

Item - 61 Subitem - A
(O-2015-129) 6/16/15
#35 6/30/15

ORDINANCE NUMBER O- 20516 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 16 2015

AN ORDINANCE AMENDING CHAPTER 4, ARTICLE 3, DIVISION 3 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 43.0301, 43.0302, 43.0304, 43.0305, 43.0306, 43.0307, 43.0308, 43.0309, 43.0310, AND 43.0311, ALL RELATING TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT, CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION ORDER NO. R9-2013-0001, AS AMENDED BY ORDER NO. R9-2015-0001.

WHEREAS, the City is subject to Order No. R9-2013-0001 of the California Regional Water Quality Control Board, San Diego Region, as amended by Order No. R9-2015-0001 (2013 MS4 Permit), which includes requirements that the City regulate discharges to its MS4; and

WHEREAS, the proposed amendments to Chapter 4, Article 3, Division 3 of the San Diego Municipal Code (Storm Water Management and Discharge Control) are intended to ensure the City's regulation of discharges to its MS4 is consistent with the requirements of the 2013 MS4 Permit; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 4, Article 3, Division 3 of the San Diego Municipal Code is amended by amending sections 43.0301, 43.0302, 43.0304, 43.0305, 43.0306, 43.0307, 43.0308, 43.0309, 43.0310, and 43.0311, all relating to the Municipal Separate Storm Sewer System (MS4) Permit, California Regional Water Quality Control Board, San Diego Region Order No. R9-2013-0001, as amended by Order No. R9-2015-0001.

§43.0301 Purpose and Intent

The purposes of this Division are to restore and maintain the water quality of *receiving waters* and further ensure the health, safety and general welfare of the

citizens of the City of San Diego by effectively prohibiting *non-storm water discharges*, including spills, dumping, and disposal of materials other than *storm water* to the *MS4*, and by reducing *pollutants* in discharges from the *MS4* to *receiving waters* to the *maximum extent practicable*, in a manner pursuant to and consistent with the Federal Water Pollution Control Act (Clean Water Act, 33 U.S.C. section 1251 et seq.) and the *MS4 permit*.

§43.0302 Definitions

For purposes of this Division, defined terms appear in italics. The following definitions apply in this Division:

Best management practices (BMPs) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce to the *maximum extent practicable* the discharge of *pollutants* directly or indirectly to *receiving waters*. *BMPs* also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw materials storage.

Employee training program means a documented curriculum that an employer may be required to implement pursuant to a *storm water pollution prevention plan* for the purpose of educating its employees on methods of reducing the discharge of *pollutants* to the *MS4*.

Enforcement agency means the City of San Diego or its authorized agents charged with ensuring compliance with this Division.

Enforcement official means the City Manager or his designee or any agent of the City authorized to enforce compliance with this Division.

General storm water NPDES permit means any *NPDES permit* issued by the State Water Resources Control Board in accordance with 40 Code of Federal Regulations section 122.28.

Groundwater means subsurface water that occurs beneath the water table in soils and geologic formations that are fully saturated.

Illicit connection means any man-made physical connection to the *MS4* that conveys an *illicit discharge*.

Illicit discharge means any discharge to the *MS4* that is not composed entirely of *storm water*, except discharges allowed under an *NPDES permit* and discharges conditionally allowed under the *MS4 permit*, as set forth in San Diego Municipal Code section 43.0305. *Illicit discharge* includes irrigation runoff discharged to the *MS4*.

Jurisdictional runoff management program means a written description of the specific runoff management measures and programs, including *BMPs*, that the City will implement to comply with the *MS4 permit* and ensure that storm water pollutant discharges in runoff are reduced to the *maximum extent practicable* and do not cause or contribute to a violation of water quality standards. Amendments to the *jurisdictional runoff management program* shall be approved by the City Manager. A copy of the currently applicable *jurisdictional runoff management program* is kept on file with the City Clerk.

Maximum extent practicable means the technology-based standard established by Congress in Clean Water Act section 402(p)(3)(B)(iii) for *storm water* that

operators of *MS4s* must meet. *Maximum extent practicable* generally emphasizes pollution prevention and source control *BMPs* primarily in combination with treatment methods serving as a backup.

Municipal separate storm sewer system (MS4) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) owned or operated by the City; (ii) designated or used for collecting or conveying *storm water*; (iii) which is not a combined sewer; and (iv) which is not part of the Publicly Owned Treatment Works as defined at 40 Code of Federal Regulations section 122.26.

Municipal separate storm sewer system permit (MS4 permit) means *Regional Water Quality Control Board* Order No. R9-2013-0001, NPDES No. CAS0109266, as may be amended or replaced by a subsequent order.

National Pollutant Discharge Elimination System Permit (NPDES permit) means a permit issued by the *Regional Water Quality Control Board* or the State Water Resources Control Board pursuant to Division 7 of the California Water Code to control discharges from point sources to *receiving waters*.

Non-storm water discharge means any discharge to or from the *MS4* that is not entirely composed of *storm water*, including *illicit discharges* and discharges allowed under an *NPDES permit*.

Notice of violation has the same meaning as in San Diego Municipal Code section 11.0210.

Pollutant means any agent introduced to the *MS4* that may cause or contribute to the degradation of water quality such that public health, the environment, or

beneficial uses of *receiving waters* may be affected. *Pollutants* include solid waste, sewage, garbage, medical waste, wrecked or discarded equipment, radioactive materials, dredged spoil, rock, sand, industrial waste, any organic or inorganic contaminant, fecal coliform, fecal streptococcus, enterococcus, volatile organic surfactants, oil and grease, petroleum hydrocarbons, total organic lead, copper, chromium, cadmium, silver, nickel, zinc, cyanides, phenols, and biocides.

Premises means any building, lot parcel, land or portion of land whether improved or unimproved.

Public nuisance has the same meaning as in San Diego Municipal Code section 11.0210.

Receiving waters means waters of the United States, as defined under the Clean Water Act. *Receiving waters* include surface bodies of water that serve as discharge points for the *MS4*, such as creeks, rivers, reservoirs, lakes, lagoons, estuaries, harbors, bays and the Pacific Ocean.

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

Responsible person has the same meaning as in San Diego Municipal Code section 11.0210.

Storm water means storm water runoff, snow melt runoff, and surface runoff and drainage resulting from precipitation events.

Storm water pollution prevention plan means a document that describes the *BMPs* to be implemented by the owner or operator to eliminate or reduce to the *maximum extent practicable* discharges of *pollutants* to the *MS4*.

§43.0304 ***Illicit Discharges***

- (a) Except as provided in San Diego Municipal Code section 43.0305, it is unlawful for any person to cause a *non-storm water discharge* to the *MS4*.
- (b) It is unlawful for any person to cause either individually or jointly any discharge into or from the *MS4* that results in or contributes to a violation of the *MS4 permit*.

§43.0305 ***Conditionally Allowed Non-Storm Water Discharges***

The following *non-storm water discharges* are allowed on the condition that they are addressed as follows:

- (a) Any discharge to the *MS4* that is regulated under an *NPDES permit* issued to the discharger and administered by the State of California pursuant to Division 7 of the California Water Code is allowed, provided the discharger is in compliance with all requirements of the *NPDES permit* and other applicable laws and regulations.
- (b) *Non-storm water discharges* to the *MS4* from the categories listed in San Diego Municipal Code section 43.0305(b)(1)-(4) are allowed if: (i) the discharger obtains coverage under *NPDES permit* No. CAG919001 (*Regional Water Quality Control Board* Order No. R9-2007-0034, or subsequent order) for discharges to San Diego Bay, or under *NPDES permit* No. CAG919002 (*Regional Water Quality Control Board* Order No. R9-2008-0002, or subsequent order) for discharges to surface waters other than San Diego Bay, and the discharger is in compliance with all requirements of the applicable *NPDES permit* and all other applicable laws and regulations; or (ii) the *Regional Water Quality Control Board* determines in writing that

coverage under *NPDES permit* No. CAG919001 or CAG919002 (or subsequent permits) is not required. Otherwise, *non-storm water discharges* from the following categories are *illicit discharges*:

- (1) discharges from uncontaminated pumped *groundwater*;
- (2) discharges from foundation drains when 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) discharges from crawl space pumps;
- (4) discharges from footing drains when 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-storm water discharges* to the *MS4* from water line flushing and water main breaks, including discharges from water purveyors issued a water supply permit by the State of California or federal military installations, are allowed if the discharges have coverage under *NPDES permit* No. CAG679001 (*Regional Water Quality Control Board* Order No. R9-2010-0003, or subsequent order), and the discharger is in compliance with all requirements of that *NPDES permit* and other applicable laws and regulations. Discharges from recycled or reclaimed water lines to the *MS4* are allowed if the discharges have coverage under an *NPDES permit*, and the discharger is in compliance with the applicable *NPDES permit* and other applicable laws and regulations. Otherwise, discharges from water lines are *illicit discharges*.

- (d) *Non-storm water discharges* to the *MS4* from the following categories are allowed:
- (1) discharges from diverted stream flows;
 - (2) discharges from rising *groundwater*;
 - (3) discharges from uncontaminated *groundwater* infiltration to the *MS4*;
 - (4) discharges from springs;
 - (5) discharges from riparian habitats and wetlands;
 - (6) discharges from potable water sources, except discharges from water lines without coverage under an *NPDES permit* as set forth in San Diego Municipal Code section 43.0305(c);
 - (7) discharges from foundation drains when the system is designed to be located above the *groundwater* table at all times of the year, and the system is only expected to produce *non-storm water discharges* under unusual circumstances; and
 - (8) discharges from footing drains when the system is designed to be located above the *groundwater* table at all times of the year, and the system is only expected to produce *non-storm water discharges* under unusual circumstances.
- (e) *Non-storm water discharges* from the following categories are allowed if they are addressed with *BMPs* as set forth in the *jurisdictional runoff management program*. Otherwise, *non-storm water discharges* from the following categories are *illicit discharges*:

- (1) Air conditioning condensation,
 - (2) Individual residential vehicle washing, and
 - (3) Water from swimming pools.
- (f) *Non-storm water discharges* to the *MS4* from firefighting activities are allowed if they are addressed as follows:
- (1) Non-emergency firefighting discharges. Non-emergency firefighting discharges, including building fire suppression system maintenance discharges (e.g. sprinkler line flushing), controlled or practice blazes, training, and maintenance activities shall be addressed by *BMPs* as set forth in the *jurisdictional runoff management program* to prevent the discharge of *pollutants* to the *MS4*.
 - (2) Emergency firefighting discharges. During emergencies, priority of efforts should be directed toward life, property, and the environment (in descending order). Emergency firefighting discharges shall be addressed by *BMPs* that do not interfere with emergency response operations or impact public health and safety.
- (g) Notwithstanding the categories of *non-storm water discharges* conditionally allowed by San Diego Municipal Code section 43.0305(a) through (f), if the *Regional Water Quality Control Board* or the *enforcement official* determines that any of these otherwise conditionally allowed *non-storm water discharges* are a source of *pollutants* to *receiving waters*, are a danger to public health or safety, or are causing a *public nuisance*, such discharges shall be prohibited from entering the *MS4*.

§43.0306 *Illicit Connections Prohibited*

It is unlawful for any person to establish, use, or maintain any *illicit connection* to the *MS4*.

§43.0307 *Reduction of Pollutants in Storm Water*

Any person engaged in activities which may result in discharges to the *MS4* shall, to the *maximum extent practicable*, undertake all measures to reduce the risk of *non-storm water discharges* and *pollutant* discharges. The following requirements shall apply:

(a) *BMP Implementation.*

Every person undertaking any activity or use of a *premises* that may cause or contribute to *storm water* pollution or contamination, *illicit discharges*, or *non-storm water discharges* to the *MS4* shall comply with *BMP* guidelines or pollution control requirements, as may be established by the *enforcement official*. *BMPs* shall be maintained routinely throughout the life of the activity. Such *BMPs* include the *BMPs* set forth in the *jurisdictional runoff management program*.

(b) *Storm Water Pollution Prevention Plan.*

The *enforcement official* may require any business or operation that is engaged in activities which may result in *pollutant* discharges to the *MS4* to develop and implement a *storm water pollution prevention plan*, which must include an *employee training program* and the applicable *BMPs* from the *jurisdictional runoff management program*.

(c) *Coordination with Hazardous Materials Release Response Plans and Inventory.*

Any activity subject to the Hazardous Materials Release Response Plan, Chapter 6.95 of the California Health and Safety Code, shall include in that Plan provisions for compliance with this Division, including the prohibitions on *non-storm water discharges* and *illicit discharges*, and the requirement to reduce release of *pollutants* to the *MS4* to the *maximum extent practicable*.

(d) Compliance with *General Storm Water NPDES Permits*.

Each discharger that is subject to any *general storm water NPDES permit* shall comply with all requirements of such permit. For those activities that discharge to the *MS4* under a *general storm water NPDES permit*, the discharger shall submit monitoring data and analytical evaluation/assessment to the City at the same time reports are submitted to the *Regional Water Quality Control Board*.

§43.0308 Containment and Notification of Spills

Any person owning or occupying a *premises* who has knowledge of any significant release of *pollutants* or *non-storm water discharges* from those *premises* that may enter the *MS4* shall immediately take all reasonable action to contain the release and minimize any *non-storm water discharge*. The person shall notify the *enforcement agency* within 24 hours of the *non-storm water discharge*.

§43.0309 MS4 Protection

Any person owning or occupying a *premises* through which the *MS4* passes shall:

- (a) Keep and maintain that part of the *premises* reasonably free of trash, debris and other obstacles which would pollute, contaminate, or retard the flow of water through the *MS4*; and

- (b) Maintain existing structures within or adjacent to the *MS4* so that those structures will not become a hazard to the use, function, or physical integrity of the *MS4*.

§43.0310 Enforcement Authority

- (a) The *enforcement agency* and *enforcement official* may exercise any enforcement powers as provided in San Diego Municipal Code Chapter 1, Article 3, as may be necessary to effectively implement and enforce this Division.
- (b) In addition to the general enforcement powers provided in San Diego Municipal Code Chapter 1, the *enforcement agency* and *enforcement official* may exercise any of the following supplemental enforcement powers as may be necessary to effectively implement and enforce this Division:
 - (1) **Sampling Authority.** During any inspection, the *enforcement official* may take samples deemed necessary in order to implement and enforce the provisions of this Division. This may include the installation of sampling and metering devices on private property, or requiring the *responsible person* to supply samples.
 - (2) **Notice of Violation.** The *enforcement official* may issue a *notice of violation* to any *responsible person* to cease and desist all activities that may cause or contribute to a discharge in violation of this Division. This order may require the *responsible person* to:
 - (i) comply with the applicable provisions and policies that govern this Division;
 - (ii) comply within the designated time frame for

compliance; (iii) take appropriate remedial or preventative action to keep the violation from recurring.

- (3) *Monitoring and Mitigation.* The *enforcement official* may require reasonable monitoring of discharges from any *premises* to the *MS4* and shall have authority to order the mitigation of circumstances that may result in *illicit discharges*.
- (4) *Storm water pollution prevention plan.* The *enforcement official* shall have the authority to establish elements of a *storm water pollution prevention plan*, and to require any business or operation to adopt and implement such a plan pursuant to San Diego Municipal Code section 43.0307(b).
- (5) *Employee training program.* The *enforcement official* shall have the authority to establish the elements of an *employee training program* that is part of a *storm water pollution prevention plan*.
- (6) *Best management practices.* The *enforcement official* may establish the *BMPs* required to be implemented for any *premises* pursuant to San Diego Municipal Code section 43.0307(a).

§43.0311 Enforcement Remedies

- (a) It is unlawful for any person, business, or association to violate the provisions and requirements of San Diego Municipal Code sections 43.0301 through 43.0309. Violations of these provisions may be prosecuted as misdemeanors subject to the penalties provided in San Diego Municipal Code section 12.0201. The *enforcement official* may seek injunctive relief or civil penalties in the Superior Court pursuant to San Diego Municipal


Code section 12.0202, or pursue any administrative remedy provided in San Diego Municipal Code Chapter 1, Article 2, Divisions 3 through 10.

- (b) Administrative civil penalties assessed pursuant to San Diego Municipal Code Chapter 1, Article 2, Division 8 for violations of any of the provisions and requirements of San Diego Municipal Code sections 43.0301 through 43.0309 shall be assessed at a maximum rate of \$10,000 per day per violation. The maximum amount of civil penalties shall not exceed \$100,000 per parcel or structure for any related series of violations.
- (c) As part of any civil action filed pursuant to San Diego Municipal Code section 12.0202 to enforce any provisions of San Diego Municipal Code sections 43.0301 through 43.0309, a court may assess a maximum civil penalty of \$10,000 per day per violation.

Section 2. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

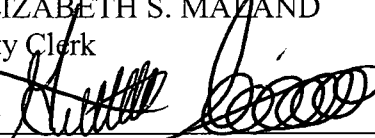
APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Heather L. Stroud
Deputy City Attorney

HLS:cw
05/26/15
Or.Dept: Transportation & Storm Water Department
CC No.: N/A
Doc. No.: 978799

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego,
at this meeting of JUN 30 2015

ELIZABETH S. MAJAND
City Clerk

By 
Deputy City Clerk

Approved: 7/15/15
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck-Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 4, ARTICLE 3, DIVISION 3 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 43.0301, 43.0302, 43.0304, 43.0305, 43.0306, 43.0307, 43.0308, 43.0309, 43.0310, AND 43.0311, ALL RELATING TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT, CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION ORDER NO. R9-2013-0001, AS AMENDED BY ORDER NO. R9-2015-0001.

§43.0301 Purpose and Intent

The purposes of this Division are to restore and maintain the water quality of receiving waters and further ensure the health, safety and general welfare of the citizens of the City of San Diego by ~~controlling Non-Storm Water Discharges effectively prohibiting non-storm water discharges, including spills, dumping, and disposal of materials other than storm water to the Storm Water Conveyance System~~MS4; by eliminating discharges to the Storm Water Conveyance System from spills, dumping, or disposal of materials other than Storm Water; and by reducing Pollutants pollutants in urban Storm Water discharges from the MS4 to receiving waters to the ~~maximum extent practicable~~ maximum extent practicable;- The intent of this Division is to protect and enhance the water quality of our watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Federal Water Pollution Control Act (Clean Water Act, 33 U.S.C.

section 1251 et seq.) and National Pollutant Discharge Elimination System (NPDES) Permit No. CA0108758, as amended the MS4 permit.

§43.0302 Definitions

For purposes of this Division, defined terms appear in italics. The following definitions apply in this Division:

~~“Basin Plan” means the Comprehensive Water Quality Control Plan for the San Diego Basin, adopted by the Regional Water Quality Control Board, San Diego Region in July 1975, and all subsequent amendments, on file in the office of the City Clerk as Document No. OO 17988 1.~~

~~“Best Available Technology” (BAT) means best available technology economically achievable. BAT is the technology based standard established by Congress in Clean Water Act section 402(p)(3)(A) for industrial dischargers of Storm Water. Technology based standards establish the level of Pollutant reductions that dischargers must achieve, typically by treatment or by a combination of treatment and Best Management Practices.~~

~~“Best Conventional Technology” (BCT) means the treatment techniques, process and procedure innovations, and operating methods that eliminate chemical, physical, and biological Pollutants to the degree of reduction attainable through the application of the Best Management Practices to the Maximum Extent Practicable.~~

~~“Best Management Practices” [BMP] Best management practices (BMPs) means schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce to the maximum extent practicable maximum extent practicable the discharge of Pollutants pollutants~~

directly or indirectly to waters of the United States receiving waters. Best Management Practices BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw materials storage.

~~“California Ocean Plan” means the California Ocean Plan: Water Quality Control Plan for Ocean Waters of California, adopted by the State Water Resources Control Board in September 1991, and all subsequent amendments, on file in the office of the City Clerk as Document No. OO 17988-2.~~

~~“Employee Training Program” Employee training program means a documented employee training program curriculum which that an employer may be required to be implemented by a business pursuant to a Storm Water Pollution Prevention Plan storm water pollution prevention plan for the purpose of educating its employees on methods of reducing the discharge of Pollutants pollutants to the Storm Water Conveyance System MS4.~~

~~“Enclosed Bays and Estuaries Plan” means the “California Enclosed Bays and Estuaries Plan: Water Quality Control Plan for Enclosed Bays and Estuaries of California,” adopted by the State Water Resources Control Board April 11, 1991, and all subsequent amendments, on file in the office of the City Clerk as Document No. OO 17988-3.~~

~~“Enforcement Agency” Enforcement agency means ~~the~~ the City of San Diego or its authorized agents charged with ensuring compliance with this Division.~~

~~“Enforcement Official” Enforcement official means the City Manager or his designee or any agent of the City authorized to enforce compliance with this Division.~~

~~“General Storm Water NPDES Permit”~~ General storm water NPDES permit means any NPDES Permit NPDES permit issued by the State Water Resources Control Board in accordance with 40 Code of Federal Regulations section 122.28.

Groundwater means subsurface water that occurs beneath the water table in soils and geologic formations that are fully saturated.

~~“Illegal Connection”~~ Illicit connection means any man-made physical connection to the Storm Water Conveyance System MS4 ~~that~~ which has not been permitted by the City of San Diego or the San Diego Regional Water Quality Control Board conveys an illicit discharge.

~~“Illegal Discharge”~~ Illicit discharge means any discharge to the Storm Water Conveyance System MS4 that is not composed entirely of Storm Water storm water, or is prohibited by federal, state, or local laws, or degrades the quality of Receiving Waters in violation of any Plan Water Quality Objective except discharges allowed under an NPDES permit and discharges conditionally allowed under the MS4 permit, as set forth in San Diego Municipal Code section 43.0305. Illicit discharge includes irrigation runoff discharged to the MS4.

~~“Inland Surface Water Plan”~~ means the California Inland Surface Waters Plan: Water Quality Control Plan for Inland Surface Waters of California adopted by the State Water Resources Control Board on April 11, 1991, and all amendments thereto, on file in the office of the City Clerk as Document No. OO 17988 4.

Jurisdictional runoff management program means a written description of the specific runoff management measures and programs, including BMPs, that the City will implement to comply with the MS4 permit and ensure that storm water pollutant discharges in runoff are reduced to the maximum extent practicable and

do not cause or contribute to a violation of water quality standards. Amendments to the jurisdictional runoff management program shall be approved by the City Manager. A copy of the currently applicable jurisdictional runoff management program is kept on file with the City Clerk.

~~“Maximum Extent Practicable”~~ Maximum extent practicable (MEP) means the technology-based standard established by Congress in Clean Water Act section 402(p)(3)(B)(iii) ~~that municipal dischargers of Storm Water dischargers must meet for storm water that operators of MS4s must meet.~~ MEP Maximum extent practicable generally emphasizes pollution prevention and source control BMP BMPs primarily in combination with treatment methods serving as a backup. Municipal separate storm sewer system (MS4) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) owned or operated by the City; (ii) designated or used for collecting or conveying storm water; (iii) which is not a combined sewer; and (iv) which is not part of the Publicly Owned Treatment Works as defined at 40 Code of Federal Regulations section 122.26.

Municipal separate storm sewer system permit (MS4 permit) means Regional Water Quality Control Board Order No. R9-2013-0001, NPDES No. CAS0109266, as may be amended or replaced by a subsequent order.

~~“National Pollution Discharge Elimination System (“NPDES”) Permit”~~ National Pollutant Discharge Elimination System Permit (NPDES permit) means a permit issued by the ~~San Diego~~ Regional Water Quality Control Board or the State Water Resources Control Board pursuant to Division 7 of the California Water Code to

control discharges from point sources to ~~waters of the United States~~ receiving waters.

~~“Non Storm Water Discharge”~~ Non-storm water discharge means any discharge to ~~or from the Storm Water Conveyance System~~ MS4 that is not entirely composed of ~~Storm Water~~ storm water, including illicit discharges and discharges allowed under an NPDES permit.

Notice of violation has the same meaning as in San Diego Municipal Code section 11.0210.

~~“Plan Water Quality Objective”~~ means any or all applicable requirements of the Basin Plan, the Enclosed Bays and Estuaries Plan, the Inland Surface Water Plan, and the California Ocean Plan.

~~“Pollutant”~~ Pollutant means any agent introduced to the MS4 that may cause or contribute to the degradation of water quality such that public health, the environment, or beneficial uses of receiving waters may be affected. Pollutants include solid waste, sewage, garbage, medical waste, wrecked or discarded equipment, radioactive materials, dredged spoil, rock, sand, industrial waste, and any organic or inorganic contaminant, ~~whose presence degrades the quality of the Receiving Waters in violation of any Plan Water Quality Objective. Pollutant includes~~ fecal coliform, fecal streptococcus, enterococcus, volatile organic surfactants, oil and grease, petroleum hydrocarbons, total organic lead, copper, chromium, cadmium, silver, nickel, zinc, cyanides, phenols, and biocides. A ~~Pollutant also includes any contaminant which can degrade the quality of the Receiving Waters in violation of any Plan Water Quality Objectives.~~

“Premises” Premises means any building, lot parcel, land or portion of land whether improved or unimproved.

Public nuisance has the same meaning as in San Diego Municipal Code section 11.0210.

“Receiving Waters” Receiving waters means waters of the United States, as defined under the Clean Water Act. Receiving waters include surface bodies of water which that serve as discharge points for the Storm Water Conveyance System MS4, including such as creeks, rivers, reservoirs, lakes, lagoons, estuaries, harbors, bays and the Pacific Ocean.

“Regional Water Quality Control Board” Regional Water Quality Control Board means the California Regional Water Quality Control Board, San Diego Region.

Responsible person has the same meaning as in San Diego Municipal Code section 11.0210.

“Storm Water” Storm water is means urban storm water runoff, and snow melt runoff, and surface runoff and drainage resulting from consisting of only those discharges which originate from precipitation events. Storm Water is that portion of precipitation that flows across a surface to the Storm Water Conveyance System or Receiving Waters.

“Storm Water Conveyance System” means those municipal and natural facilities within the City of San Diego by which Storm Water may be conveyed to waters of the United States, including any roads with drainage systems, municipal streets, catch basins, natural and artificial channels, aqueducts, canyons, stream beds, gullies, curbs, gutters, ditches, natural and artificial channels or storm drains.

~~“Storm Water Pollution Prevention Plan”~~ Storm water pollution prevention plan means a document ~~which~~ that describes the ~~BMP~~ BMPs to be implemented by the owner or operator to eliminate or reduce to the ~~MEP~~ maximum extent practicable ~~Pollutant~~ discharges of pollutants to the Storm Water Conveyance System MS4.

§43.0304 ~~Prohibited Discharges~~ Illicit Discharges

- (a) Except as provided in San Diego Municipal Code section 43.0305, it is unlawful for any person to cause a discharge ~~Non Storm Water~~ non-storm water discharge to a Storm Water Conveyance System the MS4.
- (b) It is unlawful for any person to cause either individually or jointly any discharge into or from the Storm Water Conveyance System MS4 which that results in or contributes to a violation of NPDES Permit No. CA0108758 the MS4 permit.

§43.0305 ~~Exemptions from Discharge Prohibition~~ Conditionally Allowed Non-Storm Water Discharges

The following ~~discharges~~ non-storm water discharges are ~~exempt from the~~ prohibition set forth in Section 43.0305 allowed on the condition that they are addressed as follows:

- (a) Any discharge ~~or connection~~ to the MS4 regulated under an NPDES permit NPDES permit issued to the discharger and administered by the State of California pursuant to Division 7 of the California Water Code is allowed, provided ~~that~~ the discharger is in compliance with all requirements of the ~~permit~~ NPDES permit and other applicable laws and regulations.
- (b) ~~Discharges from the following activities which do not cause or~~ contribute to the violation of any Plan Water Quality Objective and are

~~not a significant source of pollutants into or from the *Storm Water*~~

~~*Conveyance System:*~~

- ~~(1) diverted stream flows;~~
- ~~(2) rising ground waters;~~
- ~~(3) uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)) to the *Storm Water Conveyance System*;~~
- ~~(4) uncontaminated pumped ground water;~~
- ~~(5) foundation drains;~~
- ~~(6) springs;~~
- ~~(7) water from crawl space pumps;~~
- ~~(8) footing drains;~~
- ~~(9) air conditioning condensation, provided such discharges comply with *Best Management Practices* adopted under Section 43.0307(a);~~
- ~~(10) flows from riparian habitats and wetlands;~~
- ~~(11) water line flushing, provided that such discharges comply with *Best Management Practices* adopted under Section 43.0307(a);~~
- ~~(12) irrigation water, provided such discharges comply with *Best Management Practices* adopted under Section 43.0307(a);~~
- ~~(13) discharges from potable water sources not subject to NPDES Permit No. CAG679001, other than water main breaks;~~
- ~~(14) individual residential car washing, provided such discharges comply with *Best Management Practices* adopted under Section 43.0307(a);~~

- (15) ~~dechlorinated swimming pool discharges, provided such discharges comply with *Best Management Practices* adopted under Section 43.0307(a);~~
 - (16) ~~emergency fire fighting flows necessary for the protection of life or property; and~~
 - (17) ~~non-emergency fire fighting flows from controlled or practice blazes and fire suppression equipment maintenance activities, provided that such discharges are not prohibited categorically by *Best Management Practices* established by the *Enforcement Official* pursuant to Section 43.0307(a), and provided further that such discharges comply with all *Best Management Practices* established by the *Enforcement Official* under Section 43.0307(a).~~
- (b) *Non-storm water discharges to the MS4 from the categories listed in San Diego Municipal Code section 43.0305(b)(1)-(4) are allowed if:*
- (i) the discharger obtains coverage under NPDES permit No. CAG919001 (Regional Water Quality Control Board Order No. R9-2007-0034, or subsequent order) for discharges to San Diego Bay, or under NPDES permit No. CAG919002 (Regional Water Quality Control Board Order No. R9-2008-0002, or subsequent order) for discharges to surface waters other than San Diego Bay, and the discharger is in compliance with all requirements of the applicable NPDES permit and all other applicable laws and regulations; or (ii) the Regional Water Quality Control Board determines in writing that*

coverage under NPDES permit No. CAG919001 or CAG919002 (or subsequent permits) is not required. Otherwise, non-storm water discharges from the following categories are illicit discharges:

- (1) discharges from uncontaminated pumped groundwater;
 - (2) discharges from foundation drains when 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) discharges from crawl space pumps;
 - (4) discharges from footing drains when 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.
- (e) Any discharge which the Enforcement Official, the local health officer, the Regional Water Quality Control Board, or U.S. Environmental Protection Agency determines in writing are necessary for the protection of the public health and safety.
- (c) Non-storm water discharges to the MS4 from water line flushing and water main breaks, including discharges from water purveyors issued a water supply permit by the State of California or federal military installations, are allowed if the discharges have coverage under NPDES permit No. CAG679001 (Regional Water Quality Control Board Order No. R9-2010-0003, or subsequent order), and the discharger is in compliance with all requirements of that NPDES permit and other applicable laws and regulations. Discharges from recycled or reclaimed water lines to the MS4 are allowed if the discharges have coverage under an NPDES permit, and

the discharger is in compliance with the applicable *NPDES permit* and other applicable laws and regulations. Otherwise, discharges from water lines are *illicit discharges*.

(d) *Non-storm water discharges* to the *MS4* from the following categories are allowed:

- (1) discharges from diverted stream flows;
- (2) discharges from rising *groundwater*;
- (3) discharges from uncontaminated *groundwater* infiltration to the *MS4*;
- (4) discharges from springs;
- (5) discharges from riparian habitats and wetlands;
- (6) discharges from potable water sources, except discharges from water lines without coverage under an *NPDES permit* as set forth in San Diego Municipal Code section 43.0305(c);
- (7) discharges from foundation drains when the system is designed to be located above the *groundwater* table at all times of the year, and the system is only expected to produce *non-storm water discharges* under unusual circumstances; and
- (8) discharges from footing drains when the system is designed to be located above the *groundwater* table at all times of the year, and the system is only expected to produce *non-storm water discharges* under unusual circumstances.

(e) *Non-storm water discharges* from the following categories are allowed if they are addressed with *BMPs* as set forth in the *jurisdictional runoff*

management program. Otherwise, non-storm water discharges from the following categories are illicit discharges:

- (1) Air conditioning condensation,
- (2) Individual residential vehicle washing, and
- (3) Water from swimming pools.

(f) Non-storm water discharges to the MS4 from firefighting activities are allowed if they are addressed as follows:

- (1) Non-emergency firefighting discharges. Non-emergency firefighting discharges, including building fire suppression system maintenance discharges (e.g. sprinkler line flushing), controlled or practice blazes, training, and maintenance activities shall be addressed by BMPs as set forth in the jurisdictional runoff management program to prevent the discharge of pollutants to the MS4.
- (2) Emergency firefighting discharges. During emergencies, priority of efforts should be directed toward life, property, and the environment (in descending order). Emergency firefighting discharges shall be addressed by BMPs that do not interfere with emergency response operations or impact public health and safety.

(d)(g) Notwithstanding the exemptions provided categories of non-storm water discharges conditionally allowed by San Diego Municipal Code section 43.0305(a) and (b) through (f), if the Regional Water Quality Control Board Regional Water Quality Control Board or the Enforcement Official enforcement official determines that any of these otherwise exempt discharges cause or significantly contribute to violations of any Plan Water

~~Quality Objective, or convey significant quantities of Pollutants to surface waters conditionally allowed non-storm water discharges are a source of pollutants to receiving waters, are a danger to public health or safety, or are causing a public nuisance public nuisance, such discharges shall be prohibited from entering the Storm Water Conveyance System MS4.~~

§43.0306 ~~Illegal Connections~~ Illicit Connections Prohibited

~~It is unlawful for any person to establish, use, or maintain any Illegal Connection illicit connection to the Storm Water Conveyance System MS4. This section expressly supersedes any City permit or earlier authorization for said discharge, but is subject to the exemption provisions of San Diego Municipal Code section 43.0305(a).~~

§43.0307 ~~Reduction of Pollutants~~ Pollutants in Storm Water Storm Water

~~Any person engaged in activities which may result in Pollutants entering discharges to the Storm Water Conveyance System MS4 shall, to the MEP maximum extent practicable, undertake all measures to reduce the risk of Non-Storm Water non-storm water discharges or and Pollutant pollutant discharges. The following requirements shall apply:~~

(a) ~~Best Management Practices~~ BMP Implementation:

~~Every person undertaking any activity or use of a Premises premises which that may cause or contribute to Storm Water storm water pollution or contamination, Illegal Discharges illicit discharges, or Non-Storm Water Discharges non-storm water discharges to the MS4 shall comply with BMP BMP guidelines or pollution control requirements, as may be established by the Enforcement Official enforcement official. ~~BMP~~BMPs shall be~~

maintained routinely throughout the life of the activity. ~~Such BMP include,~~
~~but are not limited to, the following:~~ Such BMPs include the BMPs set forth
in the jurisdictional runoff management program.

- (1) ~~Controlling Pollutants From Parking Lots:~~ Any owner or operator of
vehicle parking lots that are located in areas potentially exposed to
Storm Water shall be required to conduct regular sweepings and
other effective measures to control Pollutant runoff.

- (b) ~~Storm Water Pollution Prevention Plan~~ Storm Water Pollution Prevention
Plan:

The Enforcement Official enforcement official may require any business
and or operations of other land uses in the City that are is engaged in
activities which may result in Pollutant pollutant discharges to the MS4 to
develop and implement a ~~Storm Water Pollution Prevention Plan~~ storm
water pollution prevention plan, which must include, ~~but is not limited to,~~
an ~~Employee Training Program~~ employee training program and the
applicable BMPs from the jurisdictional runoff management program.

- (c) ~~Coordination with Hazardous Materials Release Response Plans and~~
~~Inventory:~~

Any activity subject to the Hazardous Materials Release Response Plan,
Chapter 6.95 of the California Health and Safety Code, shall include in that
Plan provisions for compliance with this Division, including the
prohibitions on ~~Non-Storm Water Discharges~~ non-storm water discharges
and ~~Illegal Discharges~~ illicit discharges, and the requirement to reduce

release of Pollutants pollutants to the MS4 to the MEP maximum extent practicable.

~~(d)~~ ~~New Developments and Redevelopments.~~

~~All new development and redevelopment activities shall comply with Chapter 14, Article 2, Division 1 (Grading Regulations) and Chapter 14, Article 2, Division 2 (Storm Water Runoff Control and Drainage Regulations) of this San Diego Municipal Code.~~

~~(e)~~(d) Compliance with General Storm Water NPDES Permits General Storm Water NPDES Permits.

Each discharger, that is subject to any General Storm Water NPDES Permit general storm water NPDES permit shall comply with ~~BAT, BCT, and~~ all requirements of such permit. ~~For those activities that discharge to the MS4 under a have General Storm Water NPDES Permits~~ general storm water NPDES permit, the discharger shall submit ~~their~~ monitoring data and analytical evaluation/assessment to the City at the same time ~~their~~ reports are submitted to the ~~Regional Water Quality Control Board~~ Regional Water Quality Control Board.

§43.0308 Containment and Notification of Spills

Any person owning or occupying a ~~premises~~ premises who has knowledge of any significant release of ~~Pollutants~~ pollutants or ~~Non Storm Water~~ non-storm water discharges from those ~~premises~~ premises which ~~might~~ that may enter the ~~Storm Water Conveyance System~~ MS4 shall immediately take all reasonable action to contain the release and minimize any ~~Non Storm Water Discharge~~ non-storm water discharge. ~~Such~~ The person shall notify the ~~Enforcement Agency~~ enforcement

agency within 24 hours of the Non-Storm Water release non-storm water discharge.

§43.0309 ~~Storm Water Conveyance System~~ MS4 Protection

~~(a) Every~~ Any person owning or occupying ~~property~~ a premises through which a natural watercourse of a Storm Water Conveyance System the MS4 passes shall:

~~(1)(a)~~ (a) Keep and maintain that part of the watercourse within the property-premises reasonably free of trash, debris and other obstacles ~~which~~ that would pollute, contaminate, or retard the flow of water through the Storm Water Conveyance System MS4; and

~~(2)(b)~~ (b) Maintain existing structures within or adjacent to ~~such a watercourse~~ the MS4 so that those structures will not become a hazard to the use, function, or physical integrity of the Storm Water Conveyance System MS4; and

~~(b)~~ (b) It is unlawful for any person to commit or cause to be committed any of the following acts, without a written permit from the Regional Water Quality Control Board:

~~(1)~~ (1) Discharge pollutants into, or connect any pipe or channel, to a natural watercourse.

~~(2)~~ (2) Modify the natural flow of water in a watercourse.

~~(3)~~ (3) Deposit or disposal of any Pollutant in a watercourse, or remove any material from a watercourse, including its banks.

~~(c)~~ (c) All development and redevelopment activities shall comply with Chapter 14, Article 2, Division 1 (Grading Regulations) and Chapter 14, Article 2, Division 2 (Storm Water Runoff Control and Drainage Regulations) of this Municipal Code.

§43.0310 Enforcement Authority

- (a) The ~~Enforcement Agency~~ enforcement agency and ~~Enforcement Official~~ enforcement official ~~can~~ may exercise any enforcement powers as provided in San Diego Municipal Code Chapter 1, Article 3, as may be necessary to effectively implement and enforce this Division.
- (b) In addition to the general enforcement powers provided in San Diego Municipal Code Chapter 1, the ~~Enforcement Agency~~ enforcement agency and ~~Enforcement Official~~ enforcement official may exercise any of the following supplemental enforcement powers as may be necessary ~~under the circumstances~~ to effectively implement and enforce this Division:
- (1) ~~Sampling Authority:~~ During any inspection, the ~~Enforcement Official~~ enforcement official may take samples deemed necessary in order to implement and enforce the provisions of this Division. This may include the installation of sampling and metering devices on private property, or requiring the ~~person owning or occupying the Premises~~ responsible person to supply samples.
- (2) ~~Notice of Violation:~~Notice of Violation. The ~~Enforcement Official~~ enforcement official may issue an ~~administrative order~~ notice of violation to any ~~person owning or occupying a Premises~~ responsible person to cease and desist all activities that may cause or contribute to a discharge in violation of this Division. This order may also require the ~~responsible person~~ responsible person to: (i) comply with the applicable provisions and policies that govern this Division; (ii) comply within the designated time frame for compliance;

- (iii) take appropriate remedial or preventative action to keep the violation from recurring.
- (3) ~~Monitoring and Mitigation:~~ The Enforcement Official *enforcement official* may require reasonable monitoring of discharges from any ~~Premises~~ *premises* to the Storm Water Conveyance System *MS4* and shall have authority to order the mitigation of circumstances ~~which~~ that may result in ~~Illegal Discharges~~ *illicit discharges* to the MEP.
- (4) ~~Storm Water Pollution Prevention Plan~~ *Storm water pollution prevention plan*: ~~The Enforcement Official~~ *enforcement official* shall have the authority to establish elements of a ~~Storm Water Pollution Prevention Plan~~ *storm water pollution prevention plan*, and to require any activity business or operation to adopt and implement such a ~~Pplan~~ pursuant to San Diego Municipal Code section 43.0307(b), as may be reasonably necessary to fulfill the ~~purposes of this Division.~~
- (5) ~~Employee Training Program~~ *Employee training program*: ~~The Enforcement Official~~ *enforcement official* shall have the authority to establish the elements of an ~~Employee Training Program~~ *employee training program* that is part of a *storm water pollution prevention plan*, as may be necessary to fulfill the purposes of this Division, ~~where such a Program has been required as an element of a Storm Water Pollution Prevention Plan.~~
- (6) ~~Best Management Practices~~ *Best management practices*: ~~The Enforcement Official~~ *enforcement official* may establish the

~~requirements of BMP~~ BMPs required to be implemented for any Premises ~~premises~~ pursuant to San Diego Municipal Code section 43.0307(a).

§43.0311 Enforcement Remedies

- (a) It is unlawful for any person, ~~corporation~~ business, or association to violate the provisions and requirements of San Diego Municipal Code sections 43.0301 through 43.031309. Violations of these provisions ~~can~~ may be prosecuted as misdemeanors subject to the penalties provided in San Diego Municipal Code section 12.0201. The ~~Enforcement Official~~ enforcement official ~~alternatively can~~ may seek injunctive relief or civil penalties in the Superior Court pursuant to San Diego Municipal Code section 12.0202, or pursue any administrative remedy provided in San Diego Municipal Code Chapter 1, Article 2, Divisions 3 through 10.
- (b) Administrative civil penalties assessed pursuant to San Diego Municipal Code Chapter 1, Article 2, Division 8 for violations of any of the provisions and requirements of San Diego Municipal Code sections 43.0301 through 43.031309 shall be assessed at a maximum rate of \$10,000 per day per violation. The maximum amount of civil penalties shall not exceed \$100,000 per parcel or structure for any related series of violations.
- (c) As part of any civil action filed pursuant to San Diego Municipal Code section 12.0202 to enforce any provisions of San Diego Municipal Code

sections 43.0301 through 43.031309, a court may assess a maximum civil penalty of \$10,000 per day per violation.

HLS:cw
05/26/15
Or.Dept: Transportation & Storm Water Department
CC No.: N/A
Doc. No.: 978800

Passed by the Council of The City of San Diego on JUN 30 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherrri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 16 2015

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

JUN 16 2015

JUL 16 2015

, and on _____

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 20516