to the recordation of the lien, the property owner shall be given written notice of the lien and an opportunity to contest the validity of the lien and the amount at a hearing held by the City Manager or his designee.

H. Remedies Not Exclusive. Remedies under this Chapter shall be in addition to each other, and in addition to any other legally available remedy, and do not limit or supersede any other enforcement action, civil, criminal or administrative.

20.08.240 Severability. If any section, subsection, or part of this Chapter is declared invalid by a court of competent jurisdiction, the remaining provisions shall continue to be valid and enforceable so as to effectuate the purpose and intent of this ordinance.