

Section 2

Administrative and Legal Procedures



2.1 Departmental Roles and Responsibilities

This section identifies and describes the departments and staff conducting urban runoff management activities. At a minimum, it will include the following:

- A description of all departments that conduct urban runoff related activities, and their roles and responsibilities under the Permit;
- An up-to-date organizational chart specifying the aforementioned departments and key personnel is provided in Figure 2.1-1.

2.1.1 City Departments

2.1.1.1 City Manager

This office of the City Manager provides the leadership and supervision that, in turn, implements the policies and decisions of the City Council; thereby ensuring the delivery of services to the community. Please refer to the City Organizational Chart to review the reporting relationship of individual department staff.

The City Manager's Office is committed to supporting and serving the City Council and Community with energy and enthusiasm. They provide leadership and coordination for the City employees to achieve community goals, including the implementation of the JURMP and compliance with the Permit.

2.1.1.2 Engineering

The Engineering Department is dedicated to providing innovative, timely and cost effective civil engineering solutions to preserve and enhance the environment and the quality of life in the beautiful village of Del Mar.

City Engineering services include:

- Consulting and technical support to the City Manager and Department Heads and City Council;
- Receiving and resolving public inquiries and concerns;
- Capital improvement planning and budgeting;
- Traffic engineering;
- Field investigations;
- Periodic representation of the City in dealing with other public agencies;
- Providing technical support for grant applications; and
- Services for development regulation and review, such as plan review and inspection of privately-funded public improvements.

The Engineering Department also manages the design and construction of the City's Annual Capital Improvement Program.

2.1.1.3 Planning and Community Development

The Planning Department is an integral part of making the City of Del Mar a beautiful place to live, work and visit. The Department is committed to accomplishing this goal through the preparation of a variety of short-, mid-, and long-range plans that direct and guide residential and commercial development and encourage land uses that are compatible, sustainable and most beneficial to the community.

The Planning Department is responsible for a variety of services ranging from updating the City's Community Plan and Zoning standards, managing key programs and projects such as Affordable Housing, Coast Boulevard and the Camino del Mar Streetscape Plans and preparation of new trees and view standards. The Department serves as the liaison to the City Council, Planning Commission, Design Review Board and various Ad Hoc committees.

The Planning staff assists the public through the permitting process; consults with and advises architects, engineers and homeowners; reviews all plans for compliance with code requirements; and makes periodic inspections during the course of construction.

The Planning Department implements the Land Development component of the JURMP and coordinates with the Building Department to transition and implement the Construction component. The Planning Department also includes a Code Enforcement Office that can administer administrative citations associated with various municipal code violations including storm water as described below. The Planning Department organizational chart is shown in Figure 2.1-1 in the Development Planning section of this JURMP.

The Clean Water Program is part of the Planning Department in the City of Del Mar and takes the lead in organizing and facilitating the implementation of the Permit. The Clean Water Program is embedded in various Departments throughout the City and sections of the program are implemented based on the requirements and the responsibilities for each of those departments.

The Clean Water Program Manager reports directly to the Planning Director and is charged with directing and facilitating the implementation of the JURMP and complying with the Permit.

2.1.1.4 Code Enforcement

Code Enforcement responds to citizen complaints, City Council requests for service, referrals for investigation/compliance, and inter-governmental enforcement agency referrals in a proactive manner. Staff conducts field inspections, prepares written notices/orders for code compliance, verifies compliance measures, prepares reports and requests for action for nuisance abatement, and educates the public on storm water compliance. Code Enforcement issues Notices of Violations to obtain compliance and issues infraction citation Notices to Appear. The enforcement program highlights voluntary non-judicial compliance with an emphasis upon public awareness of governmental regulatory provisions.

Code Enforcement takes pride in providing customers with personal attention, accurate and consistent information, and creative, timely solutions to complex community development issues.

2.1.1.5 Public Works

The Public Works Department maintains the City of Del Mar's essential infrastructure.

The five primary responsibilities include:

- City facilities and facilities grounds;
- Streets with associated drainage, pedestrian paths, bike lanes, signage, traffic signals and landscaping;
- Open spaces including park landscaping and public pathways;
- Potable water including storage reservoirs and associated distribution network distributing water purchased through various interagency agreements; and
- Wastewater collection and pumping to receiving agencies which transport and treat.

Public Works administers these programs in association and with the assistance of the City Engineer, Community Development, City Traffic Consultant and various citizen committees and appointees to agencies by the Del Mar City Council.

The experienced professional staff of the Public Works Department takes ownership of the operation and maintenance of the City of Del Mar's infrastructure with customer's needs in mind. They deliver this 24 hour per day, 7 day a week service in a prompt, courteous, and efficient manner.

The Public Works Department is essential to the implementation of the Municipal Component of the JURMP in conjunction with other departments such as Community Development which is involved in recreational facility operation and maintenance. The Public Works Department supports the Clean Water Program in the implementation of the Illicit Discharge Detection and Elimination Program.

2.1.1.6 Community Services

The Community Services Department oversees numerous functions of the City including Lifeguard Services, Parking Enforcement, Park Ranger operations, Beach Maintenance, and all facility use permits for the parks, beach area, and the Powerhouse Community Center.

The Department works closely with Community organizations such as The Del Mar Foundation, The Friends of the Powerhouse, The Cultural Arts Committee and Community Connections to name a few to plan and organize community events such as The Summer Concert series. The Department also leads the operation and maintenance activities of parks, beaches and the Community Center.

2.1.1.7 Fire Services

The Del Mar Fire Department consists of one fire station located on the San Diego County Fairgrounds property at 2200 Jimmy Durante Blvd. The Fire Department is staffed with a combination of full-time and paid-call personnel. Personnel are comprised of nine full-time staff (three captains, three fire engineers and three firefighters) and a number of part time student firefighter/paramedics. At all times there are at least four personnel on duty. The fire

department operates one front line fire engine, one rescue unit, two staff vehicles and a reserve fire engine.

The Fire Department protects nearly five thousand full-time residents as well as the nearly three million visitors annually. The area served includes over 2.5 square miles and over 1,600 structures.

In the fall of 2003, the Del Mar Fire Department entered into a contract with the City of Solana Beach for fire chief services. This arrangement has worked well for both agencies with the two cities sharing the services of both a Fire Chief and a Deputy Fire Chief for both day to day management and for emergency responses to major incidents.

In addition, the Fire Department provides a comprehensive fire prevention and education program. Each year the Fire Department inspects all hotels, motels, restaurants, and new businesses for fire and safety compliances. Building permits are reviewed for fire code compliance and pre-fire planning for over 120 commercial buildings is provided. Fire prevention inspections and plan checks for residential occupancies are also provided. The Department also provides classes, demonstrations, public safety education, and disaster preparedness programs.

The Fire Department implements the Emergency Fire Fighting BMPs within the City of Del Mar as described in the Permit and in this JURMP.

2.1.1.8 Finance

The Finance Department handles the City's accounting activities, including payroll, accounts receivable, accounts payable and miscellaneous revenue collection. Staff coordinates the budget process and prepares the budget document as well as annual financial reports required by the State and other reports prepared for residents. Finance coordinates the annual financial audit and prepares an award-winning Comprehensive Annual Financial Report. Additional responsibilities include utility billing and monitoring of utility rates. The Risk Management function of the Department, through participation in the SANDPIPA Insurance Joint Powers Authority, oversees the insurance requirements of the City, manages the loss-control program, and handles all claims made against the City. Integral to the successful operation of the City is the focus of the Department to carefully monitor expenditures and optimize revenues.

The Finance Department is not directly involved in the implementation of the JURMP. Staff in the Finance Department receives basic training on stormwater requirements and their role in water quality.

2.1.1.9 Other Departments

The remaining City Departments include the City Clerk, Human Resources and Information Systems. These Departments offer support or administration services and do not directly implement or conduct activities related to the JURMP.

City staff within these departments is aware and informed on Clean Water Program activities in general and has the knowledge to provide referrals and direct citizens or business to the appropriate department when contacted regarding urban runoff or storm water issues.

2.1.2 City Council and Mayor

The City Council, as representatives of the residents of Del Mar, sets City policy, determines budget priorities, allocates City resources, and hears appeals from decisions of the Design Review Board and Planning Commission. Council members are elected by the voters of Del Mar. The City Council appoints the City Manager to manage the City and the City Attorney to provide legal advice and ensure compliance with local, State and Federal law. The City Council meets the first, second and third Mondays of each month, and may hold additional special meetings as required. Additionally, each Councilmember represents the City on numerous regional boards/organizations, as well as acts as liaisons to Council advisory committees.

The City Council provides the overall vision and support for the various programs implemented as part of the JURMP.

2.1.3 Boards, Commissions and Committees

The City has a number of volunteer committees that act as advisory to the City Council, as well as a Planning Commission, Design Review Board, and the Trees, Scenic Views, and Sunlight Board. The Clerk keeps a current list of Citizen Advisory Committees, their vacancies, names of committee members, and the regular meeting dates of the committees. The following committees have a direct role in the implementation of the JURMP.

Design Review Board

The Del Mar Design Review process is intended to preserve and improve the scenic amenities of Del Mar and to protect the City's natural environment, its scenic vistas and the community's overall aesthetic quality. The Design Review process encourages good design, including the use of harmonious materials and colors, and the appropriate use of landscaping. In addition to protecting the City's scenic and natural resources, the Design Review process also has the desired effect of protecting property values.

As part of the review process, application proposals are evaluated for their consistency with the provisions of the Del Mar Community (General) Plan, Zoning Ordinance and Design Review Ordinance (DRO). The Design Review Board's (DRB) review involves an evaluation of a structure's placement and size, the materials and colors to be used, and in the case of a new structure, the type and extent of the landscaping proposed. It also involves an evaluation of the project's compatibility with surrounding development. The DRB consists of seven members appointed by City Council and meets on the fourth Wednesday of every month. The Design Review Board has a direct link to the implementation of the Development Planning component as one of the approval authorities for various permits and development conditions. A more comprehensive description of the approval process and the role of the DRB is found in Section 4.0 of the JURMP.

Planning Commission

The Planning Commission is charged with the administration of the Community Plan, the Zoning Ordinance and Map, and review of related plan applications. Meeting on a monthly basis, the Commission conducts public hearings and considers land use applications such as Variances, Conditional Use Permits, Coastal Development Permits, Zoning Ordinance Interpretations and

Determinations of Allowable Uses. As an advisory board to the City Council, the Planning Commission also makes recommendations to the City Council regarding applications for Subdivisions, Zone Code Amendments, Local Coastal Plan Amendments and Community Plan Amendments.

The Planning Commission is comprised of five residents appointed by the City Council and meets on the second Tuesday of every month. The Planning Commission has a direct impact on water quality as it relates to Development Planning as described in Section 4.0 of the JURMP.

San Dieguito Lagoon Preservation Committee

The Lagoon Committee is charged with overseeing the preservation and enhancement of the San Dieguito Lagoon. The Committee participates on both local and regional levels. Locally, the Committee is provided with monthly sampling reports to monitor the health of the Lagoon, investigates additional public access opportunities, and develops an educational program to uncover a few of the Lagoon's little-known points of interest. Regionally, the Committee participates in the on-going programs of the San Dieguito River Valley JPA, including the lagoon restoration plan, and monitors development that may have an adverse effect on the Lagoon. The Committee oversaw the design and construction of Riverpath Del Mar, a meandering path along the southern bank of the Lagoon west of Jimmy Durante Blvd. As urban development further encroaches into the County's open spaces, the Lagoon Committee works hard to keep the San Dieguito Lagoon the regional treasure it is and endeavors to enhance the Lagoon's function, health, and accessibility.

The Committee does not have a direct role in the implementation of the JURMP, but its activities and recommendations to the City Council are key to the protection of beneficial uses and water quality in the San Dieguito Watershed.

Additionally, the Fairgrounds Master Plan Ad Hoc Advisory Committee has a potential and indirect role in water quality or the JURMP through its influence on the Fairgrounds property development by the 22nd District Agricultural Association (DAA), a state agency. It should be noted that the City of Del Mar does not have direct authority over the development at the 22nd DAA property, a portion of which is under the jurisdiction of the State Lands Commission.

2.2 Legal Authority

This section will identify and describe all relevant legal authorities to be used in implementing the requirements of the Permit. At a minimum, it will include the following:

1. Each Copermittee is to establish, maintain, and enforce adequate legal authority to control pollutant discharges into and from its MS4 through ordinance, statute, permit, contract or similar means. This legal authority must, at a minimum, authorize the Copermittee to:
 - a. Control the contribution of pollutants in discharges of runoff associated with industrial and construction activity to its MS4 and control the quality of runoff from industrial and construction sites. This requirement applies both to industrial and construction sites which have coverage under the statewide general industrial or construction storm water permits, as well as to those sites which do not. Grading ordinances shall be upgraded and enforced as necessary to comply with this Permit.

- b. Prohibit all identified illicit discharges not otherwise allowed pursuant to Permit section B.2 including but not limited to:
 - (1) Sewage;
 - (2) Discharges of wash water resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive services facilities;
 - (3) Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility including motor vehicles, cement-related equipment, and port-a-potty servicing, etc.;
 - (4) Discharges of wash water from mobile operations such as mobile automobile washing, steam cleaning, power washing, and carpet cleaning, etc.;
 - (5) Discharges of wash water from the cleaning or hosing of impervious surfaces in municipal, industrial, commercial, and residential areas including parking lots, streets, sidewalks, driveways, patios, plazas, work yards and outdoor eating or drinking areas, etc.;
 - (6) Discharges of runoff from material storage areas containing chemicals, fuels, grease, oil, or other hazardous materials;
 - (7) Discharges of pool or fountain water containing chlorine, biocides, or other chemicals; discharges of pool or fountain filter backwash water;
 - (8) Discharges of sediment, pet waste, vegetation clippings, or other landscape or construction-related wastes; and
 - (9) Discharges of food-related wastes (e.g., grease, fish processing, and restaurant kitchen mat and trash bin wash water, etc.).
- c. Prohibit and eliminate illicit connections to the MS4;
- d. Control the discharge of spills, dumping, or disposal of materials other than storm water to its MS4;
- e. Require compliance with conditions in Copermittee ordinances, permits, contracts or orders (i.e., hold dischargers to its MS4 accountable for their contributions of pollutants and flows);
- f. Utilize enforcement mechanisms to require compliance with Copermittee storm water ordinances, permits, contracts, or orders;
- g. Control the contribution of pollutants from one portion of the shared MS4 to another portion of the MS4 through interagency agreements among Copermittees. Control of the contribution of pollutants from one portion of the shared MS4 to another portion of the MS4 through interagency agreements with other owners of the MS4 such as Caltrans, the Department of Defense, or Native American Tribes is encouraged;
- h. Carry out all inspections, surveillance, and monitoring necessary to determine compliance and noncompliance with local ordinances and permits and with this Permit, including the prohibition on illicit discharges to the MS4. This means the Copermittee must have authority to enter, monitor, inspect, take measurements, review and copy records, and require regular reports from industrial facilities discharging into its MS4, including construction sites;
- i. Require the use of BMPs to prevent or reduce the discharge of pollutants into MS4s to the MEP; and
- j. Require documentation on the effectiveness of BMPs implemented to reduce the discharge of pollutants to the MS4 to the MEP.

As specified in Permit section J.1.a.(3)(b) iii-vi, the City will update and revise elements of its JURMP to include the following information:

- 1. Updated urban runoff related ordinances, with explanations of how they are enforceable.

2. Identification of the local administrative and legal procedures available to mandate compliance with urban runoff related ordinances and therefore with the conditions of the Permit.
3. Description of how urban runoff related ordinances are implemented and appealed.
4. Description of whether the municipality can issue administrative orders and injunctions or if it must go through the court system for enforcement actions.

2.2.1 Certification of Legal Authority

The City's chief legal counsel shall prepare a certified statement that the Copermittee has adequate legal authority to implement and enforce each of the requirements contained in 40 CFR 122.26(d)(2)(i)(A-F) and this Permit, as required by Permit section J.1.(3)(b)i and C.2. This statement shall include:

- a. Identification of all departments within the jurisdiction that conduct urban runoff related activities, and their roles and responsibilities under this Permit. Include an up to date organizational chart specifying these departments and key personnel.
- b. Citation of urban runoff related ordinances and the reasons they are enforceable;
- c. Identification of the local administrative and legal procedures available to mandate compliance with urban runoff related ordinances and therefore with the conditions of this Permit;
- d. A description of how urban runoff related ordinances are implemented and appealed; and
- e. Description of whether the municipality can issue administrative orders and injunctions or if it must go through the court system for enforcement actions."

2.2.2 Enforcement

The City is required to enforce its ordinances for all residential areas and activities. An enforcement action would typically occur in response to a report by a member of the public or by municipal staff. The City employs several enforcement mechanisms and penalties to ensure the compliance with its ordinances. The levels of enforcement and associated penalties are typically issued at the discretion of the Code Enforcement officer with consideration of relevant circumstances regarding the violation. The general process for applying enforcement to residential areas and activities for urban runoff related violations is described below.

2.2.2.1 Verbal Warnings

City should seldom use verbal warnings. Verbal warnings are discouraged because the City does not maintain a standardized system for recording and tracking verbal warnings. Written warnings should be used instead of verbal warnings. A case in which a verbal warning may be appropriate is when a violation has not been noted but is thought by the Code Enforcement officer to be foreseeable.

In the case of any verbal warning, the officer who issued the warning is responsible for recording such warning for personal use and conducting follow up activities in response to the warning as the officer determines necessary.

2.2.2.2 Written Warnings

The City issues written warnings in the form of an Administrative Citation Warning. A written warning should be issued for those violations that do not involve circumstances that would warrant a fine or a more serious penalty. Such circumstances could be:

- The violation was considered minor and is a first time offense.
- The violation was considered minor and was not deliberate.
- The violation could be easily remedied and had not resulted in a threat to human or environmental health.

Written warnings should contain information describing the infraction. Other information may be provided on the warning, as the issuing officer deems necessary. A copy of the warning will be given to the operator. A copy of the warning will also be retained for City records and the violation will be noted in the City's enforcement and commercial facilities databases.

Follow-up activities, such as inspections, will be conducted as deemed necessary by the Code Enforcement personnel.

2.2.2.3 Administrative Citations

Administrative Citations are issued for infractions that involve circumstances that require a greater level of enforcement than a warning. Administrative Citations may also be appropriate in the case where a warning was served but the infraction continued to occur or occurred again. Administrative Citations may also be warranted when an administrative abatement notice and order (described below) was issued and the required abatement activities were not implemented.

Administrative Citations include fines with increasing monetary penalties depending on the amount of the same violations within a one year period. The first violation involves a fine not exceeding one hundred dollars, the second violation involves a fine not exceeding two hundred dollars, and all subsequent violations include a fine not exceeding five hundred dollars. The fourth and each additional violations may include a fine up to one thousand dollars and may also be charged as a misdemeanor.

2.2.2.4 Administrative Abatement Procedure

If a violation involves the circumstances to warrant a warning or citation, but requires activities to correct the infraction, the warning or citation may include an administrative abatement procedure in the form of a Notice and Order or a Notice of Violation. A Notice and Order is a form that is used in the case of a public nuisance violation. A Notice of Violation is used for more specific infractions. By issuing these notices, City requires the person responsible for the infraction to conduct activities necessary to resolve the infraction at his or her own expense. The activities necessary will be directed by the enforcing officer and are described on the notice. A deadline for correcting the infraction with the required activities is also provided by the enforcing officer. In the event that the officer determines that the individual responsible for the infraction is incapable of performing such activities by the compliance date or if the individual chooses not to perform the activities, the City may conduct the necessary activities and charge the resulting costs to the individual.

A Notice and Order or a Notice of Violation should include details describing the abatement activities required of the individual responsible for the infraction, and a deadline for compliance. Follow-up should typically be conducted to ensure that the abatement activities are successfully and adequately implemented

Some examples of circumstances that could require a Notice and Order or a Notice of Violation include:

- A required BMP is not implemented or is not implemented properly and requires implementation by the responsible party.
- A leak or discharge is detected and requires elimination.
- A spill or other discharge occurred and clean up of the spill or discharge is required.

2.2.2.5 Suspension, Revocation, or Denial of Permits

Although not common to residential enforcement actions, if an activity being conducted by a resident results in a violation and that activity is permitted by the City, the City can choose to exercise its rights to suspend or revoke a permit based on the conditions of the infraction. The decision to exercise this right should include consultation with the enforcing officer, the City's legal counsel, and other appropriate City staff. Cases for which the suspension or revocation may be appropriate include those when a permitted activity:

- Results in a continuous infraction that cannot be or will not be remedied.
- Involves an infraction that can only be stopped and remedied by ceasing the permitted activity.
- Is continuously resulting in infractions and previous enforcement actions have not been successful in preventing further infractions.

2.2.2.6 Civil and/or Criminal Court Actions

The City may use civil and or criminal court actions under the State Porter Cologne Water Quality Act or the Federal Clean Water Act, which may result in significant fines levied upon the non-compliant responsible parties. A criminal misdemeanor may be charged and can result in a fine up to one thousand dollars and/or imprisonment up to six months. Criminal and civil court actions are typically used for cases involving multiple violations, severe violations, or cases where the violation was deliberate, or resulted in harm to human or environmental health.

FIGURE 2.1-1

