

Chapter 11.30

STORMWATER MANAGEMENT AND DISCHARGE CONTROL

11.30.010 Title. This Chapter shall be known as the "City of Del Mar Stormwater Management, and Discharge Control Ordinance." [Ord. 652, 739, 752, 802]

11.30.020 Purposes and Intent. The purposes of this Ordinance are to protect the health, safety and general welfare of City of Del Mar residents; to protect water resources and to improve water quality; to cause the use of management practices by the City and its citizens that will reduce the adverse effects of polluted runoff discharges on waters of the state; to secure benefits from the use of stormwater as a resource; and to ensure the City is compliant with applicable state and federal law. The Ordinance seeks to promote these purposes by:

- Prohibiting polluted non-stormwater discharges to the stormwater conveyance system;
- Establishing minimum requirements for stormwater management, including source control requirements, to prevent and reduce pollution;
- Establishing requirements for development project low impact development site design, to reduce stormwater pollution and erosion;
- Establishing requirements for the management of stormwater flows from development projects, both to prevent erosion and to protect and enhance existing water-dependent habitats;
- Establishing standards for the use of off-site facilities for stormwater management to supplement on-site practices at new development sites; and
- Establishing notice procedures and standards for adjusting stormwater and non-stormwater management requirements where necessary.

11.30.030 Definitions. The following definitions shall be applicable when the following words or phrases are used hereafter in this Ordinance (including use in the City Stormwater Standards Manuals), whether or not these words or phrases are capitalized:

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

Authorized Enforcement Staff: means any City employee assigned to duties involving permits and other City approvals, inspections, and enforcement related to this Ordinance.

Authorized Enforcement Official: means the City Manager or her/his designee.

Best Management Practices: means schedules of activities, pollution treatment practices or devices, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices or devices to prevent or reduce the discharge of pollutants directly or indirectly to Stormwater, Receiving Waters, or the Stormwater Conveyance System. Best Management Practices also include but are not limited to treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage. Best Management Practices may include any type of pollution prevention and pollution control measure that can help to achieve compliance with this Ordinance.

BMPs: means Best Management Practices.

BMP Upgrade: means a modification, retrofit or improvement of a stormwater BMP designed for an existing development site or activity that previously had either no stormwater management BMPs in place or that relied on BMPs inadequate to meet the stormwater management requirements of the site or activity. Channel: means a natural or improved watercourse with a definite bed and banks that conducts continuously or intermittently flowing water.

City: means the City of Del Mar.

City Stormwater Standards Manuals: means the manuals described in section 11.30.040 G. of this Ordinance.

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

Constructed Wetland: means a vegetated area that has been deliberately designed and constructed as a BMP to provide or enhance habitat, to provide water quality benefits, or to moderate water flow rates or velocities, that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

County: means the County of San Diego.

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

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

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

Development Project Proponent: means Developer.

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

Discharger: means any person or entity engaged in activities or operations or owning facilities, which will or may result in pollutants entering stormwater, the Stormwater Conveyance System, or Receiving Waters; and the owners of real property on which such activities, operations or facilities are located; provided however that a local government or public authority is not a discharger as to activities conducted by others in public rights of way.

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

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

Dry Season: means May 1 through September 30 of each year.

Environmentally Sensitive Area: means areas that include but are not limited to all Impaired Water Bodies per Clean Water Act Section 303(d), areas designated as Areas of Special Biological Significance or with the RARE beneficial use by the SWRCB in the Water Quality Control Plan for the San Diego Basin (1994 and amendments), National Wildlife Refuges, and areas designated as

preserves for species-protection purposes by the State of California or a local government.

Erosion and Sediment Control Plan: means a Stormwater Management Plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

ESA: means Environmentally Sensitive Area

Forecast Rain Event: means a forecast rain event of greater than 1/10th of an inch with an equal or greater than 50% probability by the National Weather Services or comparable weather forecasting services.

Household Hazardous Waste: means a household hazardous material that no longer has a use and is discarded or intended to be discarded. The term includes but is not limited to paint and paint-related materials; yard and garden treatment products (i.e. fertilizers, herbicides); household cleaners; used oil; Vehicle fluids, batteries and oil filters; pesticides; and household batteries.

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

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

Illegal Discharge: means any discharge into Stormwater, the Stormwater Conveyance System, or Receiving Waters that is prohibited by this Ordinance. This includes but is not limited to discharges of non-stormwater that are not exempt discharges listed in Section 11.30.060, any discharge from an Illegal Connection, and any discharge that contains additional pollutants due to the absence of a required BMP or the failure of a BMP unless it qualifies as an Upset. Discharges that require a City/County permit or an RWQCB permit that has not been issued or has not been acknowledged by the Discharger to be applicable are Illegal Discharges. Discharges regulated under an applicable RWQCB or City/County permit or SWPPP are Illegal Discharges for purposes of

this Ordinance unless compliance with all applicable permit and SWPPP conditions is maintained. [Ord. 752]

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

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

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.

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

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

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

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

Infiltration BMPs or Infiltration Facility: means any structural treatment BMP designed primarily to percolate water into the

subsurface, such as an infiltration trench or infiltration basin. An infiltration facility may include filtering prior to or during infiltration. BMPs that infiltrate some water but which are designed primarily to retain water or to treat water, such as retention basins, constructed wetlands, or filtering swales are not infiltration facilities.

Jurisdictional Urban Runoff Management Program: means the detailed plans and procedures developed and implemented by the City and Dischargers for activities and areas associated with development planning, construction, residential, commercial, industrial, municipal components; education, public participation, program effectiveness assessment, and fiscal analysis of the programs; and the illegal discharge detection and elimination program.

JURMP: means Jurisdictional Urban Runoff Management Program.

Jurisdictional Wetland: means an area that is naturally inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. This includes but is not limited to areas previously designated by the City as wetlands. Constructed wetlands are not jurisdictional wetlands.

Land Development Activity: means any activity or proposed activity that requires any of the permits or approvals listed in section 11.30.040 F. of this Ordinance.

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

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

Maintenance [of a BMP]: means periodic action taken to maintain the

as-designed performance of a BMP, and includes but is not limited to operation of the BMPs as specified by the engineer, manufacturer or architect, repairs to the BMP as necessary, and replacement of the BMP by an equally effective or more effective BMP at the end of its useful life.

Maximum Extent Practicable: is the technologically-based standard for Best Management Practices (BMPs). When BMPs are required to meet this standard, the BMPs must be the most effective set of BMPs that is still practicable. A BMP is effective if it prevents, reduces or removes the pollutants that would otherwise be present in runoff due to human activity. A BMP is practicable if it complies with other regulations as well as stormwater regulations; is compatible with the area's land use, character, facilities, and activities; is technically feasible (considering area soil, geography, water resources, and other resources available); is economically feasible; and provides benefits that are reasonable in relation to costs.

MEP: means Maximum Extent Practicable.

Mobile Business: means any Regulated Commercial Business providing services at the client's premises (residential, municipal, commercial or industrial). Mobile businesses include, but are not limited to, activities providing commercial repair, maintenance, cleaning, manufacturing, food preparation or painting or any other activity determined by the City to have the potential to result in the discharge of non-stormwater or pollutants to stormwater.

Municipal Facility: means a facility owned or operated by the City that is used for a governmental purpose. Facilities on municipally owned land that are leased or rented to others to generate municipal revenues are not Municipal Facilities. (The commercial or industrial lessees of such facilities may, however, be subject to this Ordinance as Commercial Dischargers or Industrial Dischargers.)

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

NPDES Permit No. CAS 0108758: means RWQCB Order No. 2007-0001, NPDES Permit No. CAS 0108758, "Waste Discharge Requirements for Discharges of Urban Runoff From the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, and the San Diego Unified Port District, and the San Diego County Regional Airport Authority."

Nuisance, as defined by the Porter-Cologne Water Quality Control Act: means "anything which meets all of the following requirements: 1) Is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. 2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. 3) Occurs during, or as a result of, the treatment or disposal of wastes."

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

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

Performance Standard: means a requirement under this Ordinance that specifies a result that must be achieved (e.g., "minimize impervious surface area" or "do not impair receiving water quality") without specifying the means that must be used to achieve that result. (This Ordinance applies performance standards only to certain land development and redevelopment projects that require discretionary City/County permits; those permits will typically include enforceable project-specific requirements intended to achieve the result required by the performance standard.)

Pollutant: means any agent introduced to stormwater or non-stormwater through human activity that may cause or contribute to the degradation of water quality such that public health, the environment, or beneficial uses of waters may be affected. The term may include but is not limited to dredged spoil, rock, sand, or silt (excluding sediment, silt, or substances in quantities which would enter Stormwater from a natural undeveloped watershed); solid waste, sewage, garbage, or medical waste; wrecked or discarded equipment; radioactive materials; industrial waste; 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; and 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.

Primary Pollutant of Concern: means any Pollutant, if that pollutant may be discharged from a priority development project or redevelopment project, and is also a basis for a listing of the receiving water for the project as impaired pursuant to Section 303(d) of the federal Clean Water Act. [Ord. 752]

Priority Development Project: means a development project that falls within any of the following categories: [Ord. 752]

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

(2) *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 1 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.

(3) *Developments of heavy industry greater than one acre.* This category includes, but is not limited to, manufacturing plants, food processing plants, metal working facilities, printing plants, and fleet storage areas (bus, truck, etc.).

(4) *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.

(5) *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. Restaurants where land development is less than 5,000 square feet shall meet all SUSMP requirements except for the structural treatment BMP, numeric sizing criteria, and hydromodification requirements.

(6) *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.

(7) *Water Quality Sensitive Areas: All development and*

redevelopment located within or directly adjacent to or discharging directly to a water quality sensitive area (where discharges from the development or redevelopment will enter receiving waters within the water quality 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. "Directly adjacent" means situated within 200 feet of the water quality 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.

(8) *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.

(9) *Street, roads, highways, and freeways.* This category includes construction of any paved surface which is 5,000 square feet or greater used for the transportation of automobiles, trucks, motorcycles, and other vehicles. [Ord. 752]

(10) *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 (ADT) of 100 or more vehicles per day.

(11) *Redevelopment projects.* Projects that create, add or replace at least 5,000 square feet of impervious surfaces on an already developed site that falls under the project categories or locations listed above (in (1) through (10)) where redevelopment results in an increase of less than fifty percent of the impervious surfaces of a previously existing development, and the existing development was not subject to SUSMP requirements, the numeric sizing criteria discussed in the City's SUSMP applies only to the addition, and not to the entire development. Where redevelopment results in an increase of more than fifty percent of the impervious surfaces of a previously existing development, the numeric sizing criteria applies to the entire development. Where a new Development Project feature, such as a parking lot, falls into a Priority Development Project Category, the entire project footprint is subject to SUSMP requirements.

Rainy Season: means, from October 1 through April 30. [Ord. 752]

Receiving Waters means surface bodies of water, which directly or indirectly receive discharges from urban runoff conveyance systems,

including naturally occurring wetlands, streams (perennial, intermittent, and ephemeral (exhibiting bed, bank, and ordinary high water mark), creeks, rivers, reservoirs, lakes, lagoons, estuaries, harbors, bays and the Pacific Ocean. The City shall determine the definition for wetlands and the limits thereof for the purposes of this definition, which shall be as protective as the Federal definition utilized by the United States Army Corps of Engineers and the United States Environmental Protection Agency. Constructed wetlands are not considered wetlands under this definition, unless the wetlands were constructed as mitigation for habitat loss. Other constructed BMPs are not considered receiving waters under this definition, unless the BMP was originally constructed in receiving waters. [Ord. 754]

Redevelopment: means the creation, addition, and or replacement of impervious surface on an already developed site. Examples include the expansion of a building footprint, road widening, the addition to or replacement of a structure, and creation or addition of impervious surfaces. Replacement of impervious surfaces includes any activity that is not part of a routine maintenance activity where impervious material(s) are removed, exposing underlying soil during construction. Redevelopment does not include trenching and resurfacing associated with utility work; resurfacing and reconfiguring surface parking lots and existing roadways; new sidewalk construction, pedestrian ramps, or bikelane on existing roads; and routine replacement of damaged pavement, such as pothole repair.

Regulated Commercial Facility: means all non-residential facilities engaged in business or commerce, whether for profit or not-for-profit, or publicly or privately owned, including Mobile Businesses; plus residences used for commercial repair, maintenance, cleaning, manufacturing, food preparation or painting activity if that activity or any other activity has been determined by the City to have the potential to result in the discharge of non-stormwater or the discharge of pollutants to the stormwater conveyance system. It does not include Regulated Industrial Facilities and Municipal Facilities.

Regulated Commercial Business: means any Regulated Commercial Facility.

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

subject to the State General Industrial Stormwater Permit.

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

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

Secondary Pollutant of Concern: means any of the following Pollutants, discharged from a priority development project or redevelopment project that is not a primary pollutant of concern for that project. [Ord. 752]

Standard Urban Stormwater Mitigation Plan: means the SUSMP. [Ord. 752]

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

State General Industrial Stormwater Permit: means NPDES Permit No.99-08-DWQ, Waste Discharge Requirements for Discharges of Stormwater Associated with Industrial Activities Excluding Construction Activities, and any amendments thereto.

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

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

Stormwater Conveyance System: means private and public drainage facilities other than sanitary sewers within the City by which urban run-off may be conveyed to Receiving Waters, and includes but is not limited to roads, streets, constructed channels, aqueducts, storm drains, pipes, street gutters, inlets to storm drains or pipes, or catch basins.

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

Stormwater Management Plan: means a plan, submitted on a City form or in a City-specific format in connection with a development

permit application for a City/County permit or other City/County approval, identifying the measures that will be used for stormwater and non-stormwater management during the permitted activity.

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

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 authorized non-stormwater discharges. Constructed or enhanced BMPs that depend on natural materials and processes (e.g., constructed drainage swales or buffers, or constructed wetlands), and that require periodic maintenance to function as designed, are Structural BMPs.

Structural Post-Construction BMP: means a structural BMP (other than a temporary construction-related BMP) put in place in connection with a land development or redevelopment project to prevent or reduce contamination in stormwater or Receiving Waters, or to prevent or reduce erosion and/or pollutant discharges downstream from the project.

Structural Treatment BMPs: means a structural post construction BMP that treats or filters stormwater to remove pollutants, or that infiltrates stormwater to soils. [Ord. 752]

SUSMP: means the Standard Urban Stormwater Mitigation Plan for Land Development Projects and Public Improvement Projects. [Ord. 752]

SWPPP: means Stormwater Pollution Prevention Plan.

SWRCB: means the State Water Resources Control Board.

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

during such storm events.

Upset: means an exceptional incident in which there is unintentional and temporary noncompliance with technology based effluent limitations because of factors beyond the reasonable control of the discharger. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. [Ord. 752]

Urban Runoff: means all flows in a stormwater conveyance system in the City other than point source discharges in violation of a site-specific NPDES permit. Urban run-off includes but is not limited to stormwater, exempt non-stormwater discharges, and illicit discharges.

Vehicle: means any automobile, car, truck, bus, motor home or other self-propelled vehicle used or suited to use for on-road transportation; and any similar vehicle modified for off-road use; motorized equipment (cement mixers, compressors, etc.); and un-motorized equipment (trailers, campers, etc.)

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

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

Water Quality Sensitive Area: means the areas located within or discharging directly to, or Tributary to ESAs (including open space, bluff/slope/canyon(s), and Floodway and Lagoon Habitat) that may be subject to additional BMP or other water quality protection measures to protect beneficial uses and comply with water quality standards. Development Projects, commercial and industrial dischargers located within WQSA are categorized as high priority because they pose a higher threat to water quality.

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

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.)

11.30.040 General Provisions.

A. Responsibility for Administration. This Ordinance shall be administered for the City of Del Mar by its Authorized Enforcement Officials.

B. Effective Date. This Ordinance shall take effect on April 16, 2008.

C. Construction and Application. Interpretation of the meanings of parts of this Ordinance shall assure consistency with the purpose and intent of this Ordinance. This includes but is not limited to consistency with the requirements of NPDES Permit No. CAS108758. This Ordinance is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this Ordinance should be considered minimum requirements, and where any provision of this Ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall take precedence.

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

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

F. City/County Permits and Approvals.

(1) Discretionary Permits. An application for any of the following discretionary permits or approvals shall be accompanied by plans demonstrating how the requirements of this Ordinance will be met, and the permit or approval shall not be approved unless the decision maker determines that the application complies with the requirements of this Ordinance:
[Ord. 752]

- a. Demolition Permit
- b. Agricultural Exemption
- c. Final Map Modification
- d. Grading Plan (including Modification or Renewal)
- e. Improvement Plan (including Modification)
- f. Landscape Plan
- g. Conditional Use Permit (including Modification or Minor

- Deviation)
- h. Design Review Permit (including Modification, Minor Deviation, or Extension)
- i. Land Conservation Permit
- j. Parcel Map Modification
- k. Reclamation Plan
- l. Site Plan (including Amendment)
- m. Solid Waste Facility Permit
- n. Tentative Map (including Resolution Amendment or Time Extension)
- o. Tentative Parcel Map
- p. Variance
- q. Watercourse Permit
- r. Coastal Development Permit
- s. Encroachment Permit - Discretionary

(2) Ministerial Permits. An application for any of the following ministerial permits or approvals shall be accompanied by plans demonstrating how the specifically applicable requirements, if any, set out in corresponding sections of the City Stormwater Standards Manuals will be met, and the permit or approval shall not be approved unless the decision maker determines that the application complies with those requirements.

- a. Building Permit
- b. Encroachment Permit - Ministerial
- c. On Site Wastewater System Permit
- d. Underground Tank Permit
- e. Well Permit

G. City Stormwater Standards Manuals. The City adopts Stormwater Standards Manuals to standardize the process and requirements of compliance methods. Stormwater Standards Manuals are part of the City's JURMP. Authorized Enforcement Officials may provide additional flexibility using the Guidance Documents authorized in subsection 11.30.040 H. below. The SUSMP requirements shall be incorporated into the Stormwater Manuals of the City of Del Mar. [Ord. 752]

H. Guidance Documents. Any Authorized Enforcement Official may prepare, circulate for public comment, disseminate and maintain guidance documents addressing the use of pollution prevention practices and BMPs for specific activities or facilities, and the elimination of illicit connections, and illegal disposal to the Stormwater Conveyance System or Waters of the United States. Guidance Documents may be included or reference in the City JURMP. Guidance Documents may include the County of San Diego Low Impact Development Handbook, the California Stormwater Quality Association

BMP handbooks, the County of San Diego's Project Clean Water Toolbox (of BMPs), and other comparable resources.

These guidance documents may set out additional compliance alternatives that, in specified circumstances, can provide the same environmental protection that is afforded by the BMPs required by this Ordinance or specified in the City Stormwater Standards Manuals.

These guidance documents may also identify practices that have been determined by the Authorized Enforcement Official to be additional BMPs that may be implemented for Land Disturbance Activities and Land Development Activities to prevent or control pollution to the Maximum Extent Practicable (MEP). These additional BMPs shall become mandatory for affected Dischargers after being issued through an Order pursuant to subsection 11.30.040 I. below.

Authorized Enforcement Officials and Authorized Enforcement Staff may also take these guidance documents into account when determining whether any practices used by a Discharger, or proposed in a grading plan, a Stormwater Pollution Prevention Plan (SWPPP), Stormwater Management Plan, an enforcement settlement offer, or any other submittal to the City, are BMPs that will prevent or control pollution to the MEP. These case-specific discretionary decisions may involve circumstances that were not anticipated when general guidance documents were prepared. Therefore, these guidance documents do not confer rights on Dischargers in these circumstances and do not constrain the discretion of Authorized Enforcement Officials or Authorized Enforcement Staff. Where appropriate, and provided the same protection is provided to the environment, Authorized Enforcement Officials and Authorized Enforcement Staff may depart from these guidance documents when making case-specific decisions authorized by this Ordinance.

I. Significant Sources of Pollutants. Authorized Enforcement Officials shall identify Discharges and categories of facilities and activities that are a significant source of contaminants to Waters of the United States, despite compliance with this Ordinance. If any such contamination problem is identified by the Authorized Enforcement Official or by Authorized Enforcement staff the Dischargers shall be Ordered by the Authorized Enforcement Official or by Authorized Enforcement Staff to install, implement and maintain additional BMPs to prevent or reduce contamination in stormwater and non-stormwater to the MEP. Any such Order shall specify a reasonable date by which those BMPs must be put in place. A failure to install, implement, or maintain additional BMPs as required by any such Order is a violation of this Ordinance.

J. Determining Whether a Discharge is "Tributary To" an Impaired Water Body. Areas within which facilities and sources will be presumed to be tributary to an impaired water body are

identified by the City. The presumption that a discharge is tributary to an impaired water body can be overcome for a particular discharge based on specific facts and analysis presented by a Discharger. In making a site-specific determination as to whether a discharge is tributary to an impaired water body, consideration may be given to the amount of water and pollutant discharged; to whether the pollutant for which the water body is impaired is a suspended or dissolved pollutant; to whether the pollutant is volatile or degradable; and to whether the pollutant is substantially removed during transport by any natural or man-made features or BMPs (sinks, infiltration areas, ponds or impoundments, vegetated swales or wetlands, media filtration devices, etc.) located between the site and the impaired water body. Any such analysis must consider common mechanisms for pollutant mobilization, remobilization, and transport over time. Any such analysis and determination shall be disclosed for public review and comment to the extent required by CEQA or by City procedures for permit issuance.

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

11.30.050 Discharge Prohibitions.

A. Illegal Discharges. The discharge of Pollutants directly or indirectly into the Stormwater Conveyance System or Receiving Waters in non-stormwater is prohibited, except as exempted in Section 11.30.060 of this Ordinance. The discharge of Pollutants directly or indirectly into the Stormwater Conveyance System or Receiving Waters in stormwater is prohibited, unless the applicable requirements of this Ordinance have been met.

B. Illegal Connection. The establishment of Illegal Connections is prohibited. The use of Illegal Connections is prohibited, even if the connection was established pursuant to a valid City/County permit and was legal at the time it was constructed.

C. Litter, Dumps, and Stockpiles. Throwing, depositing, leaving, abandoning, maintaining or keeping materials or wastes on public or private lands in a manner and place where they may result in an Illegal Discharge is prohibited unless written authorization is provided by the City.

D. Emergency Flares. The non-emergency use of flares is

prohibited unless written authorization is provided by the City.

11.30.060 Discharges Exempted from Discharge Prohibitions

A. Categorically Allowed Discharges. The following categories of non-stormwater discharges are exempt from discharge prohibitions established by this Ordinance and are not subject to section 11.30.070. Dischargers must, however, comply with any Order issued pursuant to subsection 11.30.040 I. of this Ordinance; and must install, implement and maintain the specifically applicable minimum BMPs, if any, set out in the City Stormwater Standards Manuals:

- discharges from potable water sources not subject to NPDES Permit No. CAG679001
- air conditioning condensation;
- flows from emergency fire fighting activities;
- springs;
- water line flushing.
- diverted stream flows (provided required permits are obtained);
- flows from riparian habitats and wetlands;
- foundation drains
- individual residential washing of vehicles on private property;
- rising ground water;
- swimming pool and spa discharges (if dechlorinated to less than one PPM chlorine);
- uncontaminated ground water infiltration [defined in 40 CFR 35.2005(20)] to stormwater conveyance system;
- uncontaminated pumped ground water;
- water from crawl space pumps; and
- water from footing drains.

B. Exemptions to Protect Public Health and Safety. Discharges determined by any Authorized Enforcement Official or by Authorized Enforcement Staff to be necessary to protect public health and

safety are exempt from discharge prohibitions established by this Ordinance, provided any conditions on such discharges imposed by the Authorized Enforcement Official or Authorized Enforcement Staff are satisfied. In emergency circumstances, the determination of an Authorized Enforcement Official or Authorized Enforcement Staff that a discharge is necessary may initially be oral but must be promptly confirmed in writing by an Authorized Enforcement Official or by Authorized Enforcement Staff. In non-emergency situations, a prior written determination is required to exempt a discharge.

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

D. Exemptions Not Absolute. Any discharge category described in subsection 11.30.060 A. above that is a significant source of pollutant to waters of the United States shall be prohibited from entering the stormwater conveyance system, or shall be subjected to a requirement to implement additional BMPs to reduce pollutants in that discharge to the MEP and as described in the Stormwater Standards Manuals. Such prohibitions shall be effective on a schedule specified by an Authorized Enforcement Official in a written notice to the Discharger. That schedule may take into account the nature and severity of any effects caused by the discharge; and the time required to design, engineer, fund, procure, construct and make appropriate BMPs operational.

11.30.070 Best Management Practice Requirements and General Requirements of All Dischargers.

A. Applicable Requirements. All Dischargers in the City must comply with the generally applicable prohibitions and requirements in sections 11.30.010 through 11.30.070 of this Ordinance, and must also comply with any other parts of this Ordinance that are applicable to the type of facility or activity owned or operated by that Discharger.

B. Minimum Best Management Practices for All Dischargers. All dischargers in the City must install, implement and maintain the minimum BMPs outlined in the City's Stormwater Standard Manuals. General categories of minimum BMPs include:

(1) Soil Erosion. Prior to a forecast rain event, Dischargers shall install BMPs to prevent erosion, and significant accumulations of eroded soils from slopes, previously disturbed by clearing or grading, to prevent sediment from entering the Stormwater Conveyance System or Receiving Waters.

(2) Pollution Prevention. Dischargers shall implement those

stormwater pollution prevention practices that are generally recognized in that Discharger's industry or business as being effective and economically feasible.

(3) Prevention of Illegal Discharges. Illicit connections must be eliminated (even if the connection was established pursuant to a valid permit and was legal at the time it was constructed), and illegal discharge practices eliminated.

(4) Slopes. Completed slopes that are 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 protected from erosion immediately following completion of the slope, and continuously thereafter.

(5) 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 stormwater, or the contaminated runoff contained for proper and legal treatment and disposal.

(6) 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, etc.) shall be used in accordance with label directions. No such product may be disposed of or rinsed into Receiving Waters or the Stormwater Conveyance System.

C. Inspection, Maintenance, Repair and Upgrading of BMPs. BMPs at manned facilities must be inspected by the Discharger before forecast rain events and when safe and feasible during and after a rain event. BMPs at unmanned facilities must be inspected by the Discharger at least once during the rainy season and at least once between each rainy season. These BMPs must be maintained so that they continue to function as designed. BMPs that fail must be repaired as soon as it is safe to do so. If the failure of a BMP indicates that the BMPs in use are inappropriate or inadequate to the circumstances, the BMPs must be modified or upgraded to prevent any further failure in the same or similar circumstances.

D. Stormwater Pollution Prevention Plan. An Authorized Enforcement Official may require a Commercial, Industrial or Land Disturbance Activities Discharger to prepare and submit a SWPPP for approval by that official if (1) the Discharger does not come into compliance with this Ordinance after one or more warnings or other enforcement action, because BMPs are inadequate or are not being adequately maintained; or (2) the facility or activity at issue is a significant source of contaminants to the Stormwater Conveyance

System or Receiving Waters despite compliance with this Ordinance. Any Discharger required to submit and to obtain approval of a SWPPP should install, implement and maintain the BMPs specified in the approved SWPPP.

The SWPPP shall identify the BMPs that will be used by the Discharger to prevent or control pollution of stormwater to the MEP. If the facility is an industrial facility, the SWPPP submitted to the City shall at a minimum meet the requirements of the State General Industrial Stormwater Permit. If the activity at issue is a construction or land disturbance activity, the SWPPP submitted to the City shall at a minimum meet the requirements of the State General Construction Stormwater Permit.

Whenever submission of a SWPPP is required pursuant to this Ordinance, an Authorized Enforcement Official or Authorized Enforcement Staff may take existing City guidance documents into account when determining whether the BMPs proposed in the SWPPP will prevent or control pollution to the required level of MEP.

E. Notification of Spills, Releases and Illegal Discharges. Spills, releases, and illegal discharges of Pollutants to Receiving Waters or to the Stormwater Conveyance System shall be reported by the Discharger as required by all applicable state and federal laws. In addition, any such spills, releases and illegal discharges with the potential to endanger health, safety or the environment shall be reported to the City within 24 hours after discovery of the spill, release or discharge. If safe to do so, necessary actions shall be taken to contain and minimize the spill, release or illegal discharge.

F. Sampling, Testing, Monitoring, and Reporting. Commercial, Industrial or Land Disturbance Activities Dischargers shall perform the sampling, testing, monitoring and reporting required by this Ordinance. In addition, an Authorized Enforcement Official or Authorized Enforcement Staff may order a Discharger to conduct testing or monitoring and to report the results to the City if (1) the Authorized Enforcement Official determines that testing or monitoring is needed to determine whether BMPs are effectively preventing or reducing pollution in stormwater to the MEP, or to determine whether the facility is a significant source of contaminants to Receiving Waters; or (2) the Authorized Enforcement Official or Authorized Enforcement Staff 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 an Authorized Enforcement Official or Authorized Enforcement Staff; or (4) repeated violations have been documented by written notices from Authorized Enforcement Officials or Authorized Enforcement Staff;

or (5) the RWQCB requires the City to provide any information related to the Discharger's activities.

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

- (1) Visual monitoring of dry weather flows, wet weather erosion, and/or BMPs;
- (2) Visual monitoring of premises for spills or discharges;
- (3) Laboratory analyses of stormwater or non-stormwater 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 (or by a group of Dischargers including the Discharger).

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

G. Mitigation. All Illegal Discharges must be mitigated within a reasonable period of time to correct or compensate for all damage to the environment caused by the illegal discharge. The Authorized Enforcement Official or Authorized Enforcement Staff, who issued notice to the Discharger that a discharge was illegal, or Authorized Enforcement Staff designated by that official, shall determine whether mitigation measures proposed or completed by the discharger meet this standard. The Authorized Enforcement Official or Authorized Enforcement Staff shall require the Discharger to submit a mitigation plan and schedule by a specified date prior to taking action, and to submit a summary of completed mitigation by a specified date.

H. Access for Inspections. All dischargers shall provide access to authorized enforcement staff, upon reasonable notice, for inspection of facilities and discharges subject to this Ordinance. [Ord. 752]

11.30.080 Additional Minimum Best Management Practice Requirements for Residential Activities and Facilities

A. Applicable Requirements. The requirements in this section apply to all Residential Dischargers and any Regulated Commercial Business conducting residential activities on behalf of a

Residential Discharger. All Residential Dischargers conducting activities must install, implement and maintain the BMPs identified in Section 11.30.070 B. for all Dischargers, and at least the additional minimum BMPs specified in the City's Stormwater Standards Manuals for the category of activities conducted by that Discharger including but not limited to:

- (1) vehicle maintenance;
- (2) vehicle washing;
- (3) irrigation practices and management;
- (4) irrigation system testing;
- (5) landscape maintenance;
- (6) fertilizer application;
- (7) pesticide application;
- (8) pest waste disposal;
- (9) power washing;
- (10) septic system maintenance;
- (11) sanitary sewer system maintenance;
- (12) minor home maintenance, repair and upgrades.

11.30.090 Additional Minimum Best Management Practice Requirements for Commercial Activities and Facilities

A. Priorities and Requirements. Regulated Commercial Facilities are classified in this section as High Priority, and additional requirements are imposed on those facilities by this section based on those classifications. All commercial Dischargers must install, implement and maintain at least the additional minimum BMPs, if any, specified in this section or in the City Stormwater Standards Manuals for the priority classification and category of activity or facility owned or operated by that Discharger. All Regulated Commercial Facilities shall review their facilities, activities, operations and procedures at least annually to detect and eliminate illicit connections and illegal discharges. Corrective training shall be provided as needed (and documented in training records) whenever an illegal disposal practice is discovered.

B. High Priority Commercial Facilities Identified. As required by NPDES Permit No. CAS 0108758, facilities in the City having any of the following characteristics are High Priority Commercial Facilities:

- (1) The facility is a Regulated Commercial Facilities primarily engaged in any of the following commercial activities:
 - Airplane mechanical repair, maintenance, fueling, or cleaning;

- Vehicle parking lots and storage facilities;
- Vehicle body repair or painting;
- Vehicle repair, maintenance, fueling, or cleaning;
- Botanical or zoological gardens and exhibits;
- Cement mixing or cutting;
- Cemeteries;
- Eating or drinking establishments, including food markets;
- Golf courses, parks and other recreational areas/facilities;
- Landscaping;
- Marinas;
- Masonry;
- Mobile Vehicle washing;
- Mobile carpet, drape or furniture cleaning;
- Nurseries and greenhouses operations;
- Painting and coating;
- Pest control services;
- Pool and fountain cleaning;
- Portable sanitary services;
- Retail or wholesale fueling;
- Building material retailers and storage;
- Animal facilities or services; or
- Power washing services.

(2) The facility is a Regulated Commercial Facility that has outdoor Industrial Areas totaling two (2) acres or more or an outdoor parking lot for 100 or more vehicles; and stormwater

or runoff from the facility may adversely affect impaired waters or waters within an ESA.

(3) The facility is a Regulated Commercial Facility and has been notified in writing by an Authorized Enforcement Official or Authorized Enforcement Staff that it is a High Priority Commercial Facility. Such designations shall take effect 90 days after mailing or service of this notice. These designations shall be made where the facility discharges a pollutant load in stormwater or runoff that causes or contributes to the violation of water quality standards.

C. Additional Minimum Best Management Practices for All Regulated Commercial Facilities. All Regulated Commercial Facilities shall install, implement and maintain the BMPs specified in the City Stormwater Standards Manuals in the following areas or for these activities:

- Employee training, including attendance logs;
- Stormwater pollution prevention plans;
- Storm drain tileage and signing;
- Pollution prevention;
- Materials and waste management loading and storage;
- Vehicles and equipment storage and operations;
- Building and Outdoor areas, including power washing and cleaning.

11.30.100 Additional Minimum Best Management Practice Requirements for Industrial Activities and Facilities

A. Priorities and Requirements. Regulated Industrial Facilities are classified in this section as High Priority, and additional requirements are imposed on those facilities by this section based on those classifications. All Industrial Dischargers must install, implement and maintain at least the additional minimum BMPs, if any, specified in this section or in the City Stormwater Standards Manuals for the priority classification and category of activity or facility owned or operated by that Discharger. All Regulated Industrial Facilities shall review their facilities, activities, operations and procedures at least annually to detect and eliminate illicit connections and illegal discharges. Corrective training shall be provided as needed (and documented in training records) whenever an illegal disposal practice is

discovered.

B. High Priority Industrial Facilities. Regulated Industrial Facilities that have any of the characteristics listed below are High Priority Industrial Facilities:

(1) The facility is subject to the State General Industrial Stormwater Permit, taking into account all of the provisions of that permit.

(2) The facility is a Regulated Industrial Facility and urban runoff from the facility is Tributary To or discharges directly to an Impaired Water Body, and the facility generates a pollutant for which that water body is impaired.

(3) The facility is a Regulated Industrial Facility and is located within or adjacent to (i.e., within 200 ft. of), or discharges directly to, a WQSA.

(4) The facility is subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA).

(5) The facility was notified in writing by an Authorized Enforcement Official or Authorized Enforcement Staff that it has been designated a High Priority Industrial Facility. Such designations shall take effect 90 days after mailing or service of notice. These designations shall be made where the facility discharges a pollutant load in stormwater or runoff that causes or contributes to the violation of water quality standards.

C. Additional Minimum BMPs and Other Additional Requirements for High Priority Industrial Facilities.

(1) Notice of Intent. High Priority Industrial Dischargers required to comply with the State Industrial General Stormwater Permit shall maintain on site and make available for inspection on request by the City the state-issued Waste Discharge Identification Number (WDID) for the facility, and a copy of the Notice of Intent (NOI) filed with the SWRCB pursuant to comply with that permit. The Discharger shall submit the WDID and a copy of that NOI to the City by mail if directed to do so by an Authorized Enforcement Official or Authorized Enforcement Staff.

(2) Stormwater Pollution Prevention Plan. Dischargers required to prepare a SWPPP under the State General Industrial Stormwater Permit must prepare the Plan, implement the Plan and maintain it at the site readily available for review. If a

High Priority Industrial Facility is not required to prepare a state SWPPP, the facility shall prepare a SWPPP, submit that SWPPP for approval or modification and approval, implement the SWPPP, and maintain it on site. Failure to comply with an applicable state-required or City-required SWPPP is a violation of this Ordinance.

(3) Pollution Prevention Practices. High Priority Industrial Facilities shall consider and where determined to be appropriate by the facility shall implement the following measures to prevent the pollution of stormwater and runoff:

- The use of smaller quantities of toxic materials or substitution of less toxic materials;
- Changes to production processes to reduce waste;
- Decreases in waste water flows;
- Recycling of wastes as part of the production process;
- Segregation of wastes, and
- Treatment of wastes on site to decrease volume and/or toxicity.

(4) Non-Structural BMPs. High Priority Industrial Facilities shall incorporate into the SWPPP, and install implement and maintain, the following non-structural BMPs for the specified activities or areas. The implementation of these BMPs shall be consistent with specifications, if any, contained in the City Stormwater Standards Manuals.

- Material handling and storage
- Non-hazardous and hazardous waste handling and recycling;
- Employee training programs;
- Good housekeeping;
- Equipment and building preventive maintenance;
- Self inspection; and
- Spill response planning and prevention.

(5) BMPs for Specific Activities. High Priority Industrial Facilities shall incorporate into the SWPPP, and install

implement and maintain BMPs as specified in the City Stormwater Standards Manuals for any commercial activities conducted at the facility (as identified in section 11.30.090 C.), and for areas at the facility where industrial activities are conducted. Industrial areas or activities include but are not limited to the following:

- Raw or processes materials bulk storage;
- Mixing, where there is the potential for release of a pollutant;
- Cutting, trimming or grinding in connection with a production process;
- Casting, forging, or forming;
- Hazardous materials storage (including tanks);
- Construction, painting and coating;
- Pesticide or other chemical products formulation or packaging;
- Process water pre-treatment;
- Solid waste storage;
- Wastewater treatment;
- Welding;
- Blasting;
- Chemical treatment; and
- Power washing.

(6) Additional Structural BMPs. High Priority Industrial Facilities shall incorporate into the SWPPP, and install, implement and maintain one or more of the additional structural BMPs listed below where practicable, if use of such BMPs would significantly reduce pollution in run-off from the facility. The Discharger shall determine in the first instance which of these BMPs to implement. However, an Authorized Enforcement Official or Authorized Enforcement Staff can order that additional BMPs be used at a particular facility pursuant to section 11.30.040 I.

- Overhead coverage of outdoor work areas or chemical

storage;

- Retention ponds, basins, or surface impoundments that confine stormwater to the site;
- Berms and concrete swales or channels that divert run-on and runoff away from contact with pollutant sources;
- Secondary containment structures; and
- Treatment controls, e.g., infiltration devices and oil/water separators, to reduce pollutants in stormwater or authorized non-stormwater discharges.

D. Monitoring at High Priority Industrial Facilities. Dischargers owning or operating High Priority Industrial Facilities required to conduct monitoring under the State Industrial General Stormwater Permit shall make records of such monitoring available for inspection, and submit a copy of such records to the City if directed to do so by an Authorized Enforcement Official or Authorized Enforcement Staff. State exceptions from monitoring requirements are also applicable to this requirement, and group monitoring approved by the State is also acceptable to the City. The City may direct that any required records be submitted in a specified electronic format. Dischargers owning or operating manned High Priority Industrial Facilities that are not required to conduct monitoring under the State Industrial General Stormwater Permit, and which would not qualify for an exemption from monitoring under the terms of that permit if the permit were applicable, must develop and implement a monitoring program that meets the following minimum criteria:

(1) Quantitative stormwater data must be obtained from two storm events in a year;

(2) These monitoring events must address:

- Pollutants listed in any effluent guidelines subcategories applicable to the facility;
- Pollutants with effluent limits established by an existing NPDES permit for that facility;
- Oil/grease or total organic carbon;
- pH;
- Total suspended solids;

- Specific conductance; and
- Toxic chemicals and other pollutants likely to be present in stormwater discharges.

This monitoring must be conducted under the conditions set out in the State Industrial General Stormwater Permit. The Discharger must retain records of such monitoring on site, make such records available for inspection, and submit a copy of such records to the City if directed to do so by an Authorized Enforcement Official or Authorized Enforcement Staff.

11.30.110 Additional Minimum Best Management Practice Requirements for Agricultural Operations.

A. Nursery and Greenhouse Operations. Pursuant to NPDES Permit No. CAS0108758, nursery and greenhouse operations are classified as commercial operations for purposes of this Ordinance, and are subject to all requirements for Regulated Commercial Facilities set out in this Ordinance.

B. Agricultural Grading and Clearing. The BMP requirements imposed by section 11.30.140 of this Ordinance for land disturbance activities apply to agricultural grading and clearing, whether or not a City/County-issued grading and clearing permit is required for that activity. Tilling or cultivating land exclusively for the purpose of growing plants or animals is not considered to be grading or clearing, provided all disturbed material remains on the same site, the tilling or cultivating will not block or divert any natural drainage way, and the land to be tilled or cultivated has been in agricultural production for at least one (1) of the preceding five (5) years.

C. Land Development Associated with Agricultural Operations. The requirements imposed by section 11.30.150 of this Ordinance for land development activities apply to such activities when they are associated with agricultural operations.

D. Manure Management.

(1) Where practicable, all runoff from areas where livestock, horses or other large animals are confined must be collected and managed in a manner that avoids a discharge to the stormwater conveyance system or receiving waters. Where this is not practicable, manure must be cleaned up at least twice weekly; and must either be composted, or stored prior to disposal.

(2) Areas used for storing or composting manure must be

located, configured or managed to prevent runoff to receiving waters or the stormwater conveyance system.

(3) Animal wastes shall not be disposed to the stormwater conveyance system or receiving waters.

E. Other Agricultural Operations. Other agricultural operations are subject to the discharge prohibitions and other requirements set out in sections 11.30.010 through 11.30.070 of this Ordinance.

11.30.120 Additional Best Management Practice Requirements for Municipal Activities and Facilities.

A. Municipal Facilities. Municipal Facilities must meet the requirements set out in sections 11.30.010 through 11.30.070, and where applicable, sections 11.30.140 and 11.30.150 of this Ordinance. In addition, these facilities and activities must install, implement and maintain at least the additional minimum BMPs, if any, specified in section 11.30.090 or in the City Stormwater Standards Manuals, for municipal areas and activities at the municipal facility.

B. Public Improvement Projects. It is the policy of the City that public improvement projects in the City shall conform to the requirements this ordinance would impose on similar private development projects within the City. These projects must meet the requirements set out in this Ordinance, and must be designed and constructed in accordance with the SUSMP if applicable. [Ord. 752]

11.30.130 City Stormwater Standards Manuals.

A. City Stormwater Standards Manuals. All Dischargers who are required by this Ordinance to install, implement and maintain BMPs shall ensure that their selection of BMPs is consistent with the applicable specifications, if any, contained in the City Stormwater Standards Manual, for the category and priority of activity or facility owned or operated by that Discharger. All BMPs installed, implemented or maintained to meet the requirements of this Ordinance must conform to the applicable specifications, if any, set out in the City Stormwater Standards Manuals.

B. Existing Facilities. The City Stormwater Standards Manuals sets out minimum BMPs and other objective specifications for specific types and categories of existing facilities and activities. Where minimum BMPs and objective specification are specified, they are mandatory. Where no minimum BMPs have been specified in the City Stormwater Standards Manuals for a type and category of facility or activity, only the requirements set out in

this Ordinance are applicable. Deviations from the minimum BMPs set out in the manuals are allowed in the following circumstances: (1) the City determines pursuant to subsection 11.30.040 I. of this Ordinance to issue an Order to require alternative BMPs, and provides the required written notice; or (2) a City Guidance Document prepared pursuant to subsection 11.30.040 H. sets out additional compliance alternatives that may be used in lieu of the BMPs specified in the manuals, and the Discharger secures a permit enforceable by the City that requires the use of specific equally effective alternative BMPs.

C. Ministerial Land Development Projects. Requirements applicable to development projects requiring only the kinds of ministerial permits listed in subsection 11.30.040 F.(2) of this Ordinance are set out in separately identified sections of the manuals. Other requirements in the manuals are not applicable to these projects during the development process. However, some additional requirements will apply to completed projects when they become subject to this Ordinance as residential, commercial or industrial facilities.

D. Discretionary Land Development and Redevelopment Projects. The manuals set out minimum BMPs, other objective specifications, and Performance Standards for Land Development projects requiring one or more of discretionary permits listed in subsection 11.30.040 F.(1) of this Ordinance. The minimum BMPs and other objective specifications in the manuals are applicable to both ministerial and discretionary land development projects. The Performance Standards in the manuals are applicable to projects that require a discretionary City/County permit or approval, and shall be implemented through specific permit conditions. Development project proponents must determine whether their project low impact development design, source control and any required treatment control BMPs will meet these Performance Standards for their facility or activity, and must redesign their project and/or install, implement and maintain additional BMPs where needed to meet applicable Performance Standards.

11.30.140 Additional Requirements for Land Disturbance Activities.

A. Permit Issuance. No land owner or development project proponent shall receive any City/County grading, clearing, building or other land development permit required for Land Disturbance Activity without first meeting the requirements of this Ordinance with respect to the portion of the development project and the Land Disturbance Activity to which the permit at issue would apply.

B. Owners and Operators Both Responsible and Liable. Persons

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

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

D. Additional Minimum BMPs for Land Disturbance Activities. Whether a City/County permit or approval is required or not, and whether a Stormwater Management Plan is required to be submitted or not, all Discharges engaged in Land Disturbance Activities shall implement General Site Management and Erosion and Sediment Control BMPs as detailed in the City Stormwater Standards Manuals. The BMPs shall be considered in the following additional areas if applicable to the project: [Ord. 752]

(1) General Site Management

- Pollution prevention, where appropriate.
- Development and implementation of a stormwater management plan.
- Minimization of areas that are cleared and graded to only the portion of the site that is necessary for construction
- Minimization of exposure time of disturbed soil areas;
- Minimization of grading during the rainy season and correlation of grading with seasonal dry weather periods to the extent feasible.
- Limitation of grading to a maximum disturbed area as feasible for the site conditions and project phase before either temporary or permanent erosion controls are implemented to prevent stormwater pollution. The City may temporarily increasing the size of disturbed soil areas by a set amount beyond the defined maximum, if the individual site implemented initial adequate BMPs prevent stormwater pollution.
- Temporary stabilization and reseeded of disturbed soil areas as rapidly as feasible;
- Preservation of natural hydrologic features where feasible;

- Preservation of riparian buffers and corridors where feasible;
- Maintenance of all BMPs, until removed; and
- Retention, reduction, and proper management of all pollutant discharges on site to the MEP standard.

(2) Erosion and Sediment Controls

- Erosion prevention, as the primary BMP to keep sediment on site during construction;
- Sediment controls, as a supplement BMPs to erosion prevention;
- Slope stabilization on all inactive slopes during the rainy season and during rain events in the dry season;
- Slope stabilization on all active slopes during rain events regardless of the season; and
- Permanent revegetation or landscaping as early as feasible.

E. Advanced Treatment Control. The City will consider project Stormwater Management Plans using Advanced Treatment control for sediment as an alternative to the BMPs in subsections 11.30.140 D.(1) and 11.30.140 D.(2) if the applicant can demonstrate, to the satisfaction of the City, that the Advanced Treatment Control is at least as effective as General Site Management and Erosion and Sediment Controls.

F. Control to the Maximum Extent Practicable. All Dischargers engaged in Land Disturbance Activities must install, implement and maintain those additional BMPs, if any that are needed to prevent or reduce pollutant discharges in stormwater from land disturbance to the MEP.

G. Notice of Intent. Dischargers required to comply with the State Construction General Stormwater Permit shall maintain on site and make available for inspection on request by the City any state-issued Waste Discharge Identification Number (WDID) for the site, and a copy of the Notice of Intent (NOI) filed with the SWRCB pursuant to that permit.

H. Stormwater Pollution Prevention Plan. Dischargers required to prepare a SWPPP under the State General Construction Stormwater Permit must prepare the Plan, implement the Plan and maintain it at the site, readily available for review. Failure to comply with an applicable state-required SWPPP is a violation of this Ordinance.

I. Facility Monitoring. Dischargers required to conduct monitoring under the State Construction General Stormwater Permit must conduct such monitoring in conformance with requirements

specified by the State, retain records of such monitoring on site, and make such records available for inspection by an Authorized Enforcement Official or Authorized Enforcement Staff.

11.30.150 Additional Planning, Design and Post-Construction Requirements for All Land Development and Redevelopment Projects.

A. Application to Development and Redevelopment Projects. No landowner or development project proponent in the City shall receive any City/County permit or approval listed in subsection 11.30.040 F. of this Ordinance for Land Development Activity or redevelopment activity unless the project meets or will meet the requirements of this Ordinance. Post-Construction BMP requirements imposed by this section and by the City Stormwater Standards Manuals shall not apply to those physical aspects of the project that have been completed or substantially completed pursuant to and as required by a valid City/County permit or approval, at the time a complete application for a subsequent permit or approval is submitted.

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

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

D. Post-construction BMPs shall be selected, designed, and sized for approval by the City as part of the development permit application by submitting the plans or documents specified in the City SUSMP and using the City templates or forms.

E. Post-Construction Stormwater Management Plan. All applications to the City for a permit or approval associated with a land development or redevelopment activity must be accompanied by a Post-Construction Stormwater Management Plan on a form or in a format specified by the City. The plan shall specify the manner in which the Discharger/Applicant will implement the post-construction BMPs required by this Ordinance. The plan must address those

aspects of the project that, at the time a complete application is submitted, are subject to further environmental review pursuant to section 15162 of the California Environmental Quality Act.

F. Stormwater Management Plan Review Deposit. Stormwater Management Plan Review, including SWPPPs, fees may be set, from time to time, by resolution of the City Council.

G. Additional Minimum Post-Construction BMPs for Land Development Activities. Whether a City/County permit or approval is required or not, and whether a Post-Construction Stormwater Management Plan is required to be submitted or not, all Dischargers engaged in land development or redevelopment activities in the City shall implement post-construction BMPs in the following areas if applicable to the project:

(1) BMPs for permanent control of erosion from slopes. These BMPs can include structures to convey runoff safely from the tops of slopes, vegetation or alternative stabilization of all disturbed slopes, the use of natural drainage systems to the MEP, flow and velocity controls upstream of sites; and stabilization or permanent channel crossings, unless the crossing is not publicly accessible and is not frequently used.

(2) BMPs to control flows, velocity and erosion. These BMPs can include but are not limited to the use of energy dissipaters, such as riprap, at the outlets of storm drains, culverts, conduits, or lined channels that enter unlined channels to minimize erosion; installation of retention or equalization basins, or other measures. Flow control and downstream erosion protection measures shall prevent any significant increase in downstream erosion as a result of the new development, but shall not prevent flows needed to sustain downstream riparian habitats or wetlands.

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

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

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

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

discharges.

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

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

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

(10) Other applicable BMPs required by the City Stormwater Standards Manuals.

H. Control to the Maximum Extent Practicable. All Discharges engaged in Land Development and Redevelopment Activities shall install, implement and maintain post-construction BMPs as needed to prevent or reduce pollutant discharges in stormwater from land disturbance to the MEP.

I. Priority Development Projects. All priority development projects and redevelopment projects (including ministerial projects) shall be designed using the methods and including the studies and reviews described in the SUSMP. [Ord. 752]

11.30.160 Maintenance of BMPs

A. Existing Development. Residential, commercial, industrial, agricultural and municipal dischargers shall maintain the BMPs implemented to achieve and maintain compliance with this Ordinance.

B. New Development. The owners and occupants of lands on which structural post-construction BMPs have been installed to meet the requirements of this Ordinance shall ensure the maintenance of

those BMPs, and shall themselves maintain those BMPs if other persons or entities who are also obliged to maintain those BMPs (by contract or covenant, or pursuant to this Ordinance) fail to do so.

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

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

E. Disclosure of Maintenance Obligations: Any developer who transfers ownership of land on which a BMP is located or will be located, or who otherwise transfers ownership of a BMP or responsibility for the maintenance of a BMP to another person or entity, shall provide clear written notice of the maintenance obligations associated with that BMP to the new or additional responsible party prior to that transfer.

F. Maintenance Plans for Land Development Projects. The proponents of any land development project or redevelopment project that requires a discretionary City/County permit, shall provide to the City for review and approval prior to issuance of such permit, a plan for maintenance of all post-construction structural BMPs associated with the project. The plan shall specify the persons or entities responsible for maintenance activity, the persons or entities responsible for funding, schedules and procedures for inspection and maintenance of the BMPs, worker training requirements, and any other activities necessary to ensure BMP maintenance. The plan shall provide for servicing of all post-construction structural treatment -BMPs at least annually and prior to the start of the rainy season, and for the retention of inspection and maintenance records for at least three (3) years.

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

maintenance of those BMPs.

H. Assurance of Maintenance for Land Development Projects. The proponents of any land development or redevelopment project that requires a discretionary City/County permit, shall provide to the City prior to issuance of such permit, proof of a mechanism acceptable to the City which will ensure ongoing long-term maintenance of all structural post-construction BMPs associated with the proposed project. The proponents shall be responsible for maintenance of BMPs unless and until an alternative mechanism for ensuring maintenance is accepted by the City and becomes effective.

11.30.170 Inspection/Sampling

A. Regulatory Inspections. Authorized Enforcement Officials and Authorized Enforcement Staff may inspect facilities, activities and residences subject to this Ordinance at reasonable times and in a reasonable manner to carry out the purposes of this Ordinance. If entry for a regulatory inspection is refused by the facility owner or operator, or by the occupant of a residence, an inspection warrant shall be obtained prior to inspection.

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

C. 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 Ordinance, whether those BMPs are being properly operated and maintained, and whether the facility or activity complies with the other requirements of this Ordinance. This may include but may not be limited to sampling, metering, visual inspections, and records review. Where samples are collected the owner or operator may request and receive split samples. Records, reports, analyses, or other information required under this Ordinance may be inspected and copied, and photographs taken to document a condition and/or a violation of this Ordinance.

11.30.180 Enforcement Authorized Enforcement Officials and

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

A. Administrative Authorities.

(1) Administrative Penalties. Administrative penalties may be imposed pursuant to Chapter 1, Division 8 of Title 1 of the County Code of Regulatory Ordinances (Sections 18.101 et seq.), hereby adopted by reference. Any later-enacted administrative penalty provision in the County Code shall also be applicable to this Ordinance, unless otherwise provided therein.

(2) Warning Notices. Written and/or verbal warning notices of a violation may be issued for any impending Violation or Violation of this Ordinance including any Illegal Discharges and/or remove Illegal Connections.

(3) Notices of Violation. Written and/or verbal notices of violation may be issued for any Violation of this Ordinance including any Illegal Discharges and/or remove Illegal Connections. Issuance of a written and/or verbal Notice of Violation may also be subject to Enforcement provisions in Sections 1.08.010 through 1.08.050, and Administrative Citations in Chapter 1.10.

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

(5) Notice and Order to Clean, Test, or Abate. Written and/or verbal orders may be issued to perform activities listed in Section 11.30.070 where conditions warrant.

(6) Public Nuisance Abatement. Violations of this Ordinance are deemed a threat to public health, safety, and welfare; and are identified as a public nuisance. If actions ordered pursuant to this chapter are not performed, the Authorized Enforcement Official may abate any public nuisance. City costs for pollution detection and abatement, if not paid in full by the Discharger in addition to any other penalties, may be made a lien against the property in accordance with this procedure.

(7) Stop Work Orders. Whenever any work is being done contrary to the provisions of this Ordinance, or other laws implemented through enforcement of this Ordinance, an Authorized Enforcement Official may order the work stopped by notice in writing served on any person engaged in the doing or causing such work to be done, and any such person shall immediately

stop such work until authorized by the Authorized Enforcement Official to proceed with the work.

(8) Permit Suspension or Revocation. Violations of this Ordinance may be grounds for permit and/or other City license suspension or revocation.

B. Judicial Authorities.

(1) Civil penalties and remedies. The Del Mar City Attorney is hereby authorized to file civil actions in Superior Court to enforce this Ordinance, seeking civil penalties and/or other remedies as provided in this section and in Section 11.30.200 of this Ordinance. There is no requirement that administrative enforcement procedures be pursued before such actions are filed.

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

(3) Arrest or Issue Citations. The assistance of a peace officer may be enlisted to arrest violators as provided in California Penal Code, and/or a citation and notice to appear as prescribed in DMMC Chapter 1.08 and/or Title 3, Part 2 of the Penal Code, including Section 853.6 (or as amended) may be issued. There is no requirement that administrative enforcement authorities be used before such actions are filed. The immunities prescribed in Section 836.5 of the Penal Code are applicable to Authorized Enforcement Officials and Authorized Enforcement Staff acting in the course and scope of their employment pursuant to this Ordinance.

11.30.190 Other Acts and Omissions that are Violations In addition to the violations identified in sections 11.30.010 through 11.30.170 of this Ordinance, the following acts and omissions are violations of this Ordinance, whether committed by a Discharger or by another person or entity:

A. Causing, Permitting, Aiding, or Abetting Non-compliance. Causing, permitting, aiding, or abetting non-compliance with any part of this Ordinance constitutes a violation of this Ordinance.

B. Concealment, Misrepresentation and False Statements. Any falsification or misrepresentation made to the City concerning compliance with this Ordinance, including any misrepresentation in a voluntary disclosure, any submission of a report that omits required material facts without disclosing such omission, and any withholding of information required to be submitted by or pursuant to this Ordinance in order to delay City enforcement action, is a

violation of this Ordinance. Concealing a violation of this Ordinance is a violation of this Ordinance.

C. Failure to Promptly Correct Non-compliance. Violations of this Ordinance must be corrected with the time period specified by an Authorized Enforcement Official or Authorized Enforcement Staff. Each day (or part thereof) in excess of that period during which action necessary to correct a violation is not initiated and diligently pursued is a separate violation of this Ordinance.

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

11.30.200 Penalties

A. Administrative Penalties. Administrative penalties may be imposed pursuant to Code of Regulatory Ordinances, Division 8, title 1, sections 18.101 et seq., hereby adopted by reference. Any later-enacted administrative penalty provision in the County Code shall also be applicable to Ordinance, unless otherwise provided therein.

B. Misdemeanor Penalties. Non-compliance with any part of this Ordinance, other than section 11.30.080 (Residential Activities), constitutes a misdemeanor and may be enforced and punished as prescribed in the Penal Code and Government Code of the State of California.

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

D. For Civil Actions. In addition to other penalties and remedies permitted in this Ordinance, a violation of this Ordinance may result in civil actions. Except where a maximum monetary amount is specified, the following may also be awarded without monetary

limitations in any civil action:

- Injunctive relief;
- Costs to investigate, inspect, monitor, survey, or litigate;
- Costs to place or remove soils or erosion control materials, costs to correct any violation, and costs to restore environmental damage or to end any other adverse effects of a violation;
- Compensatory damages for losses to the City or any other plaintiff caused by violations; and/or Restitution to third parties for losses caused by violations; and
- Civil Penalties.

As part of a civil action filed by the City to enforce provisions of this Ordinance, a court may assess a maximum civil penalty of \$2,500 per violation of this Ordinance for each day during which any violation of any provision of this Ordinance is committed, continued, permitted or maintained by such person(s).

In determining the amount of any civil liability to be imposed pursuant to this Ordinance, the superior court shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, whether any discharge caused the violation is susceptible to cleanup or abatement, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any resulting from the violation, and such other matters as justice may require.

Penalties and Remedies Not Exclusive. Penalties and remedies under this Article may be cumulative and in addition to other administrative, civil or criminal remedies.