

**AN ORDINANCE TO AMEND SECTION 67.801 ET SEQ. OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATING TO WATERSHED PROTECTION**

The Board of Supervisors of the County of San Diego ordains as follows:

**Section 1.** The Board of Supervisors finds and determines that it is necessary to amend Title 6, Division 7, Chapter 8 of the San Diego County Code of Regulatory Ordinances relating to watershed protection, stormwater management and discharge control to ensure the County's ordinances enacted as part of its Jurisdictional Runoff Management Program implements California Regional Water Quality Control Board Order R9-2013-0001, NPDES No. CAS0109266, adopted by the California Regional Water Quality Control Board, San Diego Region, on May 8, 2013 as amended by Order Numbers R9-2015-0001 and R9-2015-0100.

**Section 2.** Amend Chapter 8 (Sections 67.801 through and including 67.821) to read as follows:

**SEC. 67.801. PURPOSE AND INTENT.**

(a) The purpose of this Chapter is to protect water resources and to improve water quality by controlling the stormwater conveyance system and receiving waters; to cause the use of management practices by the County and its citizens that will reduce the adverse effects of non-stormwater and polluted stormwater discharges to the stormwater conveyance system and receiving waters; to secure benefits from the use of stormwater as a resource; and to ensure the County is compliant with applicable state and federal law and California Regional Water Quality Control Board Order No. R9-2013-0001, NPDES No. CAS0109266 as amended by Order Numbers R9-2015-0001 and R9-2015-0100.

(b) The requirements of this Chapter are specifically intended to implement a Jurisdictional Runoff Management Program in accordance with California Regional Water Quality Control Board amended Order No. R9-2013-0001, NPDES No. CAS0109266. To the extent necessary to ensure compliance with this order, this Ordinance shall require the following:

- (1) Prohibit non-stormwater discharges to the stormwater conveyance system and receiving waters unless otherwise authorized by this Chapter.
- (2) Establish requirements to prevent and reduce pollution to water resources.
- (3) Establish requirements for development project site design to prevent non-stormwater discharges to the stormwater conveyance system and reduce stormwater pollution and erosion.
- (4) Establish requirements for the management of stormwater flows from development projects to prevent erosion and to protect and enhance existing water-dependent habitats.
- (5) Establish standards for the use of off-site facilities, when permissible, for stormwater management to supplement on-site practices at new development sites.

- (6) Establish notice procedures and standards for adjusting stormwater and non-stormwater management requirements, where necessary.

#### **SEC. 67.802. DEFINITIONS.**

Unless a different meaning is clearly intended and more protective of water quality under the circumstances, terms used in this Chapter shall have the same meaning as the same or equivalent term when defined in Attachment C of California Regional Water Quality Control Board amended Order No. R9-2013-0001, NPDES No. CAS0109266. For purposes of this Chapter subject to the foregoing limitation, the following definitions shall apply:

(a) "Authorized enforcement official" means the Director of Public Works, the Director of Planning and Development Services, the Director of Environmental Health, the Agricultural Commissioner, Department of Agriculture, Weights and Measures, or their designees.

(b) "Active/Passive Sediment Treatment" means using mechanical, electrical or chemical means to flocculate or coagulate suspended sediment for removal from runoff from construction sites prior to discharge.

(c) "Authorized non-stormwater discharge" means a discharge allowed to enter the stormwater conveyance system or receiving waters in accordance with a permit under the National Pollutant Discharge Elimination System or as specifically authorized by this Chapter.

(d) "Best management practices" (BMPs) shall have the same meaning as defined in the NPDES Order. Best management practices may include any type of pollution prevention and pollution control measure that achieves compliance with this Chapter.

(e) "Biofiltration" means practices that use vegetation and amended soils to detain and treat runoff from impervious areas. Treatment is through filtration, infiltration, adsorption, ion exchange, and biological uptake of pollutants.

(f) "BMP Design Manual" means the plan developed by the County in accordance with the NPDES Order to eliminate, reduce, or mitigate the impacts of water runoff from development projects and existing development.

(g) "Detention" means the temporary storage of storm run-off in a manner that controls peak discharge rates and provides some gravity settling of pollutants.

(h) "Detention facility" means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface run-off and gradual release of stored water at controlled rates.

(i) "Development project" means construction, rehabilitation, redevelopment, land disturbance activity, or reconstruction of any public improvement projects or private projects.

(j) "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 which one owns or

operates. When used as a noun, "discharge" means the pollutants, stormwater, or non-stormwater that are discharged.

(k) "Discharger" means any person or entity engaged in activities or operations or owning facilities, from which an allowed non-stormwater discharge to the stormwater conveyance system may or does originate or which will or may result in pollutants entering stormwater, the stormwater conveyance system, or receiving waters or the owners of real property on which such activities, operations or facilities are located, except that a local government or public authority is not a discharger as to activities conducted by others in public rights-of-way.

(l) "Environmentally sensitive area" or "ESA" means impaired water bodies, as defined by the federal 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) and areas designated as preserves for species-protection purposes by the State of California or a local government.

(m) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, and technological factors as determined in the sole discretion of the County. Feasibility may be limited in this Chapter to eliminate consideration of economic, environmental and other factors as, for example, where feasibility is specifically defined as technological feasibility.

(n) "Flow-thru treatment control BMPs" mean structural, engineered facilities that are designed to remove pollutants from stormwater runoff using treatment processes that do not incorporate significant biological methods. Examples include dry extended detention basins, sand filters, media filters, and vegetated swales.

(o) "Illicit connection" means any man-made conveyance or drainage system through which non-stormwater or pollutants in water, not authorized by an NPDES permit or the NPDES Order are discharged or may be discharged to the stormwater conveyance system.

(p) "Impervious surface area" means the ground area covered or sheltered by an impervious surface, measured in plan view. 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.

(q) "Infiltration BMPs" mean structural measures that capture, store, and infiltrate stormwater runoff. These BMPs are engineered to store a specified volume of water and have no design surface discharge (underdrain or outlet structure) until this volume is exceeded. Infiltration BMPs may also support evapotranspiration processes, but are characterized by having their most dominant volume losses due to infiltration. They are a type of retention BMP.

(r) "Land disturbance activity" means any activity, whether or not a stormwater quality management plan or County permit or approval is required, that moves soils or substantially alters the land such as 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; clearing or road-cutting associated with geotechnical exploration and assessment, percolation testing, or any

other activity that is a condition of a permit application; or any activity which bares soil or rock or involves streambed alterations or the diversion or piping of any watercourse.

(s) "Maximum extent practicable" (MEP) shall have the same meaning as defined in the NPDES Order.

(t) "Natural drainage" means a naturally occurring drainage consisting of native soils such as a natural swale or topographic depression which gathers or conveys run-off to a permanent or intermittent watercourse or water body.

(u) "Natural System Management Practices" (NSMP) means stormwater practices implemented to restore and/or preserve predevelopment watershed functions in lieu of providing direct pollutant removal and hydromodification flow control. NSMPs may include structural or engineered elements, but these elements do not expressly provide pollutant removal. NSMPs include land restoration, land preservation and stream rehabilitation projects.

(v) "Non-Stormwater" means all discharges to and from the stormwater conveyance system that do not originate from precipitation.

(w) "NPDES Order" shall mean and refer to California Regional Water Quality Control Board, San Diego Region Order No. R9-2013-0001, NPDES No. CAS00109266, as the same may be amended, modified or replaced from time to time.

(x) "Offsite Alternative Compliance Project" means a project implemented, either as a structural BMP or a Natural System Management Practice, which provides a greater overall water quality Benefit to the watershed management area and offset stormwater pollutant control impacts and hydromodification flow control impacts associated with Priority Development Projects (PDPs). Offsite Alternative Compliance Projects (ACP) may be implemented as an applicant-implemented ACP in which the ACP is owned or constructed by the same party that is generating the PDP impact. ACPs may be either structural BMPs or stormwater management practices implemented to restore and/or preserve predevelopment watershed function of a natural system.

(y) "Pollutant" means any agent that may cause, potentially cause or contribute to the degradation of water quality such that a condition of pollution or contamination is created or aggravated.

(z) "Pollutant Control BMP" (PC-BMP) means any engineered system designed to remove pollutants from stormwater by simple gravity settling of particulate pollutants, filtration, biological uptake, media absorption or any other physical, biological, or chemical process. They are also known as treatment control BMPs.

(aa) "Pollution prevention" means the practices and processes that reduce or eliminate the generation of pollutants such as 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 or toxicity.

(bb) "Priority Development Projects" (PDPs) are new development and redevelopment projects that are subject to general, source control site design, pollutant control, and hydromodification management BMP requirements, and that must demonstrate compliance through a stormwater quality management plan to be approved by the County.

(cc) "Public improvement projects" means any project for the erection, construction, alteration, repair or improvement of any public structure, building, road, or other public improvement of any kind.

(dd) "Rainy season" means from October 1 through April 30.

(ee) "Receiving waters" shall mean waters of the United States.

(ff) "Redevelopment" means creation, addition, or replacement of impervious surface on an already developed site. Examples include the expansion of building footprints, road widening, the addition or replacement of a structure, and creation or addition of impervious surfaces. Replacement of existing 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 existing roadways, new sidewalk construction, pedestrian ramps, or bike lane on existing roads; and routine replacement of damaged pavement, such as pothole repair.

(gg) "Residential discharger" means the occupant, owner, manager, caretaker, or owner's association that owns, occupies or has responsibility for a discharge from a single-family dwelling, a multiple-family dwelling, mobile home park, condominium complex, board-and-care house, or other housing structure or portion of a residential development from which the discharge originated.

(hh) "Regional Water Quality Control Board" or "RWQCB" means the California Regional Water Quality Control Board for the San Diego Region.

(ii) "Source control BMP" means land use or site planning practices, or structural or nonstructural measures that aim to prevent runoff pollution by reducing the potential for contamination at the source of pollution. Source control BMPs minimize the contact between pollutants and runoff.

(jj) "Stormwater conveyance system" means private and public drainage facilities other than sanitary sewers within the unincorporated area of San Diego County by which water 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.

(kk) "Stormwater Quality Management Plan" or "SWQMP" means a plan, submitted on a County form or in a County approved format with an application for a County permit or other County approval, identifying the measures that will be used for stormwater and non-stormwater management for a development project. There are two types of SWQMPs: a Standard SWQMP and a PDP SWQMP. A PDP SWQMP is required for all Priority Development Projects. Standard SWQMPs are required for all other development projects.

(ll) “Stormwater pollution prevention plan” (SWPPP) means an approved site-specific plan that (1) identifies and evaluates sources of pollutants associated with activities that may affect the quality of stormwater discharges, (2) eliminates non-stormwater discharges, and (3) identifies and implements site-specific BMPs to reduce or to prevent pollutants in stormwater or retain non-stormwater discharges.

(mm) “Structural BMPs” are a subset of BMPs which detain, retain, filter, remove, or prevent the release of pollutants and control runoff discharge rates to surface waters from development projects in perpetuity, after construction of a project is completed. These BMPs can satisfy the requirements for Pollutant Control BMPs and Hydromodification BMP requirements for Priority Development Projects.

(nn) “SUSMP” or standard urban stormwater mitigation plan for land development projects and public improvement projects means the SUSMP adopted by the County Board of Supervisors on November 13, 2002 pursuant to California Regional Water Quality Control Board Order No. 2001-01, as it may thereafter be revised by the Director, Department of Public Works. The County BMP Design Manual will supersede the SUSMP pursuant to the NPDES Order.

(oo) “Treatment control BMPs” are also known as a Pollutant Control BMPs (PC-BMPs).

(pp) “Tributary to an impaired water body” means any facility or activity that is a tributary to an impaired water body because urban run-off 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 to the impaired water body; (2) a flowing stream that will carry pollutants for which that water body is impaired to the impaired water body; or (3) an ephemeral stream that reaches the impaired water body during storm events and that will carry pollutants for which that water body is impaired during such storm events.

(qq) “Water quality standards” mean those regionally determined beneficial uses and water quality objectives in applicable water quality control and basin plans, together with anti-degradation policies that serve as water quality standards under the Clean Water Act.

(rr) “Watershed Management Areas” mean those areas identified in Table B-1 of the NPDES Order where the County is identified as a responsible Copermittee.

(ss) “Watershed Management Area Analysis” means the analysis completed pursuant to Section II.B.3.b.(4) of the NPDES Order.

(tt) “Water Quality Improvement Plans” mean the plans developed by the County in accordance with Section II.B. of the NPDES Order for the Watershed Management Areas.

### **SEC. 67.803. GENERAL PROVISIONS.**

(a) Interpretation of this Chapter shall be consistent with the provisions of state and federal clean water laws and the NPDES Order. The requirements of this Chapter are not intended to interfere with, abrogate or annul any other ordinance, rule, regulation, statute, or terms of the NPDES Order that apply to the operation of the stormwater conveyance system. The requirements of this Chapter are minimum requirements, and where any provision of this Chapter imposes restrictions different

from those imposed by any other ordinance (e.g., such as the County Subdivision Ordinance, Title 8, Division 1 of the San Diego County Code of Regulatory Ordinances, the County Grading Ordinance, Title 8, Division 7, Chapter 4, of the San Diego County Code of Regulatory Ordinances, or Part 3, commencing with Section 3000 of the San Diego County Zoning Ordinance regulating animal care), rule, regulation, statute, Stormwater Quality Management Plan, the BMP Design Manual, or the NPDES Order, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall take precedence.

(b) Except as set forth in Section 67.805, this Chapter shall apply to any development project in the County, whether or not a permit or other approval is required.

(c) If the authorized enforcement official identifies a discharge or category of facility or activity that is a source of a non-stormwater discharge in excess of what is allowed by this Chapter or of pollutants in stormwater or non-stormwater to the stormwater conveyance system or receiving waters, the discharger may be ordered by the authorized enforcement official to install, implement and maintain additional source control, structural or other BMPs to prevent or reduce the pollutant discharges to the MEP and non-stormwater discharges to the extent necessary to bring the discharge into compliance with this Chapter. Any such order shall specify a reasonable date by which those BMPs must be put in place. Failure to install, implement, or maintain additional BMPs as required by such order, is a violation of this Chapter.

(d) Areas within which facilities and sources will be presumed to be tributary to an impaired water body are identified on the most current listing in the Clean Water Act, Section 303(d). 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 (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.

(e) An authorized enforcement official may modify any requirement imposed by this Chapter to allow the on-site collection and use of stormwater, or the collection of stormwater for delivery to and use at County-designated sites, provided the modified requirements are enforceable, consistent with the NPDES Order and provide equivalent environmental protection.

#### **SEC. 67.804. DISCHARGE PROHIBITIONS.**

(a) It is unlawful for any person to discharge or cause the discharge of pollutants or non-stormwater directly or indirectly into the stormwater conveyance system or receiving waters, except as set forth in Section 67.805 or as otherwise authorized by law.

(b) It is unlawful for any person to construct, use or maintain a connection to the stormwater conveyance system that discharges any matter other than stormwater, except as set forth in Section

67.805(a). This Section expressly supersedes any previously issued permit or authorization granted by the County and expressly prohibits any previously legal non-conforming connection.

(c) It is unlawful to throw, deposit, leave, abandon, maintain, or keep materials or wastes on public or private lands in a manner and place where they may result in a discharge.

(d) Stormwater discharges from the site may not contain sediments in amounts in excess of the sediments that would have been discharged from the site in an undisturbed condition.

#### **SEC. 67.805. EXEMPTIONS FROM DISCHARGE PROHIBITIONS.**

The following are exempt from the prohibitions in Section 67.804:

(a) Any discharge or connection regulated under a valid facility-specific NPDES permit or non-stormwater discharges exempted pursuant to Section II.E.2. of the NPDES Order, provided that the discharge or connection is in compliance with all relevant permit conditions and the requirements of the NPDES Order to the satisfaction of the County or Regional Water Quality Control Board.

(b) Discharges of non-stormwater to the stormwater conveyance system covered by or meeting the exception criteria under NPDES Permit No. CAG919003 (Order No. R9-2015-0013, as it may be amended or reissued) for discharges to surface waters within the San Diego Region meeting the requirements enumerated below are allowed unless determined by the County or RWQCB to be a source of pollutants to receiving waters:

(1) Uncontaminated pumped ground water;

(2) Discharges from foundation drains if the system is designed to be located at or below the groundwater table to actively or passively extract groundwater during any part of the year;

(3) Water from crawl space pumps; and

(4) Water from footing drains if the system is designed to be located at or below the groundwater table to actively or passively extract groundwater during any part of the year.

(c) Non-stormwater discharges from water line flushing and water main breaks to the stormwater conveyance system are allowed provided the discharge is covered by NPDES Permit No. CAG679001 (Order No. R9-2010-0003, as it may be amended or reissued) or NPDES General Permit No. CAG140001 (Order 2014-0194-DWQ, as it may be amended or reissued) unless determined by the County or RWQCB to be a source of pollutants to receiving waters. This exemption does not cover discharges from recycled or reclaimed water lines unless covered by a separate NPDES permit.

(d) Discharges of non-stormwater to the stormwater conveyance system meeting the requirements enumerated below are allowed unless determined by the County or RWQCB to be a source of pollutants to receiving waters:

(1) Diverted stream flows;

(2) Rising ground waters;

- (3) Uncontaminated ground water infiltration to stormwater conveyance system;
- (4) Springs;
- (5) Flows from riparian habitats and wetlands;
- (6) Discharges from potable water sources;
- (7) Discharges from foundation drains where the system is designed to be located above the groundwater table at all times of the year, and the system is only expected to discharge non-stormwater under unusual circumstances; and
- (8) Discharges from footing drains where the system is designed to be located above the groundwater table at all times of the year, and the system is only expected to discharge non-stormwater under unusual circumstances.

(e) Discharges of non-stormwater to the stormwater conveyance system as enumerated below are allowed unless determined by the County or RWQCB to be a source of pollutants to receiving waters:

- (1) Air conditioning condensation
  - (A) Whenever feasible, the discharge of air conditioning condensation shall be directed to landscaped areas, pervious surfaces, or to the sanitary sewer.
- (2) Individual residential vehicle washing at a residence in accordance with Section 67.807(b)
  - (A) Whenever feasible, the discharge of wash water shall be directed to landscaped areas or other pervious surfaces; and
  - (B) The amount of water, washing detergent and other vehicle wash products used shall be the minimum amount necessary to completely wash the vehicle. This requirement shall be deemed violated if visible soap scum, oil sheen, or other by-products of residential vehicle washing reach the gutter or other drainage conveyance device in front of the residence where the vehicle is being washed.
- (3) Dechlorinated swimming pool discharges
  - (A) Residual chlorine from swimming pools and fountains must be eliminated prior to discharging to the stormwater conveyance system or receiving waters;
  - (B) Filter backwash, acid-wash water (pH <7.2 and > 8.0), and algacide-treated pool water shall be prohibited from discharge to the stormwater conveyance system or receiving water; and

(C) The discharge of saline swimming pool water must be directed to the sanitary sewer, landscaped areas, or other pervious surfaces that can accommodate the volume of water, unless the saline swimming pool water can be discharged via a pipe or concrete channel directly to a naturally saline water body (e.g. Pacific Ocean).

(f) Firefighting discharges to the stormwater conveyance system are only prohibited if determined to be a significant source of pollutants to receiving waters by the County or RWQCB. Firefighting discharges to the stormwater conveyance system not identified as a significant source of pollutants to receiving waters are allowed provided they meet the following requirements:

(1) Non-emergency firefighting discharges

(A) Building fire suppression system maintenance discharges (e.g. sprinkler line flushing) to the stormwater conveyance system are prohibited unless BMPs are implemented to prevent pollutants associated with such discharges from entering the stormwater conveyance system.

(B) Non-emergency firefighting discharges (i.e., discharges from controlled or practice blazes, firefighting training, and maintenance activities not associated with building fire suppression systems) must be addressed by a program developed and implemented by the County, to reduce or eliminate pollutants in such discharges from entering the stormwater conveyance system.

(2) Emergency firefighting discharges

(A) The development and implementation of BMPs to reduce or eliminate pollutants in emergency firefighting discharges to the stormwater conveyance system and receiving waters is encouraged, but not required. Notwithstanding the foregoing, the County may require the use of BMPs for firefighting discharges when determined by the authorized enforcement official to be necessary to eliminate or reduce the discharge of pollutants to the stormwater conveyance system or receiving waters. As applicable, required BMPs may include those described in Sections 67.806 and 67.808. Any BMPs that interfere with immediate emergency response operations or impact public health and safety need not be used.

(g) In the event that any non-stormwater discharge identified in Section 67.805 (a) through (f) is determined to be a source of pollutants to receiving waters, it may only be allowed to continue within an applicable Watershed Management Area if controls set forth by the County in the corresponding Water Quality Improvement Plan are implemented to the satisfaction of the RWQCB.

(h) Discharges exempted from compliance by operation or law; any permits, orders or decisions issued by the RWQCB; and any waivers, or renewals of waivers issued by the RWQCB such as those covered by Regional Board Order No. R9-2014-0041, adopted June 26, 2014.

(i) Discharges of critical coarse sediment necessary to comply with Section 67.811(b)(5)(C).

**SEC. 67.806. GENERAL BEST MANAGEMENT PRACTICE REQUIREMENTS.**

The following requirements apply to all dischargers:

(a) All dischargers must perform and maintain the following BMPs:

(1) Prior to the rainy season, except as required to maintain critical coarse sediment supply pursuant to Section 67.811(b)(5)(C), remove or secure any significant accumulations of eroded soils from slopes previously disturbed by landscaping, clearing or grading, if those eroded soils could otherwise enter and impact the stormwater conveyance system or receiving waters during the rainy season.

(2) Implement, as practicable, those stormwater pollution prevention practices that are generally recognized in that discharger's industry or business as being effective and economically advantageous.

(3) Eliminate illicit connections.

(4) Except as required to maintain critical coarse sediment supply pursuant to Section 67.811(b)(5)(C), protect from erosion those slopes that have been disturbed by clearing, grading, or landscaping and are more than three feet in height or steeper than 3:1 (run-to-rise). Slope protection shall occur prior to the first rainy season following the clearing, grading or landscaping of the slope and continuously thereafter.

(5) Store all materials and wastes with the potential to pollute stormwater in a manner that prevents contact with rainfall, run-on, run-off and wind dispersal.

(6) Except as required to maintain critical coarse sediment supply pursuant to Section 67.811(b)(5)(C), locate, configure, and manage stockpiles of soil, green waste and compost to prevent the release of materials to the stormwater conveyance system or receiving waters.

(7) Use all materials with the potential to pollute run-off, such as outdoor cleaning and maintenance products, fertilizers, pesticides and herbicides in accordance with label directions. No such product may be disposed of or rinsed into receiving waters or the stormwater conveyance system.

(8) Use dry methods such as sweeping, vacuuming, raking, and application of absorbents to cleanup pollutants, unless wet cleanup methods are otherwise allowed in this Chapter.

(b) BMPs shall be maintained to function as intended and designed. BMPs which fail shall be repaired or replaced as soon as it is safe or practicable. If BMPs fail notwithstanding their intent or design, the BMPs shall be modified or upgraded to prevent any further failure in the same or similar circumstances.

(c) Notwithstanding the provisions of this Chapter, an authorized enforcement official may require a discharger to prepare and submit a Stormwater Pollution Prevention Plan (SWPPP) for approval by the authorized enforcement official as follows:

(1) If the discharger fails to comply with any applicable requirement of this Chapter after one or more written notifications or other enforcement actions have been taken because BMPs have been determined to be inadequate or are not being adequately maintained.

(2) The activity at issue is considered a significant source of pollutants or a source of a non-stormwater discharge in excess of what is allowed by this Chapter to the stormwater conveyance system or receiving waters. Any discharger required to submit and to obtain approval of a SWPPP shall install, implement and maintain the BMPs specified in the approved SWPPP.

(3) The SWPPP shall identify the BMPs or corrective measures that will be used by the discharger to prevent or control pollution of stormwater to the MEP and bring the non-stormwater discharge into conformance with the requirements of this Chapter. If a facility discharges non-stormwater to ground water, the facility shall obtain an RWQCB permit as required by the State Water Code, and shall describe the requirements of that permit in the SWPPP.

(d) Notification of Spills, Releases and Illegal Discharges.

(1) Spills, releases, or discharges of pollutants or non-stormwater in excess of what is allowed by this Chapter to receiving waters or to the stormwater conveyance system shall be reported by the discharger as required by all applicable state and federal laws.

(2) Any such spills, releases or discharges with the potential to endanger health, safety or the environment shall be reported to the Director, Department of Public Works, within 24 hours after discovery of the spill, release or discharge. Spills that have been completely contained and cleaned up on-site are not considered significant unless they pose a threat to human health or safety.

(3) If safe to do so, necessary actions shall be taken to contain and minimize the spill, release or discharge of any pollutants to the MEP and bring any allowed discharge of non-stormwater into compliance with this Chapter.

(e) Sampling, Testing, Monitoring, and Reporting.

(1) Dischargers shall perform the sampling, testing, monitoring and reporting required by this Chapter.

(2) An authorized enforcement official may order a discharger to conduct testing or monitoring and to report the results to the County if one or more of the following occurs:

(A) 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 necessary to allow for the continued discharge of non-stormwater under the limited circumstances permitted by this Chapter.

(B) Testing or monitoring is needed to determine whether the facility is a significant source of pollutants or of otherwise prohibited non-stormwater discharges to receiving waters or the stormwater conveyance system.

(C) The authorized enforcement official determines that testing or monitoring is needed to assess the impacts of a discharge on the public's health, safety or the environment.

(D) A discharge has not been eliminated after written notice by an authorized enforcement official.

(E) The RWQCB requires the County to provide any information related to the discharger's activities.

(3) Sampling, testing or monitoring ordered pursuant to this Section may include one or more of the following:

(A) Visual monitoring of dry weather flows, wet weather erosion, discharge points or conditions of BMPs.

(B) Visual monitoring of premises for spills or discharges.

(C) Laboratory analyses of discharges for pollutants.

(D) Background or baseline monitoring or analysis.

(E) 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.

(4) The authorized enforcement official may direct the manner in which the results of required testing and monitoring are reported, and may determine that sampling, testing or monitoring may discontinue.

#### **SEC. 67.807. ADDITIONAL MINIMUM BEST MANAGEMENT AND POLLUTION PREVENTION PRACTICES FOR RESIDENTIAL ACTIVITIES AND USES.**

Residential dischargers shall install and maintain BMPs and implement pollution prevention practices, as follows:

(a) Motor Vehicle or Boat Repair and Maintenance.

(1) All repair and maintenance activities shall be performed under a permanent roof or other permanent cover, where feasible.

(2) All maintenance and repair activities conducted without cover or without BMPs to prevent discharges are prohibited during times of precipitation.

(3) Any release of fluids, including boat bilge water, during repair or maintenance shall be promptly contained and cleaned up. Any absorbent materials used shall be disposed of as required by law.

(4) Degreasing or pressure washing of engines and other parts is prohibited unless the liquid wastes are contained and properly disposed of as required by law.

(5) Automotive and boat materials and wastes shall be stored indoors, under cover, or in secure and watertight containers.

(b) Residential Motor Vehicle Washing.

(1) Individual motor vehicles shall be washed over porous surfaces such as lawns and gravel areas where feasible.

(2) Unused detergent solutions shall not be disposed of directly or indirectly into the stormwater conveyance system or receiving waters. Disposal to the sanitary sewer, such as a sink, toilet or floor drain or to a porous surface, where allowed by this Chapter, is required.

(3) The use of "hose off" or single use engine degreasing chemicals is prohibited, unless captured and disposed of properly.

(4) Motor vehicle washing other than individual residential motor vehicle washing is prohibited.

(5) Degreasing or pressure washing of engines and other parts is prohibited unless the liquid wastes are contained and properly disposed of as required by law.

(c) Motor Vehicle Parking.

(1) Residential dischargers shall remove excessive accumulations of oil and grease deposited by vehicles they own from parking areas, using dry clean-up methods such as absorbents, scraping, vacuuming, sweeping, mop and bucket.

(2) Residential dischargers shall move vehicles from streets when notified to allow street cleaning.

(d) Home and garden care activities and product use.

(1) Residential dischargers or their contractors shall adjust irrigation systems to avoid run-off that causes discharges to the stormwater conveyance system or receiving waters.

(2) Residential dischargers or their contractors shall clean up and properly dispose of spills from gardening chemicals, fertilizers or soils to non-porous surfaces.

(3) Lawn and garden care products shall be stored in closed, labeled containers, such as in covered areas, off the ground, or under protective tarps, and in a manner that will not lead to a discharge.

(4) Disposal of household hazardous waste directly or indirectly to the trash or to the street, gutter or storm drain is prohibited.

(e) Home care and maintenance.

(1) Cleaning of painting equipment in or over streets, sidewalks, gutters, or yard drains is prohibited.

(2) Action shall be taken to minimize and contain all spills of hazardous materials, if it is safe to do so.

(3) Household hazardous materials shall be stored indoors or under cover, and in closed and labeled containers.

(f) Manure and pet waste management.

(1) Where practicable, all areas where livestock, horses or other large animals are confined, shall be bermed or curbed to contain animal waste where it is produced or managed to prevent discharge of waste or waste byproducts to the stormwater conveyance system or receiving waters. If compliance is not practicable, manure shall be cleaned up at least twice weekly and must be composted or properly stored prior to disposal.

(2) Wastes from small animals (e.g., dogs and cats) shall be cleaned up and properly disposed of at least weekly.

(3) Areas used for storing or composting manure shall be located, configured or managed to prevent run-off to stormwater conveyance system or receiving waters.

(g) Private sewer laterals and on-site wastewater systems.

(1) Private sewer laterals shall be cleaned, maintained and when necessary replaced to prevent seepage and spills. On-site wastewater systems shall be pumped, maintained and when necessary modified or replaced to prevent spills.

(2) Spills from private sewer laterals and on-site wastewater systems shall be contained and cleaned-up in a manner that minimizes any release of pollutants to the stormwater conveyance system or receiving waters.

(3) Any release from a private sewer lateral that enters the stormwater conveyance system or receiving waters shall be immediately reported to the County.

(4) Failed on-site wastewater systems shall be repaired or replaced.

**SEC. 67.808. ADDITIONAL MINIMUM BEST MANAGEMENT AND POLLUTION PREVENTION PRACTICES FOR INDUSTRIAL, COMMERCIAL AND MUNICIPAL FACILITIES AND ACTIVITIES.**

The following requirements apply to all industrial, commercial and municipal facilities and activities:

(a) The owner or operator shall install and maintain BMPs and implement a pollution prevention program appropriate to the activity, as specified in the following areas and manner:

(1) Stormwater BMP training

(A) Provide stormwater BMP training at least annually to all operators, employees, and workers with responsibility for activities that could result in unauthorized discharges of pollution or non-stormwater.

(B) Training shall address the pollution and non-stormwater generating activities conducted at the facility, the pollutants or risk of non-stormwater discharge associated with those activities, and the BMPs or pollution prevention practices used to minimize or eliminate the discharge of non-stormwater and pollutants.

(C) The following BMP categories shall be included in training ,where applicable:

i. Preventive maintenance.

ii. Good housekeeping.

iii. Proper waste disposal.

iv. Non-stormwater disposal alternatives.

v. Equipment/vehicle maintenance and repair.

vi. Spill response, containment, and recovery.

vii. Recycling, re-use, and volume reduction in materials, water consumption and wastes.

viii. BMP maintenance.

(2) Where required to implement a SWPPP, retain on site a copy of a current, complete, site-specific SWPPP and make it available for review by the authorized enforcement official, upon request.

(3) Review the operations and procedures relating to protecting the stormwater conveyance system and receiving waters from pollutants and prohibited, non-stormwater discharges at least annually.

(4) Implement pollution prevention methods or those stormwater pollution prevention practices that are generally recognized in that discharger's industry or business to eliminate or reduce pollutants in run-off to the MEP and eliminate the discharge of non-stormwater in an amount or manner beyond what is allowed by this Chapter.

(5) Housekeeping.

(A) The property on which the business activity is located shall be inspected for accumulations of debris, litter, waste, organic matter, such as leaves or cut grass or other materials. Such accumulations shall be removed, transported and disposed of in accordance with this Chapter.

(B) Areas where work is being actively conducted shall be cleaned daily using dry clean-up methods such as sweeping, wiping, vacuuming, or raking. Wet clean-up methods such as hosing may only be used if precautions have been taken to prevent the discharge of wash water or other materials to the stormwater conveyance system or receiving waters.

(6) Liquid waste management

(A) Wet clean-up or cleaning methods such as hosing, steaming or pressure washing are prohibited except where adequate precautions have been taken to prevent the discharge of wash water and pollutants into the stormwater conveyance system or receiving waters.

(B) Disposal of slurries to the stormwater conveyance system or receiving waters is prohibited.

(C) Rinse water shall be confined to a designated area such as a sanitary sewer, dead-end sump, process treatment system, or hole where water percolates or evaporates and solids are removed for collection and disposal. Rinse water and solids shall be re-used, recycled, or disposed of in accordance with this Chapter.

(D) Wash water shall be directed to an approved sanitary sewer or landscaped locations.

(E) Wash racks.

i. Wash rack areas shall have perimeter control and be properly sloped to a grated floor drain.

ii. Wash rack areas shall drain to the sanitary sewer or to a holding tank, except that wash racks for animals may drain to the ground in accordance with this Chapter.

(F) Disposal of wastewater to the stormwater conveyance system, receiving waters, or the ground, is prohibited.

(G) If provided, pump-out services for boats, portable toilets, or other holding tanks shall be conducted in a manner that prevents the release of sewage to the stormwater conveyance system or receiving waters.

(H) Wastewater shall be disposed to the sanitary sewer at the job site or to a holding tank. Disposal of wastewater contained in holding tanks shall be disposed of

to the sanitary sewer at the business's company headquarters or at an approved facility.

(I) Discharging backwash wastewater to the stormwater conveyance system or receiving waters is prohibited. Backwash wastewater may be disposed to the sanitary sewer; to a holding tank or settling pond; or where allowed by this Chapter, by infiltration to the soil.

(J) Under the limited circumstances allowed by this Chapter, pool and spa water intended for discharge to the stormwater conveyance system shall be dechlorinated or debrominated prior to discharge.

(K) Under the limited circumstances allowed by this Chapter, pool and spa water discharged after acid washing shall be neutralized to a pH of 7.2 - 8.0.

(L) If rinse water from the cleaning of portable sanitary toilet closets cannot be properly disposed of to the sanitary sewer at a job site, it shall be contained prior to disposal at the service facility or other approved facility.

(M) Wash and rinse water from building and pavement washing that cannot be properly disposed of at the job site shall be collected and contained for recycling, reuse, or proper disposal.

(N) Where irrigation tail-water return ponds are used, the ponds shall be designed with the appropriate vertical separation between the base of the pond and the seasonal high groundwater mark and must be lined or managed to prevent the movement of water-soluble chemicals to the groundwater and to stormwater flows.

(7) Materials and waste management.

(A) Spill prevention and response.

i. Materials and equipment necessary for spill response shall be maintained and kept readily accessible.

ii. All operators, employees, and workers conducting potential discharge activities shall be trained in their proper use.

iii. Spills and leaks shall be promptly cleaned up and the generated waste disposed of in accordance with the applicable federal, state and local laws and regulations.

(B) Hazardous materials and hazardous wastes.

i. Hazardous materials and wastes shall be stored, managed, and disposed in accordance with applicable federal, state and local laws and regulations.

ii. Hazardous materials and wastes shall be stored above the ground. Where practicable, provide overhead coverage for all outside hazardous materials or waste storage areas. If overhead coverage is not available, stored materials shall be covered with an impervious material such as a tarp or other similar method.

iii. Paints, coatings, thinners, and other materials shall be disposed of in accordance with this Chapter.

iv. Secondary containment of hazardous materials or waste shall be provided around storage areas if the authorized enforcement official has determined that a significant potential exists to discharge materials or wastes to the stormwater conveyance system or receiving waters.

v. Hazardous waste storage areas shall be inspected by the owner or operator, at least once prior to the rainy season and monthly during the rainy season.

vi. Pesticides and other chemical products shall be used, stored, and disposed of in accordance with applicable federal, state, and local laws and regulations.

vii. The outdoor application of fertilizers and pesticides is prohibited during rainfall.

viii. Pesticide use shall be reduced whenever practical in areas where recurring applications of pesticides are performed.

(C) Solid, non-hazardous materials and waste.

i. Trash storage and disposal areas shall be kept clean and free of debris.

ii. Dumpsters, grease bins, grease traps, and interceptors, and other containers shall be maintained in a clean and leak-proof condition and shall be kept securely closed when not in use.

iii. Materials and equipment necessary for the clean-up of trash and debris shall be maintained and kept readily accessible.

iv. Loose aggregate, mortar, and dust shall be routinely cleaned up using dry clean-up methods such as sweeping or vacuuming. Wet methods may be used only if necessary to adequately clean equipment for reuse, or where water must be used to lubricate and flush a cut, but only if performed in accordance with this Chapter.

v. All areas where livestock, horses or other large animals are confined shall be bermed or curbed in a manner that avoids a discharge of manure to the stormwater conveyance system or receiving water. If berms or curbs are not practicable, manure shall be cleaned up at least twice weekly and must be composted or properly stored prior to disposal.

vi. Wastes from small animals (e.g., dogs and cats) shall be cleaned up and properly disposed of at least weekly.

(D) Loading and unloading.

i. Storm drain inlets located within or down-gradient of loading or unloading areas shall be covered or otherwise protected during loading and unloading activities to prevent the entry of pollutants and prohibited non-stormwater discharges into the stormwater conveyance system or receiving waters.

ii. Equipment and supplies stored in loading and unloading areas shall be properly maintained to prevent leaks and spills to the stormwater conveyance system or receiving waters, and to prevent their contact with rainfall and run-on.

(E) Storage.

i. Outdoor storage areas of materials and equipment shall be configured using berms, dikes, or other diversion structures or other measures that elevate stored materials and equipment from site surfaces.

ii. Containers shall be kept in a leak-proof condition, securely closed when not in use, and stored in a manner that protects them from contact with precipitation or surface waters.

iii. Storage of cement and masonry materials shall be above ground and covered.

iv. Except as required to maintain critical coarse sediment supply pursuant to Section 67.811(b)(5)(C), placement of stock piles within any drainage system is prohibited.

v. Stockpiles and bulk materials, such as soil, fertilizer, and potting mixture shall be covered during windy and rainy conditions where practicable. Prior to the onset of predicted rain, stockpiles shall be covered and bermed to prevent contact with stormwater.

(8) Vehicles and equipment.

(A) All vehicles and equipment shall be properly maintained and inspected to ensure their proper functioning to prevent discharges.

(B) Vehicles and equipment shall not be washed in areas where wash water or rinse water will drain to the stormwater conveyance system or receiving waters.

(C) Infiltration of wash or rinse water to pervious surfaces is allowed with a minimum of 10 feet separation between the groundwater and the pervious surface, except that wash or rinse water generated from cleaning engines, mechanical parts, or heavy equipment shall not infiltrate a pervious surface.

- (D) The use of hose-off or single-use engine degreasing chemicals is prohibited, unless captured and properly disposed.
  - (E) Maintenance and repair equipment shall be kept clean to avoid the build-up of grease and oil.
  - (F) Fluids shall be drained from any retired vehicles or equipment stored on site.
  - (G) Vehicle and equipment maintenance and repair work such as body work shall be conducted indoors or under cover, where practicable. If work cannot be conducted indoors or under cover, other BMPs shall be implemented to prevent the discharge of pollutants into the stormwater conveyance system or receiving waters. Discharge of non-stormwater to the stormwater conveyance system is prohibited.
  - (H) Major repair and maintenance work on boats over or in the water is prohibited. Touch-up painting, tune ups, or other similar activities are not considered major repair or maintenance work, but may only be conducted over or in the water if adequate precautions have been taken to prevent the entry of pollutants into the water.
- (9) Outdoor areas - housekeeping and grounds keeping practices.
- (A) Storm drain inlets located within or down gradient of the activity shall be covered or otherwise protected from the entry of pollutants and non-stormwater during the work activity.
  - (B) Landscaping, grounds keeping and agriculture unless exempt pursuant to Section 67.805(h).
    - i. Except as required to maintain critical coarse sediment supply pursuant to Section 67.811(b)(5)(C), exposed slopes shall be stabilized as soon as possible.
    - ii. Paved surfaces such as sidewalks shall be cleaned regularly using dry clean-up methods such as sweeping or vacuuming. Hosing is permissible only after surfaces have previously been cleaned using dry methods, and only if precautions have been taken to prevent the discharge of run-off to the storm drain.
    - iii. Business, industrial and municipal facilities owners and their contractors shall clean-up and properly dispose of spills from any pesticides, herbicides and fertilizers to non-porous surfaces. These materials shall be stored in closed, labeled containers, such as in covered areas, off the ground, or under protective tarps, and in a manner that will not lead to a discharge. Disposal of pesticides, herbicides and fertilizers to the stormwater conveyance system and receiving waters is prohibited.
  - (C) Parking lots and vehicle storage areas.

i. Wet clean-up methods may only be used where adequate precautions have been taken to prevent the entry of wash water and pollutants into the stormwater conveyance system or receiving waters.

ii. Vehicle maintenance and repair operations with the potential to release non-stormwater or pollutants are prohibited at commercial parking lots and storage facilities.

(D) Rooftops.

i. Materials which may contaminate stormwater shall not be stored on rooftops unless adequate precautions have been taken to prevent their contact with stormwater.

ii. Equipment such as emergency generators, HVAC systems and other similar items located on rooftops shall be inspected and preventive maintenance conducted to prevent leaks and spills.

iii. Substances such as bird droppings, grease, leaves, that have accumulated on rooftops shall be removed, as practicable, to prevent or reduce the discharge of contaminants directly or indirectly to the stormwater conveyance system or receiving waters.

iv. Where feasible, roof downspouts shall be routed away from work areas and toward pervious areas such as lawns, except where required under Sections 67.810 and 67.811.

(b) Other requirements.

(1) Any commercial, industrial, or municipal facility or activity operating under the statewide Industrial General Permit shall provide the following documents for on-site review by the authorized enforcement official as applicable, and if requested:

(A) The Notice of Intent letter or a Waste Discharge Identification Number issued by the SWRCB.

(B) A SWPPP satisfying the requirements of the Industrial General Permit.

(C) A monitoring program satisfying the requirements of the Industrial General Permit.

(D) Training records satisfying the requirements of the Industrial General Permit.

(2) Any discharger whose facilities or activities are not in compliance with this Chapter, or any discharger or category of dischargers determined to pose a significant threat to water quality, may be required to implement additional controls as determined by the authorized enforcement official. The authorized enforcement official may require dischargers to maintain,

on site, written documentation of these additional requirements, and to provide such documentation upon request.

**SEC. 67.809. ADDITIONAL REQUIREMENTS FOR CONSTRUCTION PROJECTS.**

(a) All owners of land on which a construction project is performed and all persons performing the work, including without limitation any construction projects involving land disturbance activities, except that a local government or public authority is not a discharger for purposes of land disturbance activities conducted by others in connection with a private construction project in public rights-of-way, shall ensure that the following additional types of BMPs shall be installed, implemented, and maintained year round:

- (1) Project planning;
- (2) Good site management “Housekeeping”, including waste management;
- (3) Non-stormwater management;
- (4) Erosion control;
- (5) Sediment control;
- (6) Run-on and run-off control; and
- (7) Active/passive sediment treatment systems, where applicable.
- (8) BMPs must be site specific, seasonably appropriate, and construction plan appropriate. Dry season BMPs must plan for and address unusual rain events that may occur during the dry season (May 1 through September 30th).

(b) Prior to obtaining any permit that allows for commencement of a construction project that includes land disturbance activities that can potentially generate pollutants in stormwater runoff, the owner of the property on which the land disturbance activities are performed or the person performing the work shall submit, to the satisfaction of the Director of Public Works or the authorized enforcement official, the following:

- (1) A plan describing the pollution control strategies to be implemented on-site that complies with local ordinances and the NPDES Order. The plan submittal shall include the following information:
  - (A) The name, address, phone number and email for the owner and person performing the work;
  - (B) Basic site information including the address, hydrologic subarea, Waste Discharge Identification Number (WDID), if applicable, and approximate area of disturbance;

- (C) Whether the site is considered a high threat to water quality pursuant to the NPDES Order;
- (D) The project's estimated start and completion dates; and
- (E) Identification of seasonally appropriate and effective BMPs and management measures as described in Section 67.809(a).

(c) BMPs shall be inspected routinely by the person performing the land disturbance activity or construction project and the property owner to ensure the BMPs are maintained and continue to function as intended. In addition, BMPs shall be inspected and maintenance, repair or replacement performed following every rain event to ensure the BMPs continue to function as intended.

**SEC. 67.810. RESERVED FOR FUTURE USE.**

**SEC. 67.811. ADDITIONAL PLANNING, DESIGN AND POST-CONSTRUCTION REQUIREMENTS FOR DEVELOPMENT PROJECTS.**

(a) Requirements for all Development Projects:

(1) Follow as applicable the approach and criteria described in the State Water Resources Control Board General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities.

(2) Except as noted in Section 67.811(b), submit a Standard Stormwater Quality Management Plan (SWQMP), with an application for a County permit or other County approval, identifying the measures that will be used for stormwater and non-stormwater management for the project consistent with the County BMP Design Manual.

(3) General Requirements. BMPs shall be designed, constructed and maintained as follows:

- (A) Onsite BMPs must be located so as to remove pollutants from runoff prior to its discharge to any receiving waters, and as close to the source as possible;
- (B) Structural BMPs may not be constructed in receiving waters; and
- (C) Onsite BMPs must be designed and implemented with measures to avoid the creation of nuisance or pollution associated with vectors (e.g., mosquitos, rodents, or flies).

(4) Source Control BMP Requirements. Where applicable and feasible, the following source control BMPs must be implemented at all development projects:

- (A) Prevention of illicit discharges into the stormwater conveyance system;

- (B) Stenciling and marking of all storm drains in accordance with the BMP Design Manual;
- (C) Protection of all outdoor material storage areas from rainfall, run-on, runoff, and wind dispersal including the following:
- Storage areas must be paved and sufficiently impervious to contain leaks and spills, where necessary.
  - The storage area shall be sloped towards a sump or another equivalent measure that is effective to contain spills.
  - Runoff from downspouts/roofs must be directed away from storage areas.
  - The storage area must have a roof or awning that extends beyond the storage area to minimize collection of storm water within the secondary containment area. A manufactured storage shed may be used for small containers.
  - Use other methods approved by the County.
- (D) Protection of materials stored in outdoor work areas from rainfall, run-on, runoff, and wind dispersal including the following:
- Create an impermeable surface such as concrete or asphalt, or a prefabricated metal drip pan, depending on the size needed to protect the materials.
  - Cover the area with a roof or other acceptable cover.
  - Berm the perimeter of the area to prevent water from adjacent areas from flowing on to the surface of the work area.
  - Directly connect runoff to sanitary sewer or other specialized containment system(s), as needed and where feasible. Approval for this connection must be obtained from the appropriate sanitary sewer agency.
  - Locate the work area away from storm drains or catch basins.
  - Use other methods approved by the County.
- (E) Protection of trash storage areas from rainfall, run-on, runoff, and wind dispersal including the following:
- Design trash container areas so that drainage from adjoining roofs and pavement is diverted around the area(s) to avoid run-on. This can include berming or grading the waste handling area to prevent run-on of storm water.
  - Ensure trash container areas are screened or walled to prevent offsite transport of trash.
  - Provide roofs, awnings, or attached lids on all trash containers to minimize direct precipitation and prevent rainfall from entering containers.
  - Locate storm drains away from immediate vicinity of the trash storage area and vice versa.

- Post signs on all dumpsters informing users that hazardous material are not to be disposed.
- Use other methods approved by the County.

(F) Implementation of additional BMPs as the County determines necessary to minimize pollutant generation.

(5) Site Design Requirements. Where applicable and feasible, the following Site Design BMPs must be implemented at all development projects:

- (A) Natural storage reservoirs and drainage corridors (including topographic depressions, areas of permeable soils, natural swales, and ephemeral and intermittent streams) must be maintained or restored;
- (B) Buffer zones must be provided for natural water bodies whenever technically feasible. When buffer zones are technically infeasible, other buffers such as trees and access restrictions are required;
- (C) Natural areas within the project footprint should be conserved whenever possible;
- (D) Streets, sidewalks, and parking lot aisles shall be constructed to the minimum widths necessary consistent with public safety;
- (E) The impervious footprint of the project shall be minimized;
- (F) Soil compaction to landscaped areas shall be minimized where doing so does not create an excessive risk of slope failure or erosion;
- (G) Impervious surfaces shall be disconnected by disturbed pervious areas that can be used to infiltrate runoff;
- (H) Landscaped or other pervious areas shall be designed and constructed to effectively receive and infiltrate, retain, and/or treat runoff from impervious areas prior to discharging to the stormwater conveyance system;
- (I) Small collection strategies shall be located at, or as close as possible to, the source of the discharge;
- (J) Permeable materials shall be used for projects with low traffic areas and appropriate soil conditions;
- (K) Native or drought tolerant landscaping shall be used; and
- (L) Precipitation shall be harvested and used for landscaping or other permitted use.

(b) Additional Requirements for Priority Development Projects. These requirements apply only to projects west of the Pacific/Salton Sea Divide. In addition to meeting the BMP requirements applicable to all other development projects as required by the NPDES Order and set forth above, the following are applicable to Priority Development Projects.

(1) Priority Development Projects include:

(A) New development projects that create 10,000 square feet or more of impervious surfaces (collectively over the entire project site). This includes commercial, industrial, residential, mixed-use, and public development projects on public or private land.

(B) Redevelopment projects that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site on an existing site of 10,000 square feet or more of impervious surfaces). This includes commercial, industrial, residential, mixed-use, and public development projects on public or private land.

(C) New and redevelopment projects that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site), and support one or more of the following uses:

i. 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).

ii. Hillside development projects. This category includes development on any natural slope that is twenty-five percent or greater.

iii. Parking lots. This category is defined as a land area or facility for the temporary parking or storage of motor vehicles used personally, for business, or for commerce.

iv. Streets, roads, highways, freeways, and driveways. This category is defined as any paved impervious surface used for the transportation of automobiles, trucks, motorcycles, and other vehicles.

(D) New or redevelopment projects that create and/or replace 2,500 square feet or more of impervious surface (collectively over the entire project site), and discharging directly to an ESA. "Discharging directly to" includes flow that is conveyed overland a distance of 200 feet or less from the project to the ESA, or conveyed in a pipe or open channel any distance as an isolated flow from the project to the ESA (i.e., not commingled with flows from adjacent lands).

(E) New development projects, or redevelopment projects that create and/or replace 5,000 square feet or more of impervious surface, that support one or more of the following uses:

i. 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.

ii. 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.

(F) New or redevelopment projects that result in the disturbance of one or more acres of land and are expected to generate pollutants post construction.

(2) The following projects shall not be considered priority development projects:

(A) New or retrofit paved sidewalks, bicycle lanes, or trails that meet the following criteria:

i. Designed and constructed to direct stormwater runoff to adjacent vegetated areas, or other non-erodible permeable areas; or

ii. Designed and constructed to be hydraulically disconnected from paved streets or roads; or

iii. Designed and constructed with permeable pavements or surfaces in accordance with USEPA Green Streets guidance.

(B) Retrofitting or redevelopment of existing paved alleys, streets or roads that are designed and constructed in accordance with the USEPA Green Streets guidance. Compliance with any Green Street guidance developed by the County shall be deemed to satisfy this requirement as long as that guidance is as protective of water quality as the USEPA Green Streets guidance. Green Streets projects are subject to County review and approval.

(3) Special considerations for redevelopment projects:

(A) Where redevelopment results in the creation or replacement of impervious surface in an amount of less than fifty percent of the surface area of the previously existing development, then the structural BMP performance requirements defined in the BMP Design Manual apply only to the creation or replacement of impervious surface, and not the entire development; or

(B) Where redevelopment results in the creation or replacement of impervious surface in an amount of more than fifty percent of the surface area of the previously existing development, then the structural BMP performance requirements defined in the BMP Design Manual apply to the entire development.

(4) Priority Development Projects must submit a PDP Stormwater Quality Management Plan (PDP SWQMP), with an application for a County permit or other County approval, identifying the measures that will be used for stormwater and non-stormwater management for the project consistent with the County BMP Design Manual, and implement structural BMPs that conform to performance requirements described below:

(A) Each PDP must implement BMPs that are designed to retain (i.e., intercept, store, infiltrate, evaporate, and evapotranspire) onsite the pollutants contained in the volume of stormwater runoff produced from a 24-hour 85th percentile storm event (design capture volume); or

(B) If retaining the full design capture volume onsite is not technically feasible, biofiltration BMPs may be used. Biofiltration BMPs must be designed to have an appropriate hydraulic loading rate to maximize stormwater retention and pollutant removal, as well as to prevent erosion, scour, and channeling within the BMP, and must be sized to:

i. Treat 1.5 times the design capture volume not reliably retained onsite, or

ii. Treat the design capture volume not reliably retained onsite with a flow-thru design that has a total volume, including pore spaces and pre-filter detention volume, sized to hold at least 0.75 times the portion of the design capture volume not reliably retained onsite.

(C) If the County determines that biofiltration is not technically feasible, then a PDP may be allowed to utilize flow-thru treatment control BMPs to treat runoff leaving the site, AND mitigate for the design capture volume not reliably retained onsite pursuant to the requirements in Section 67.811(b)(6). Flow thru treatment control BMPs must be sized and designed to:

i. Remove pollutants from storm water to the MEP;

ii. Filter or treat either: 1) the maximum flow rate of runoff produced from a rainfall intensity of 0.2 inch of rainfall per hour, for each hour of a storm event, or 2) the maximum flow rate of runoff produced by the 85th percentile hourly rainfall intensity (for each hour of a storm event), as determined from the local historical rainfall record, multiplied by a factor of two;

iii. Be ranked with high or medium pollutant removal efficiency for the PDP's most significant pollutants of concern. Flow-thru treatment control BMPs with a low removal efficiency ranking will only be approved by the County if a feasibility analysis has been conducted which exhibits that implementation of flow-thru treatment control BMPs with high or medium removal efficiency rankings are infeasible for the applicable portion of a PDP.

(5) Hydromodification Management BMP Requirements. Priority Development Projects must implement BMPs to manage hydromodification that may be caused by stormwater runoff discharged from a project as follows:

(A) Hydromodification BMPs must be sized and designed such that post-project runoff conditions (flow rates and durations) will not exceed pre-development runoff conditions by more than 10 percent (for the range of flows that result in increased potential for erosion, or degraded instream habitat downstream of Priority Development Projects).

- i. In evaluating the range of flows that results in increased potential for erosion of natural (non-hardened) channels, the lower boundary must correspond with the critical channel flow that produces the critical shear stress that initiates channel bed movement or that erodes the toe of channel banks.

(B) A Priority Development Project may be exempted from the hydromodification management BMP performance requirements where the project discharges stormwater runoff to:

- i. Existing underground storm drains that discharge directly to water storage reservoirs, lakes, enclosed embayments, or the Pacific Ocean; or
- ii. Conveyance channels whose bed and bank are concrete lined all the way from the point of discharge to water storage reservoirs, lakes, enclosed embayments or the Pacific Ocean; or
- iii. An area identified by the County as appropriate for an exemption through a Watershed Management Area Analysis incorporated into a Water Quality Improvement Plan accepted by the RWQCB.

(C) PDP projects must avoid critical coarse sediment yield areas as identified by the County unless measures are implemented consistent with the BMP Design Manual that allow critical coarse sediment to be discharged to receiving waters, such that there is no net impact to the receiving water.

- (6) A PDP may be allowed at the County's discretion to utilize offsite alternative compliance in lieu of complying with the storm water pollutant control and hydromodification BMP performance requirements in Section 67.811(b)(4)-(5). The PDP must mitigate for the portion of the pollutant load in the design capture volume not retained onsite and/or post-project runoff conditions not fully managed onsite consistent with a Water Quality Equivalency (WQE) Guidance Document accepted by the RWQCB. If a PDP is allowed to utilize offsite alternative compliance, flow-thru treatment control BMPs must be implemented to treat the portion of the design capture volume that is not reliably retained onsite. Flow-thru treatment control BMPs must be sized and designed in accordance with the requirements of Section 67.811(b)(4)(C). An offsite alternative compliance project for a private PDP may be partially or wholly located within the County Right-of-way upon approval of the Authorized Enforcement Officer. Any and all costs associated with the project shall be the sole responsibility of the applicant, including design and installation and the effective operation and maintenance in perpetuity of any and all treatment and hydromodification controls

required under this Chapter. The County shall retain the authority to recoup as necessary any and all such costs.

- (7) The following requirements apply to the use of infiltration BMPs:
- (A) Infiltration BMPs shall not cause or contribute to an exceedance of applicable groundwater quality objectives as set out in the RWQCB "Basin Plan" for the San Diego area;
  - (B) Runoff must undergo pretreatment such as sedimentation or filtration prior to infiltration;
  - (C) Pollution prevention and source control BMPs must be implemented at a level appropriate to protect groundwater quality at sites where infiltration BMPs are to be used;
  - (D) Infiltration BMPs must be adequately maintained to remove pollutants in stormwater to the MEP;
  - (E) The vertical distance from the base of any infiltration BMP to the seasonal high groundwater mark must be at least 10 feet. Where groundwater basins do not support beneficial uses, this vertical distance criteria may be reduced, provided groundwater quality is maintained;
  - (F) The soil through which infiltration is to occur must have physical and chemical characteristics (e.g., appropriate cation exchange capacity, organic content, clay content, and infiltration rate) which are adequate for proper infiltration durations and treatment of runoff for the protection of groundwater beneficial uses;
  - (G) Infiltration BMPs must not be used for areas of industrial or light industrial activity, and other high threat to water quality land uses and activities as designated by the County, unless source control BMPs to prevent exposure of high threat activities are implemented, or runoff from such activities is first treated or filtered to remove pollutants prior to infiltration; and
  - (H) Infiltration BMPs must be located a minimum of 100 feet horizontally from any water supply wells and 25 feet from any septic system or as prescribed by County of San Diego Department of Environmental Health.
- (8) A priority development project shall not receive a certificate of occupancy or other final approval allowing use of the project site or any portion thereof, until after all required structural BMPs have been constructed in accordance with the PDP SWQMP, BMP Design Manual, this Chapter, and the NPDES Order.

(c) Grandfathering under Previous Land Development Requirements. The requirements of Sections 67.811(a) and (b) apply to all development projects unless a prior lawful approval to proceed under the provisions of a prior MS4 Permit has been obtained from the County. The

Authorized Enforcement Official may partially or wholly waive these requirements for any private or public development project meeting the conditions of either Section 67.811(c)(1) or (2) below.

(1) Previous land development requirements may be allowed to apply to any portion or phase of a development project for which the Authorized Enforcement Official determines the County lacks the land use authority or legal authority to require the project to implement the requirements of Sections 67.811(a) and/or (b).

(2) At its discretion, the Authorized Enforcement Official may allow the requirements of the immediately prior MS4 Permit to apply to any portion or phase of a Priority Development Project for which all of the conditions below have been satisfied.

- (A) Initial Approvals. Prior to the effective date of the current MS4 Permit provisions, the applicant must have:
- i. Obtained an approval of a design that incorporates the storm water drainage system for the Priority Development Project in its entirety, including all applicable structural and hydromodification management BMPs consistent with the requirements of the prior MS4 permit. For public projects, a design stamped by the County Engineer or engineer of record for the project is considered an approved design; and
  - ii. Been issued a project permit or approval that authorizes the commencement of construction activities based on the design approved in Section 67.811(c)(2)(A)i;

For purpose of Section 67.811(c), the effective date of the 2013 MS4 Permit provisions is February 26, 2016.

- (B) Demonstrated to the County's satisfaction that construction activities have commenced on any portion of the Priority Development Project site within 365 days prior to, or 180 days after, the effective date of the current MS4 Permit provisions, where construction activities are undertaken in reliance on the permit or approval.
- (C) Subsequent Approvals. Within five years of the effective date of the current MS4 Permit provisions, the applicant must have obtained all subsequent project permits or approvals that are needed to implement the design initially approved in conformance with Section 67.811(c)(2)(A)i. After that time, any portion or phase of a Priority Development Project for which subsequent approvals have not been obtained is required to meet the updated requirements of Section 67.811(a) and (b).
- (D) Substantial Conformance. The storm water drainage system for the Priority Development Project in its entirety, including all applicable structural pollutant treatment control and hydromodification management BMPs must remain in substantial conformity with the design initially approved in conformance with Section 67.811(c)(2)(A)i. Any portion or phase of a Priority Development

Project not maintaining substantial conformity with this design is required to meet the updated requirements of Sections 67.811(a) and (b).

## **SEC. 67.812. MAINTENANCE OF STRUCTURAL BMPs AND NATURAL SYSTEM MANAGEMENT PRACTICES.**

(a) All existing and new development shall maintain the post-construction structural BMPs and natural system management practices (NSMP), relied upon to achieve and maintain compliance with this Chapter and NPDES Order. The owner of the land on which the BMPs and/or NSMPs are located or the person responsible for completing the BMPs and/or NSMPs as part of a development project shall implement, maintain, replace, or retrofit the pollutant control BMPs, hydromodification control BMPs and/or NSMPs as necessary to ensure pollutants are removed from stormwater to the MEP and all prohibited non-stormwater discharges are prevented from reaching the stormwater conveyance system or receiving waters. BMPs shall remain effective and function in the manner intended. All BMPs must be maintained to avoid the creation of nuisance or pollution associated with vectors (e.g. mosquitos, rodents, or flies).

(b) The owners and occupants of lands on which post-construction structural BMPs and/or NSMPs have been installed to meet the requirements of this Chapter and the NPDES Order shall ensure the maintenance and effective operation of those BMPs and/or NSMPs, and shall themselves maintain, replace, or retrofit those BMPs or NSMPs if other persons or entities who are also obliged to maintain those BMPs fail to do so. The owners and occupants shall provide documentation of such maintenance and effective operation annually and as requested by the authorized enforcement official.

(c) Primary responsibility to maintain post-construction structural BMPs and/or NSMPs may be transferred through a contract or other agreement. If that contract provides that it will be submitted to the County pursuant to this Chapter 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 contract or agreement will also be legally obliged to maintain that BMP or NSMP pursuant to this Chapter.

(d) For purposes of County enforcement, no contract or other agreement imposing an obligation to maintain a BMP or NSMP can relieve a person or entity of any obligation to maintain a BMP or NSMP imposed by this Chapter.

(e) Any developer or property owner who transfers ownership of land on which a post-construction, structural BMP and/or NSMP is located or will be located, or who otherwise transfers ownership of a post-construction structural BMP and/or NSMP or responsibility for the maintenance of such 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. If directed, the developer or property owner must provide a copy of the written notice to the County.

(f) The proponents of any land development project for which post-construction structural BMPs and/or NSMPs are required must enter into a maintenance agreement for each practice. The maintenance agreement shall be provided to the County for review and approval prior to issuance of permits, and must include a plan for maintenance of all post-construction structural BMPs and NSMPs 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 or NSMP maintenance. The plan shall provide for servicing of all post-construction structural BMPs and NSMPs at least annually and for the retention of inspection and maintenance records for at least three (3) years. Maintenance agreements must be recorded and shall run with the land.

(g) The proponents of any development project that requires a discretionary County permit shall provide to the County for review and approval prior to issuance of permits, an executed, permanent easement onto the land on which post-construction structural BMPs or NSMPs will be located, and across other lands as necessary for access, to allow inspection and maintenance of those practices.

(h) The proponents of any project that requires a discretionary County permit shall provide to the County prior to issuance of such permit, proof of a mechanism acceptable to the County which will ensure ongoing long-term maintenance of all post-construction structural BMPs and NSMPs associated with the proposed project. The proponents shall be responsible for maintenance, repair and replacement of BMPs and/or NSMPs unless and until an alternative mechanism for ensuring maintenance is accepted by the County and becomes effective.

(i) The County or another public entity may accept responsibility for maintenance of any post-construction structural BMP or NSMP, under such conditions as the County or other public entity determines are appropriate. Where a maintenance obligation is proposed to be accepted by a public entity other than the County, the County shall be involved in the negotiations with that agency, and in negotiations with the resource agencies responsible for issuing permits for the construction or maintenance of the post-construction, structural BMP or NSMP. The County must be identified as a third party beneficiary empowered to enforce any such maintenance agreement.

#### **SEC. 67.813. INSPECTION/SAMPLING.**

(a) Authorized enforcement officials may inspect facilities, activities and residences subject to this Chapter at reasonable times and in a reasonable manner to carry out the purposes of this Chapter. If entry for a regulatory inspection is refused by the owner or operator, or by the occupant of a residence, an inspection warrant shall be obtained prior to inspection.

(b) When any new post-construction structural BMP is installed on private property as part of a project that requires a County permit, in order to comply with this Chapter, the property owner shall grant to the County 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 or as otherwise required by the NPDES Order for routine inspections, to enter as needed for additional inspections when the County 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 Chapter.

(c) Inspections may include all actions necessary to determine whether any illegal discharges or illicit connections exist, whether the BMPs installed and implemented are adequate to comply with this Chapter, whether those BMPs are being properly maintained, and whether the facility or activity complies with the other requirements of this Chapter. 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 Chapter may be inspected and copied, and photographs taken to document a condition and/or a violation of this Chapter.

#### **SEC. 67.814. ENFORCEMENT.**

(a) **General.** The authorized enforcement official and each agent or deputy thereof who is assigned to duties which include the enforcement of this Chapter in the San Diego County Code of Regulatory Ordinances, and any peace officer, are authorized to enforce the provisions of this Chapter, including the activities set forth in this Section below.

(b) **Order to Stop, Repair Work and Bonds.** Whenever the authorized enforcement official determines that any activity regulated by this Chapter causes or threatens to cause the discharge of pollutants in stormwater, the prohibited discharge of non-stormwater to the stormwater conveyance system or receiving waters, or otherwise violate a requirement of this Chapter, he or she may order work to be stopped and/or repairs, BMPs, pollution prevention practices or other corrections to be made, by serving written notice on the owner, permittee or any person engaged in the doing or causing such activity to be performed, and such persons shall immediately stop such work until authorized by the authorized enforcement official in writing to proceed. The authorized enforcement official may require performance and payment bonds for the full cost of any repair work in a form meeting the substantive requirement for bonds specified by the County Subdivision Ordinance.

(c) **Notice of Violation.** The authorized enforcement official may issue and enforce Notices of Violation and Notices of Ineligibility for Land Development, pursuant to this Chapter.

(d) **Administrative Remedies, Fines and Liens.** The authorized enforcement official may pursue the Administrative Remedies set forth at Division 8 of Title 1 of this Code, including the issuance of Administrative Citations pursuant to Chapter 1 (commencing with Section 18.101) of said Division 8. Unpaid administrative citations may be recorded against the property on which the violation occurred and may be foreclosed in any manner allowed by State law or County ordinance for the foreclosure of liens.

(e) **Arrests and Citations.** The authorized enforcement official shall have the power to make arrests for violations of this Chapter and State laws which he or she has a duty to enforce, and to issue citations for such violations. Any person so arrested who does not demand to be taken before a magistrate may instead be cited in the manner prescribed in Chapter 5C (commencing with Section 853.5) of Title 3, Part 2 of the Penal Code. The authorized enforcement official may arrest an owner without warrant whenever they have reasonable cause to believe that the person arrested has committed a violation of this Chapter, provided that the officer or employee making the arrest shall have completed a course of training that meets the minimum standards prescribed by the Commission on Peace Officer Standards and Training as prescribed by Section 832(a) of the Penal Code. An officer or employee making an arrest under this Section shall follow the citation-release procedures prescribed by the Penal Code.

(f) **Non-Liability.** The authorized enforcement official charged with the enforcement of this Chapter, acting in good faith and without malice for the County in the discharge of his duties, shall not thereby render himself or herself liable personally and he or she is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his duties. Any suit brought against

the authorized enforcement official, because of such act or omission performed by him or her in the enforcement of any provisions of this Chapter, shall be defended by the legal department of the County until final termination of the proceedings.

**SEC. 67.815. VIOLATIONS - CRIMINAL PENALTIES.**

(a) Any person violating any provision of this Chapter shall be deemed guilty of a misdemeanor, unless, in the discretion of the prosecutor, it is charged as an infraction. A person convicted of a third or subsequent such violation within two years from the date of the first conviction shall be deemed guilty of a misdemeanor.

(b) Any person convicted of an infraction under this Chapter shall be punished by a fine not exceeding one hundred dollars for the first violation, two hundred dollars for the second violation within one year, and five hundred dollars for each subsequent violation within one year. Any person convicted of a misdemeanor under this Chapter shall be punished by imprisonment in the County jail for a term not exceeding six months, or by a fine not exceeding one thousand dollars, or both.

(c) Each day or any portion of a day that any person violates or continues to violate provisions of this Chapter constitutes a separate offense and may be charged and punished separately without awaiting conviction on any prior offense. The penalties imposed by this Section are in addition to penalties imposed under other provisions of this Code and other County ordinances.

(d) Paying a fine or serving a jail sentence shall not relieve any owner or permittee from responsibility for correcting any condition which violates any provision of this Chapter.

**SEC. 67.816. VIOLATIONS - PUBLIC NUISANCE.**

In addition to any penalty prescribed for violation of this Code, any discharge of pollutants in stormwater, prohibited discharge of non-stormwater to the stormwater conveyance system or receiving waters, or act done contrary to the provisions of this Chapter is unlawful and a public nuisance. Any work performed without a Standard SWQMP, PDP SWQMP, SWPPP or other plan required by this Chapter prior to commencement of work, regardless of whether such failure is due to neglect or refusal, shall be prima facie evidence that a public nuisance has been committed. A public nuisance may be abated in accordance with the Uniform Public Nuisance Abatement Procedure contained in Chapter 2, Division 6, Title 1 (commencing with Section 16.201) of this Code or, upon order of the Board of Supervisors, the County Counsel is authorized to commence necessary proceedings provided by law to abate, remove and/or enjoin such public nuisance.

**SEC. 67.817. VIOLATIONS - DENIAL OF SUBSEQUENT PERMITS AND OCCUPANCY.**

Any work performed on a priority development project or land disturbance activities on a construction project performed without first obtaining a Standard SWQMP, PDP SWQMP, SWPPP or other plan required by this Chapter and any violation of one or more conditions contained in such a plan where the violation results in or threatens to result in the discharge of pollutants in stormwater or a prohibited, non-stormwater discharge to the stormwater conveyance system or receiving waters, shall be grounds for denying for five years all applications for grading permits, administrative permits, site plans, use permits, major and minor subdivisions, rezones, specific plans, specific plan amendments, general plan amendments and other land development applications proposed for the property on which the violation occurred. The "property" shall be deemed to include the lot or parcel

on which the violation occurred, together with all adjacent parcels owned by the same person or entity or which are part of a common plan of development. The five-year period shall commence from the date of the violation, if documented, or from the date of discovery of the violation. The Board of Supervisors may waive the penalty imposed by this subsection, for good cause. Any such waiver, if granted, shall in no way relieve the owner or applicant for any such subsequent land development application, of their duty to include the environmental effects of the violation in any environmental analysis performed for the subsequent application, to restore or rehabilitate the site, implement such BMPs and/or pollution prevention practices as may be necessary to resolve the violation, and provide substitute or compensating resources, or perform other appropriate measures to mitigate the adverse effects of the illegal activity.

**SEC. 67.818. VIOLATIONS - INJUNCTIVE OR DECLARATORY RELIEF.**

In addition to or in lieu of other remedies specified in this Chapter, any violation of this Chapter may be enforced by a judicial action for injunctive or declaratory relief.

**SEC. 67.819. VIOLATIONS - CIVIL PENALTIES.**

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

(b) In determining the amount of any civil liability to be imposed pursuant to this Chapter, the superior court shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, whether any discharge caused by 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, the extent of any advantage gained by an unfair business practice, 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.

**SEC. 67.820. VIOLATIONS - COST RECOVERY.**

In addition to other penalties and remedies permitted in this Chapter, the following may be awarded without monetary limitations in any civil action:

- (a) Costs to investigate, inspect, monitor, survey, or litigate;
- (b) Costs to place or remove BMPs; costs to correct any violation; and costs to end any adverse effects of a violation;
- (c) Compensatory damages for losses to the County or any other plaintiff caused by violations; and/or
- (d) Restitution to third parties for losses caused by violations.

**SEC. 67.821. NOTICE OF INELIGIBILITY FOR LAND DEVELOPMENT.**

(a) If the authorized enforcement official believes that work has been performed on a priority development project or land disturbance activities on a construction project have been performed without first obtaining a Standard SWQMP, PDP SWQMP, SWPPP or other plan required by this Chapter and any violation of one or more conditions contained in such a plan where the violation results in or threatens to result in the discharge of pollutants in stormwater or a prohibited, non-stormwater discharge to the stormwater conveyance system or receiving waters, he or she may deliver to the owner of the property upon which the activity occurred a Notice of Intent to File a Notice of Ineligibility for Land Development with the Departments of Planning and Development Services and Public Works. The notice of intent shall be either served upon the owner personally or be both mailed (via certified mail, return receipt requested) to the owner at the address shown on the most recent tax assessment records and posted on the property. The notice of intent shall state the authorized enforcement official's intention to file the Notice of Ineligibility for Land Development, and shall fix a location, time and date (which shall not be less than fifteen days after the delivery of the notice), at which the authorized enforcement official will hold a hearing at which the owner may submit to the authorized enforcement official written comments or reasons why a Notice of Ineligibility for Land Development should not be filed. The authorized enforcement official shall hold the hearing at the appointed time, shall consider any information provided by the owner, and shall determine whether a violation occurred, whether it has been remedied, and whether to file a Notice of Ineligibility for Land Development.

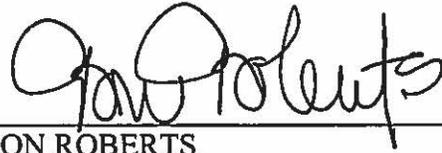
(b) If the authorized enforcement official files a Notice of Ineligibility for Land Development, and for so long as said notice remains in effect, no application for a building permit, administrative permit, site plan, use permit, variance, tentative parcel map, tentative map, parcel map or final map or any other permit for the development of the subject property shall be approved. All such applications shall be denied, and the authorized enforcement official receiving such an application shall not be required to undertake further review of the application. The "subject property" shall be deemed to include the lot or parcel on which the violation occurred, together with all adjacent parcels owned by the same person or entity or which are part of a common plan of development. The Notice of Ineligibility for Land Development shall remain in effect until the authorized enforcement official files a "Release of Notice of Ineligibility for Land Development," which the authorized enforcement official shall file when the Standard SWQMP, PDP SWQMP, SWPPP or other plan as required by this Chapter has been obtained, and that all necessary BMPs, pollution prevention practices and other site conditions or activities have been inspected and approved in writing by the authorized enforcement official as being in compliance with the requirements of this Chapter.

**Section 3.** Within 15 days after adoption of this ordinance, a summary hereof shall be published once, with the names of the members of this Board voting for and against the same in the Daily Transcript, a newspaper of general circulation published in the County of San Diego. This ordinance shall be effective thirty days after its adoption.

APPROVED AS TO FORM AND LEGALITY  
COUNTY COUNSEL

By: \_\_\_\_\_  
Thomas Deak, Sr. Deputy County Counsel

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 27<sup>th</sup> day of January, 2016.



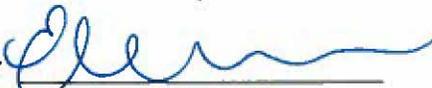
RON ROBERTS  
Chairman, Board of Supervisors  
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, D. Roberts, R. Roberts, Horn

ATTEST my hand and the seal of the Board of Supervisors this 27<sup>th</sup> day of January, 2016.

DAVID HALL  
Clerk of the Board of Supervisors

By   
Elizabeth Miller, Deputy



Ordinance No. 10410 (N.S.)

01/27/16 (7)