

ORDINANCE NO. 1980

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA, ADDING ARTICLE IX OF CHAPTER 23 OF THE FONTANA MUNICIPAL CODE REGARDING PREVENTION OF POLLUTANTS INTO STORM DRAINS.

WHEREAS, Article 11, Section 7 of the California Constitution authorizes the City of Fontana ("City") to make and enforce within its limits all ordinances and regulations not in conflict with general laws; and

WHEREAS, the City owns and operates a municipal separate storm sewer system (MS4) that collects and transports stormwater flows through the City;

WHEREAS, the City's ownership and operation of the MS4 is regulated under various laws and permits, including but not limited to the Federal Water Pollution Control Act ("CWA"), the Porter-Cologne Water Quality Control Act, and Santa Ana Regional Water Quality Control Board Order No. R8-2010-0036, NPDES No. CAS618036;

WHEREAS, the Fontana Municipal Code ("FMC") addresses requirements for uses of the city's storm drain system in Article IX of Chapter 23; and

WHEREAS, the City Council now desires to amend FMC Chapter 23, Article IX, to include requirements on new development and significant redevelopment and other prohibitions and limitations required by the regulations cited above; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FONTANA DOES ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council finds that all the facts, findings, and conclusions set forth above in this Ordinance are true and correct.

Section 2. CEQA. The City Council further finds that, under Public Resources Code section 21065, adoption of this Ordinance is not a project subject to the California Environmental Quality Act ("CEQA") and, alternatively, adoption of the Ordinance is exempt from CEQA under CEQA Guidelines (14 Cal. Code Regs. § 15000 et seq.) section 15061(b)(3), under the general rule that CEQA applies only to projects that have the potential for causing significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Section 3. Chapter 23, Article IX. Article IX in Chapter 23 of the Fontana Municipal Code is hereby deleted and replaced, as set forth in Exhibit "A" attached hereto and incorporated herein.

Section 4. Location and Custodian of Records. The documents and materials associated with this Ordinance that constitute the record of proceedings on which these findings are based are located at Fontana City Hall, 8353 Sierra Avenue, Fontana, California 92335. The City Clerk is the custodian of the record of proceedings.

Section 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Fontana hereby declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any or more sections, subsections, sentences, clauses and phrases may be declared invalid or unconstitutional.

Section 6. Effective Date. This Ordinance shall take effect and be in full force 30 days from and after its passage. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted in at least three public places within the City, and published once in San Bernardino County Register, a newspaper of general circulation in the City, within 15 days after its passage.

APPROVED AND ADOPTED this 27th day of January 2026.

READ AND APPROVED AS TO LEGAL FORM:

City Attorney

I, Germaine Key, City Clerk of the City of Fontana, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing Ordinance is the actual Ordinance adopted by the City Council and was introduced at a regular meeting on the 9th day of December 2025, and was finally passed and adopted not less than five days thereafter on the 27th day of January 2026, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

City Clerk of the City of Fontana

Mayor of the City of Fontana

Ordinance No. 1980

ATTEST:

City Clerk

EXHIBIT A

ARTICLE IX. - PREVENTING DISCHARGE OF POLLUTANTS INTO STORM DRAINS

DIVISION 1 - GENERALLY

Sec. 23-507. - Purpose.

This article sets forth uniform requirements for all uses of the City's MS4.

The purpose of this article is to protect and enhance the water quality of watercourses, water bodies, ground water and wetlands in a manner consistent with federal, state and local laws and regulations, and to implement the requirements of the City's NPDES permit.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23- 508. – Definitions.

Best management practices or *BMPs* means schedules of activities, prohibitions of practices, maintenance procedures, source control, any on-sight or off-site treatment control measures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Biochemical oxygen demand or *BOD* is the measurement of the dissolved oxygen used by microorganisms in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees Celsius, usually expressed as a concentration (e.g. mg/L).

Building Official means the Building Official of the City of Fontana or the Building Official's designee.

Chemical oxygen demand or *COD* is an indicative measure of the amount of oxygen that can be consumed by reactions in a measured solution.

City Engineer means that person designated as the City Engineer of the City of Fontana or the City Engineer's designee.

City's NPDES permit means that permit issued to the City as co-permittee by the Regional Water Quality Control Board, Santa Ana region, pursuant to the Federal Clean Water Act and California's Porter-Cologne Water Quality Control Act, as that permit currently exists or may hereafter be amended.

Construction activity includes, but is not limited to: clearing, grading, demolition, excavation, construction of new structures, any new development, significant redevelopment, other project for which a building, grading or other local permit or approval is required, and reconstruction of existing facilities involving removal and replacement that results in soil disturbance. The term construction activity includes, but is not limited to, all projects that require a construction activity storm water permit.

Construction discharger means any person who contributes to, causes or permits any materials associated with construction activities to be discharged into the storm drain system.

Discharger means any person who causes or contributes a discharge into the storm drain system.

Illegal discharge means any discharge into the storm drain system that is prohibited under local, state or federal statutes, ordinances, codes or regulations, including, without limitation, any discharge that causes, has the potential of causing or contributes to a violation of the City's NPDES permit. The term illegal discharge includes all non-storm water discharges except discharges made pursuant to an NPDES permit, discharges that fall within the discharge exceptions identified in section 23-511 of this chapter or discharges authorized by the executive officer of the Regional Water Quality Control Board, Santa Ana region.

Illicit connection means any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm water drainage system or any connection to the storm drain system that is not authorized by a NPDES permit or in writing by the City Engineer.

Industrial activity means any activity associated with an industrial development. The term industrial activity includes, but is not limited to, those activities for which an industrial activity storm water permit is required.

Industrial discharger means any person who contributes to, causes or permits any materials associated with industrial activities to be discharged into the storm drain system. Households and private residences shall not be considered industrial dischargers.

Local Implementation Plan or *LIP* means a requirement by the MS4 Permit and describes how the City of Fontana will implement the requirements of the MS4 permit within its own jurisdiction. *Low Impact Development* or *LID* means systems and practices that use or mimic natural processes that result in the infiltration, evapotranspiration, use, or any combination thereof of storm water in order to protect water quality and associated aquatic habitat.

Maximum Extent Practicable or *MEP* means management practices, control techniques, and system design and engineering methods for the control of pollutants taking into account considerations of synergistic, additive, and competing factors, including, but not limited to pollutant removal effectiveness, regulatory compliance, gravity of the problem, public acceptance, social benefits, cost and technological feasibility.

Memorandum of Agreement or *MOA* means that formal business document signed between the owner(s) and the City of Fontana outlining the responsibilities and roles of each party relating to Water Quality Management Plan and Storm Water BMP

Transfer, Access and Maintenance that has been approved by and is available from the City's Engineering Department.

Municipal Separate Storm Sewer System or MS4 or storm drain system means the City's separate storm sewer system. The MS4 is a system of conveyances (including, but not limited to roads with drainage systems, municipals streets, catch basins, curbs, gutter, ditches, natural drainage features or channels, modified natural channels, man-made channels, or storm drains) designated or used for collecting or conveying storm water. This definition of storm drain system shall not be construed as affecting in any way the City's ownership, use or control of property for municipal liability purposes.

National pollutant discharge elimination system permit or NPDES permit means those permits issued by the State Water Resources Control Board or the Regional Water Quality Control Board, Santa Ana Region pursuant to the Federal Clean Water Act, including but not limited to the CGP and the IGP.

New development means land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision.

Notice of Intent or NOI means an application for coverage under the general storm water permits.

Non-storm water means any liquid, water or other agent which contains pollutants. Non-storm water consists of all discharges to and from a storm water conveyance system that do not originate from precipitation events (i.e., all discharges from storm water). Non-storm water includes illegal discharges, non-prohibited discharges, and NPDES permitted discharges.

Operating Procedures means Standard Operations Procedures with references to applicable Statewide NPDES General Permits.

Person means an individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

pH means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions, expressed in gram equivalents per liter of solution.

Pollutant means any agent that may cause, contribute to or increase the degradation of the water quality of the waters of the United States, including but not limited to dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand,

cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

Public Works Director means that person designated as the Director of the City of Fontana Public Works Department or their designee.

Significant redevelopment means the addition or creation of 5,000 or more square feet of impervious surface on an already developed site. This includes, but is not limited to, additional buildings and/or structures, extension of an existing footprint of a building and construction of parking lots.

Statewide Construction General Permit or *CGP* mean that permit issues by the State Water Resources Control Board for the construction activities, specifically the general permit for discharges of storm water associated with construction activity, as that permit currently exists or may hereafter be amended.

Statewide Industrial General Permit or *IGP* means that permit issued by the state water resources control board for industrial activities, specifically the industrial storm water general permit, as that permit currently exists or may hereafter be amended.

Storm water means urban runoff and snowmelt runoff consisting only of those discharges which originate from precipitation events. Storm water is that portion of precipitation that flows across a surface to the storm drain system or receiving waters.

Total suspended solids or *TSS* means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

Water Quality Management Plan or *WQMP* means a plan required of new development/redevelopment projects specified in this chapter, outlining appropriate non-structural and structural BMPs, including storm water infiltration and treatment devices, that will be implemented and installed to prevent pollutants from being discharged into the City's municipal separate storm sewer system, during and after construction.

Waters of the United States means those waters that are more particularly described in 40 CFR section 120.2.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23-509. – Authority; duties of Public Works Director.

The Public Works Director shall have the power and duty to administer, implement and enforce the provisions of this article and all rules and regulations concerning the storm drain system. The Public Works Director shall monitor the maintenance and operation of the BMPs and insure that necessary repairs are made thereto.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23- 510. - Prohibited discharges.

No person shall:

- (1) Cause, allow, contribute to or facilitate an illegal discharge into the MS4.
- (2) Establish, use or maintain any illicit connection, as more fully described in section 23-512.
- (3) Cause, permit or authorize any agent, employee or independent contractor to cause, allow, contribute to or facilitate an illegal discharge or establish, use or maintain any illicit connection to the MS4.
- (4) Throw, deposit, abandon, maintain, or dispose of any refuse, rubbish, garbage, or other pollutants or wastes that may cause water quality concerns in or upon any street, alley, sidewalk, storm drain, catch basin, or other drainage structure, or upon any public or private piece of property, unless permitted by waste discharge requirements or waiver by the Regional Water Quality Control Board, Santa Ana region.
- (5) Discharge or cause to be discharged into any fountain, lake, stream or any other body of water in the City any refuse, rubbish, garbage or other pollutant.
- (6) Cause, allow, contribute to or facilitate a violation of the City's NPDES permit, including, but not limited to, discharges into the MS4 causing, threatening to cause, or contributing to a condition of pollution, contamination, or nuisance as that term is defined in section 13050 of the California Water Code.
- (7) Fail or refuse to implement any BMPs when directed to do so by the Public Works Director.
- (8) In addition to the prohibitions in subsections (1) through (7) above, discharge any of the following into the MS4:
 - (A) Sewage;
 - (B) Wash water resulting from hosing or cleaning, of gas stations, auto repair garages and other types of automobile service station;
 - (C) Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery or facility, including motor vehicles, concrete mixing equipment, portable toilet servicing, or similar activities.
 - (D) Wash water from mobile auto detailing and washing, steam and pressure cleaning, carpet or upholstery cleaning, pool cleaning and other such mobile commercial or industrial activities;
 - (E) Water from cleaning of municipal, industrial, and commercial sites, including parking lots, streets, sidewalks, driveways, patios, plazas, work yards and outdoor eating or drinking areas and similar activities;
 - (F) Runoff from material storage areas or uncovered receptacles that contain chemicals, fuels, grease, oil or other hazardous materials or substances that pose a threat to human health or the environment due to their toxicity, corrosiveness, ignitability, explosive nature or chemical reactivity;
 - (G) Discharges of runoff from washing toxic materials from paved or unpaved areas;

- (H) Discharges of pool fountain water containing chlorine, biocides or other chemicals; pool filter backwash containing debris or chlorine;
- (I) Pet waste, yard waste, litter, debris, sediment or similar wastes;
- (J) Restaurant or food processing facility wastes such as grease, floor mat and trash bin wash water, food waste or similar wastes.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23-511. - Discharge exceptions.

The following discharges shall be conditionally exempt from the definition of illegal discharge, unless the Regional Water Quality Control Board, State Water Resources Control Board, Public Works Director determines the discharge causes or contributes to violations of water quality standards set by the Regional Water Quality Control Board, Santa Ana region or State Water Resources Control Board or the discharge significantly contributes to the pollution of waters of the United States:

- (1) Discharges composed entirely of storm water.
- (2) Discharges covered under a separate NPDES permit or written clearances issued by the State Water Resources Control Board or the Regional Water Quality Control Board, Santa Ana region.
- (3) Discharges from potable water line flushing or other potable water sources. Line flushing may only occur when proper BMPs are implemented to ensure pollutants of concern do not enter the storm drain.
- (4) Discharges associated with air conditioning condensate.
- (5) Discharges associated with landscape irrigation, lawn garden watering, and other irrigation waters as long as the landscaping and irrigation complies with Chapter 28 Article IV.
- (6) Discharges from passive foundation drains, only if the source water drained from the foundation is storm water or uncontaminated ground water.
- (7) Discharges from passive footing drains, if the water is uncontained.
- (8) Discharges of water from crawl space pumps, if the water is uncontaminated.
- (9) Discharges of de-chlorinated water from swimming pools, except that cleaning wastewater and filter backwash shall not be discharged into the MS4.
- (10) Discharges from non-commercial vehicle washing, such as residential car washing (excluding engine degreasing) and car washing for fundraisers by a bona-fide 501 non-profit organization.
- (11) Discharges from diverted stream flows.
- (12) Discharges associated with rising ground waters and natural springs, if the groundwater is uncontaminated.
- (13) Discharges associated with uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20) and uncontaminated pumped groundwater.

- (14) Discharges associated with flows from riparian habitats and wetlands.
- (15) Discharges associated with emergency fire fighting flows. Flows necessary for the protection of life and property do not require BMPs. However, appropriate BMPs to reduce the discharge of pollutants must be implemented to the maximum extent practicable when they do not interfere with health and safety issues.

If the City or any other federal, state or county governmental entity determines that any of the discharges listed above cause or contribute to violations of water quality standards or are significant contributors of pollutants to waters of the United States or water of the State, the City may adopt regulations prohibiting such discharges from entering the storm drain system, authorize the discharge category and ensure that source control BMPs and treatment control are implemented to reduce or eliminate pollutants from the discharge, or require coverage under a separate permit for discharge into the MS4 authorized by the Regional Water Quality Control Board, Santa Ana region or State Water Resources Control Board.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23- 512. - Illicit connections to the storm drain system.

No person shall establish, use or maintain any illicit connection to the storm drain system. This prohibition shall apply retroactively regardless of whether the connection to the storm drain system was permissible under the law or practices applicable at the time of the connection.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23-513. - Alterations to the storm drain system.

No person shall, without prior written approval of the Public Works Director:

- (1) Construct or modify or cause to be constructed or modified any structure, facility, or items which may interfere with the normal operations of the storm drain system.
- (2) Alter the capacity, fall, or structural integrity of a storm drain, storm channel, or any portion of the storm drain system.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23- 514. - Prevention of illegal discharges; BMPs.

All users of the storm drain system shall implement such BMPs as are necessary to prevent illegal discharges.

All industrial and construction discharges shall establish operating procedures to protect against discharges of pollutants into the storm drain system. The operating procedures shall be available to the Public Works Director if the Public Works Director finds it is necessary.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23-515. - Compliance with best management practices (BMPs).

Any person undertaking any activity or operation in the City that could potentially cause or contribute to storm water pollution or a discharge of non-storm water to the City's MS4 shall comply with all applicable best management practices (BMPs) as listed in the current version of the California Storm Water Quality Association's Best Management Practices Handbooks for the relevant activity or the current county storm water program's "Report of Waste Discharge," to reduce pollutants in storm water runoff and reduce non-storm water discharges to the City's MS4 to the maximum extent practicable or to the extent required by law.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23-516. - Containing spills.

The Public Works Director shall establish regulations to control and contain spills of hazardous or toxic substances which could pollute the storm drain system if not contained. Each industrial discharger shall install a spill containment system to conform to the requirements established by the Public Works Director. No person shall operate a spill containment system that allows incompatible liquids to mix and create hazardous or toxic substances. Spill containment systems shall consist of a system of dikes, walls, barriers, berms, secondary vessels, or other devices designed to contain spillage of the liquid contents of containers. Spill containment systems shall be constructed of impermeable and non-reactive materials to the liquids contained. Spill containment systems shall conform to local regulations and policies as to percent containment and container size and type.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23-517. - Notification of accidental discharge.

Any person who causes, participates in or has knowledge of a spill of any type of material that may lead to an illegal discharge shall report the spill to the Public Works Director by phone, email or facsimile within twenty-four (24) hours of the spill.

Within five (5) working days following a spill which results in an illegal discharge, the person responsible for the spill shall submit a written report to the Public Works Director. The report shall describe in detail the type and volume of the material spilled, the cause of the spill, clean-up actions taken, and measures to be taken to prevent future accidental spills.

All industrial, commercial, and construction discharges shall post a notice at their place of business advising their employees to contact the City and applicable federal and state offices in the event of an accidental spill of any type of material that may lead to an illegal discharge.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23-518. - Regulation of construction and industrial dischargers.

(a) *Construction dischargers, including discharges from new development and significant redevelopment.* Any person causing or responsible for a construction activity, including a new development or significant redevelopment project, shall do all of the following:

- (1) Comply with the CGP and file with the appropriate agency a notice of intent to be covered by that permit, if applicable. This includes development and implementation of a storm water pollution prevention plan (SWPPP) and Erosion and Sediment Control Plan (ESCP).
- (2) Provide the Building Official with a copy of the waste discharge identification number issued as evidence of coverage under the Statewide Construction General Permit, if applicable.
- (3) Apply for, obtain and comply with all building, grading and other local permits required for the construction activity.
- (4) Implement any BMPs necessary to prevent illegal discharges, any BMPs that are conditions of any building, grading or other local permit and any BMPs imposed by the Building Official.
- (5) Document and maintain records on the effectiveness of such BMPs implemented to reduce the discharge of pollutants.
- (6) Prepare and implement a City approved WQMP or equivalent as required by the City in accordance with this article.
- (7) Refrain from violating or causing a violation of the City's NPDES permit.
- (8) Penalties. Construction dischargers who fail to comply with the provisions of their NPDES permit or this Chapter including, but not limited to, those provisions prohibiting unauthorized discharges; requiring installation and maintenance of BMPs; and/or having, maintaining, and complying with the SWPPP and ESCP may be subject to additional penalties that shall be adopted by resolution and subject to periodic review and revision by resolution, as part of the City's updated and modified schedule of service fees, inspection fees and processing fees.

(b) *Industrial and commercial dischargers.* Any person causing or responsible for commercial and industrial discharge shall do all of the following:

- (1) Comply with the IGP and file with the appropriate agency a notice of intent to be covered by that permit, if the discharger operates facilities described in 40 CFR 122.26(b)(14)(i)-(xi). This includes development and implementation of a storm water pollution prevention plan.
- (2) Provide the Public Works Director with a copy of the waste discharge identification number issued as evidence of coverage under the industrial activity storm water permit, if applicable.
- (3) Apply for, obtain and comply with all building, grading and other local permits required for the industrial development.

- (4) Implement any BMPs necessary to prevent illegal discharges, any BMPs that are conditions of any building, grading or other local permit and any BMPs imposed by the Building Official.
- (5) Document and maintain records on the effectiveness of such BMPs implemented to reduce the discharge of pollutants
- (6) Prepare or implement a WQMP or equivalent as required by the City in accordance with this article.
- (7) Refrain from violating or causing a violation of the City's NPDES permit.
- (8) Penalties. Industrial uses who fail to comply with the provisions of their NPDES permit or this Chapter including, but not limited to, those provisions prohibiting unauthorized discharges and illicit connections, operating without an NPDES Permit, and/or complying with the SB 205 Business Licenses Stormwater Discharge Compliance Form may be subject to additional penalties that shall be adopted by resolution and subject to periodic review and revision by resolution, as part of the City's updated and modified schedule of service fees, inspection fees and processing fees.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23-519. - Compliance with federal, state, and local regulations.

No person may engage in construction or industrial activities within the City which create non-storm water discharges regulated by the EPA, the State Water Resources Control Board and/or the Regional Water Quality Control Board, Santa Ana region and/or this article, unless that person conducts his or her activities pursuant to the rules and regulations set forth in Title 40, Parts 122, 123 and 124 of the Code of Federal Regulations.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23-520. - Evidence of compliance.

No person shall engage in any construction or industrial activity, unless such person obtains all permits required by federal, state, county or City regulations and provides evidence to the Public Works Director that he or she has taken measures to control illegal discharges and has obtained all necessary permits.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23-521. - Falsifying information.

No person shall:

- (1) Knowingly make any false statement or representations to the Public Works Director.

- (2) File any false record report, plan, or other document with the City to avoid compliance with this chapter.
- (3) Any person who falsifies, tampers with or knowingly renders inaccurate monitoring devices or methods required under this chapter, shall have violated this chapter and shall be guilty of a misdemeanor.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23-522. - Damage to monitoring equipment and storm drain system.

No person shall break, damage, deface, destroy or tamper with monitoring equipment used to ensure compliance with this article. No person shall damage or interfere with the storm drain system. Any person who damages the storm drain system or monitoring equipment shall be liable to the City for all damages, including fines and penalties, and administrative costs related thereto.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23-523. - Removal of potential pollutants.

The Public Works Director may order a property or business owner to remove any materials, pollutants or substances on his or her property or business which may lead to an illegal discharge or otherwise cause water quality concerns.

Sec. 23-524. Reserved.

Sec. 23-525. Reserved.

Sec. 23-526. Reserved.

Sec. 23-527. Reserved.

Sec. 23-528. Reserved.

Sec. 23-529. Reserved.

Sec. 23-530. Reserved.

Sec. 23-531. Reserved.

Sec. 23-532. Reserved.

Sec. 23-533. Reserved.

Sec. 23-534. Reserved.

Sec. 23-535. Reserved.

Sec. 23-536. Reserved.

(Ord. No. 1442, § 2, 3-2-04)

DIVISION 2 – NEW DEVELOPMENT AND SIGNIFICANT REDEVELOPMENT

Sec. 23-537. – Water Quality Management Plan; compliance and implementation.

The City Engineer shall have the authority to require the preparation and implementation of a WQMP for any development, redevelopment, utility, or road improvement project within the City limits.

(a) Prior to application submittal for plans examination, grading permit, building permit, or entitlement, a WQMP shall be prepared and submitted to the authorized City representative for all priority projects subject to this requirement under the applicable MS4 permit. The WQMP submittal requirement applies to construction projects covered by the Construction General Permit as well as construction projects with land disturbance of less than one acre. Qualifying development/redevelopment projects include:

- (1) All significant redevelopment projects - defined as the addition or replacement of 5,000 or more square feet of impervious surface on an already developed site subject to the discretionary approval of the City. Significant redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of the facility, or emergency redevelopment activity required to protect public health and safety. Where redevelopment results in an increase of less than 50 percent of the impervious surfaces of a previously existing developed site, and the existing development was not subject to WQMP requirements, the numeric sizing criteria discussed in Section 4 of the of the San Bernardino County Stormwater Program Technical Guidance Document for Water Quality Management Plans, effective September 19, 2013, (WQMP Technical Guidance Document) and any amendments to that WQMP Technical Guidance Document shall apply only to the addition or replacement, and not to the entire developed site. Where redevelopment results in an increase of 50 percent or more of the impervious surfaces of a previously existing developed site, the numeric sizing criteria discussed in Section 4 of the current version of the WQMP Technical Guidance Document shall apply to the entire developed site.
- (2) All new development projects that create 10,000 square feet or more of impervious surface (collectively over the entire development project site), including commercial, industrial, residential housing subdivisions (i.e., detached single-family home subdivisions, multifamily attached subdivisions or townhomes, condominiums, apartments, etc.), mixed-use, and public projects. New development projects include projects on public and private land that fall under the planning and building authority of the permitting jurisdiction.

- (3) New development or significant redevelopment of automotive repair shops (with SIC Codes 5013, 5014, 5541, 7532-7534, 7536-7539) where the project creates, adds and/or replaces 5,000 square feet or more of impervious surface.
 - (4) New development or significant redevelopment of eating places (with SIC Code 5812) where the land area of project is 5,000 square feet or more.
 - (5) All hillside developments of 5,000 square feet or more that are located on areas with known erosive soil conditions or where the natural slope is 25 percent or more.
 - (6) Developments of 2,500 square feet of impervious surface or more adjacent to (within 200 feet) or discharging directly into Environmentally Sensitive Areas or water bodies listed on the Clean Water Act, section 303(d) list of impaired waters.
 - (7) Parking lots of 5,000 square feet or more of impervious surfaces exposed to storm water. The term "parking lot" is defined as land area or facility for the temporary parking or storage of motor vehicles.
 - (8) New development or significant redevelopment of retail gasoline outlets that are either 5,000 square feet or more or have a projected average daily traffic of 100 or more vehicles per day.
 - (9) Non-priority/non-category projects may be required by the City to implement applicable site design LID and LIP requirements.
- (b) Preliminary project-specific WQMPs shall be submitted as early as possible during the environmental review or planning phase (land use entitlement). The final project-specific must be consistent with the preliminary project-specific WQMP. The City may require additional information and submittals for final approval.
- (c) The WQMP shall be prepared in conformance with the WQMP Technical Guidance Document, or its successor, and template documents and other related guidance documents.
- (d) The WQMP shall incorporate and implement site design, source control and/or treatment control BMPs to minimize runoff, increase onsite infiltration, and improve water quality as necessary to meet current MS4 Permit requirements. The WQMP must prioritize the use of LID treatment control measures and explain why LID treatment control measures cannot be used in order to propose another BMPs. The WQMP shall identify all BMPs that will be incorporated into the project to control post-construction storm water and non-storm water quality and quantity and shall be revised as necessary during the life of the project.

- (1) The owner(s) shall demonstrate that the proposed structural BMPs will infiltrate, and/or adequately treat, the projected storm water and urban runoff for the development project using the design standards for structural BMPs as specified in the applicable MS4 permit.
 - (2) All WQMPs shall include a maintenance schedule for all source control and treatment control BMPs, the owner(s) signed statement of responsibility for continued BMP maintenance, and a plan for continued maintenance responsibilities which must include signing a MOA as described in Sec 23-539.
- (e) No Certificate of Occupancy shall be issued for a development/redevelopment project without ensuring that all treatment control BMPs have been constructed as specified in the approved WQMP and will be maintained in compliance with the requirements of the municipal NPDES permit.
 - (f) Owner(s) shall submit and have approved an application to amend an approved WQMP prior to altering any BMP design, size, material, manufacturer, or specification. If a BMP is altered without approval, owner(s) shall restore the BMPs back to the original specifications in the approved WQMP. Altering a BMP without prior approval may result in enforcement actions.
 - (g) The City may, at its discretion, require updates and amendments to a previously approved WQMP when conditions warrant, up to and including: change or alteration in use of property, change or alteration of pollutant loads, inadequate pollutant removal BMPs, or any other circumstance where it can be established that current site conditions do not comply with the provisions of this chapter.
 - (h) Establishment of a Regulatory Fee. The City Council may establish a regulatory fee by Resolution and may from time to time adjust the fee by Resolution to recover the reasonable cost of permit issuance, administration, inspections, sampling, metering, and monitoring by the City Engineer. Such fee shall cover, but not exceed, the full cost of permit issuance, administration, inspections, sampling, metering, and monitoring and shall be allocated in a manner that bears a fair and reasonable relationship to the activities of the fee payers that are relative to the need for the WQMP.
 - (i) Compliance with the conditions and requirements of a WQMP shall not exempt any person from the requirement to independently comply with each provision of this article.

Sec. 23-538. – Installation of Structural source control and treatment control BMPs

In general, treatment control measures must be located within the new development or significant development project except as specified by the City's NPDES Permit. If the City approves treatment control measures outside the new development or significant redevelopment project, ownership of the treatment control measures will follow ownership of the new development or significant redevelopment project as described in 23-540.

Sec. 23-539. - Memorandum of agreement (MOA).

The owner(s) of any parcel subject to the development of a WQMP or any other residential tracts with structural source control or treatment control BMPs shall enter into a legally enforceable agreement with City, which, in consideration of project approval and/or connection to the storm drain system, the owner(s) agree to maintain post-construction source control, treatment control BMPs and other related features. A standard agreement form, or Memorandum of Agreement, has been approved by and is available from the City's Engineering Department. The MOA shall be executed by the owner(s) and shall be recorded with the County of San Bernardino's Assessor-Recorder-City Clerk.

- (a) The MOA agreement shall require the owner(s) to maintain, repair, and, if necessary, reconstruct the structural BMP, and shall state the terms, conditions, and schedule of maintenance for the structural BMP. The MOA agreement shall require the owner(s) to identify, fund, and continue to fund an available source of funding for the maintenance. In addition, it shall grant to the City a right of entry in the event that the City Engineer if the City Engineer has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the BMP; however, in no case shall the right of entry, of itself, confer an obligation on the City to assume responsibility for the BMP.
- (b) The MOA shall be binding on all current and subsequent owners of the site, portions of the site, and/or lots or parcels served by the BMP. Until such time that the transference of all property, sites, or lots served by the BMP is completed per section 23-542, the owner(s) listed in the recorded MOA shall have primary responsibility for carrying out the provisions of the agreement. Owner(s) shall provide notice of the transfer, sale, or deed of all property, sites, or lots served by the BMP to the City's Engineering Department.
- (c) The MOA shall require the Owner(s) to comply with the recordkeeping requirements articulated in 23-543.

Sec. 23-540. - Ownership of parcels subject to BMP maintenance requirements.

Owner(s) of a parcel or parcels subject to a requirement for maintenance of structural BMP features, shall:

- (1) Assume responsibility for maintenance and operation of any existing structural BMP feature to at least the MEP standard;
- (2) Conduct BMP maintenance and inspections as required in the approved WQMP;
- (3) Ensure that all structural BMP features are inspected at the frequency set forth in the approved WQMP, and retain proof of such inspections for a minimum of three years;
- (4) Replace any degraded structural BMP feature with new control measures, or BMP features, meeting the then current standards of the City; and
- (5) Shall not be free of liability and shall not be precluded from maintenance, operation, repair, or replacement of BMPs should they not possess knowledge that structural BMP features exist.

Sec. 23-541. - Transfer of ownership of parcels subject to BMP maintenance requirements.

The transfer, sale, or deed of a parcel or parcels subject to a requirement for maintenance of structural BMP features, shall include conditions requiring a transferee, and a transferee's successors and assigns, to:

- (1) Assume responsibility for maintenance and operation of any existing structural BMP feature to at least the MEP standard;
- (2) Conduct BMP maintenance and inspections as required in the approved WQMP;
- (3) Ensure that all structural BMP features are inspected at the frequency set forth in the approved WQMP and/or MOA, and retain proof of such inspections for at least three years;
- (4) Replace any degraded structural BMP feature with new control measures, or BMP features, meeting the then current standards of the City;
- (5) For conditions, covenants, and restrictions for properties which include structural BMP features that are to be maintained by a property or homeowner's association, such conditions, covenants and restrictions shall provide for maintenance of the BMP features by the association;

- (6) Any deed transferring title to said property shall include a reference to owner(s) agreement with the City under Section 23-539, which is applicable to owner(s) successors and assigns, and the BMP features that are to be maintained by the successor owner; and
- (7) If property, on which structural BMP features are located, is to be dedicated to a governmental agency, the transferor shall remain responsible for the BMP features until the agency provides a signed assumption of responsibility and confirmation that structural BMP features meet agency design standards.

Sec. 23-542. – Records.

- (a) Owner(s) shall maintain a copy of the approved WQMP readily accessible at each address associated with WQMP. Owner(s) shall maintain a copy of the approved WQMP readily accessible on themselves if Owner(s) maintains an office at an address different from the project WQMP.
- (b) Owner(s) of each structural BMP shall keep records of inspections, maintenance, and repairs for a minimum of three years from the date of creation of the record and shall submit the same upon request of the Building Official, City Engineer or Public Works Director.

Secs. 23-543. – WQMP Fees and Penalties.

- (a) If the Public Works Director has required a WQMP, the Public Works Director may also require a WQMP inspection fee.
- (b) If the Public Works Director has required a WQMP and determines that the WQMP has not complied with, the Public Works Director may also require a WQMP non-compliance re-inspection fee.
- (c) The Public Works Director may levy penalties for failure to comply with the provisions of this Division including, but not limited to, those provisions requiring WQMP structural equipment and BMP installation and maintenance.
- (d) All penalties and fees in this section shall be adopted by resolution and subject to periodic review and revision by resolution, as part of the City's updated and modified schedule of service fees, inspection fees and processing fees.

Sec. 23-544. Reserved.

Sec. 23-545. Reserved.

Sec. 23-546. Reserved.

Sec. 23-547. Reserved.

Sec. 23-548. Reserved.

Sec. 23-549. Reserved.

DIVISION 3. – ENFORCEMENT

Sec. 23-550. - Inspection and repair; authority to enter.

- (a) The Public Works Director may inspect the premises of any person, business, discharger, or entity subject to the provisions of this article. The Public Works Director may:
 - (1) Conduct industrial and commercial inspections, sample waters and discharges, monitor construction activity, and other activities to determine compliance with the provisions of this article.
 - (2) Review records, reports, test results, or other information required to determine compliance with the provisions of this article and permits.
 - (3) Inspect any wastes, chemicals, storage areas, storage containers, waste generating processes, treatment facilities, and discharge locations.
 - (4) Inspect the premises of any person, business, discharger, or entity for which a WQMP has been prepared to determine whether the BMPs associated with the project WQMP are being installed, implemented, maintained, and continue to function as designed. Owner(s) shall maintain on-site, at all times, the necessary tools and personnel to access each BMP.
 - (5) Take any other action necessary to determine compliance with the provisions of this article.
- (b) Inspections may be conducted as routine inspections, re-inspections, random inspections, inspections based upon complaints or other notice of possible violations, and joint inspections with other agencies inspecting under environmental or safety laws. Inspection fees may be assessed for routine inspections and re-inspections. The inspection fees shall be adopted by resolution and shall be subject to periodic review and revision by resolution, as part of the City's updated and modified schedule of service fees, inspection fees and processing fees.
- (c) All dischargers shall allow the Public Works Director ready access at all reasonable times to all parts of their premises for the purpose of making inspections, sampling discharges, examining and copying of records, taking of photographs and video, and carrying out their duties as set forth in this article. Where a discharger has security measures in force which would require proper identification and clearance before entry into the discharger's premises, the discharger shall make necessary arrangements with its staff so that, upon presentation of suitable identification, the Public Works Director will be permitted to enter, without delay, for the purpose of performing inspection and sampling.

No person shall obstruct, hamper, or interfere with the Public Works Director while carrying out his or her official duties. Unreasonable delays in allowing the Public Works Director access to the discharger's premises shall be a violation of this article.

- (d) If the Public Works Director has reasonable cause to believe that non-storm water discharge conditions on or emanating from certain premises are hazardous, unsafe, or dangerous and require immediate inspection to safeguard the public health or safety, the Public Works Director shall have the right to immediately enter and inspect the property, and may use any reasonable means required to effect such entry and make such inspection, whether the property is occupied and whether or not formal permission to inspect has been obtained.
- (e) The Public Works Director shall exercise their rights under this article in a manner consistent with the applicable law, and no inspections or other actions are authorized under this section if such action would violate the rights of the person which is the subject of the action.
- (f) Such inspection may include the necessity to photograph or videotape any applicable chemicals, materials, wastes, storage areas, storage containers, waste generating processes, treatment facilities, and discharge locations.
- (g) If the Public Works Director has reasonable cause to believe that an illicit discharge non-storm water discharge conditions on or emanating from the premises are of a nature so as to require immediate inspection to safeguard public health or safety, the Public Works Director shall have the right to immediately enter, inspect, and repair said property and may use any reasonable means required to effect such entry and make such inspection, regardless if said property is occupied or unoccupied and regardless if formal permission to inspect said property has been obtained. In the case that the City performs emergency repairs, the City may issue an invoice for costs. An invoice for costs is immediately due and payable to the City for the actual costs incurred by the City. If any owner or occupant, permittee or any other person subject to an invoice for costs fails to either pay the invoice for costs or successfully appeal the invoice for costs in accordance with Section 23-20, then the enforcing attorney may institute collection proceedings.

Sec. 23-551. – Enforcement; generally.

- (a) The City may take any enforcement action or combination of enforcement actions provided in this article against any person who violates or threatens to violate any provision of this chapter. The remedies in this article are cumulative to any remedies provided in this Code or available under any applicable law and not exclusive.
- (b) Responsible persons/entities. Any person who erects, constructs, reconstructs, alters (whether actively or passively), operates, or maintains or who fails to erect, construct, reconstruct, alter, repair, operate, or maintain any structure,

facility, improvement, BMP, practice, or condition in violation of this chapter; as well as any person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this chapter or fails to take appropriate action so that a violation of this chapter results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. For the purposes of this chapter, responsible persons/entities shall include but not be limited to:

- (1) Any person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this chapter or fails to take appropriate action so that a violation of this chapter results or persists.
 - (2) The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for storm water BMPs pursuant to a private agreement or public document, or any person who has control over, or responsibility for, the use, development, or redevelopment of the property.
 - (3) Any owner, person, tenant or occupant of land on which the violation occurs, and who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this chapter or fails to take appropriate action so that a violation of this chapter results or persists, regardless if the owner, person, tenant or occupant possessed knowledge of provision of this chapter, permit requirement, or approved WQMP, its implementation or maintenance requirements.
- (c) Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this chapter or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this chapter is unlawful and shall constitute a violation of this chapter.
- (d) Each day a separate offense. Each day that a violation continues shall constitute a separate and distinct violation or offense.
- (e) Recovery of costs. If any discharger fails to comply with any provision of this chapter, meet the requirements of any permit or WQMP and additional inspections are, therefore, required, such dischargers shall be liable for the cost of additional inspection and any improvements, repairs, modifications, or maintenance necessary. These costs may be recovered through additional inspection fees to cover permit inspection and administration expenses.
- (f) In addition to any other remedies provided by this Code or available to the City under applicable law, the City may enforce violations of this chapter through the administrative, civil or criminal procedures described herein.

- (g) In any action to enforce this chapter, the burden is on the person who is the subject of such action to establish that a discharge was within the scope of a non-prohibited discharge.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23-552. – Administrative Enforcement

(a) The Public Works Director in accordance with the provisions of Article XI of Chapter 2 of this Code is authorized to enforce violations of this chapter through the means set forth in Article I of Chapter 23 of this Code.

(b) NOC. Whenever the Public Works Director finds that any person threatens to violate or has already violated any prohibition, limitation, or requirement contained in this chapter, any sewer, any NPDES permit, City permit, or the basin plan, the City may serve upon such person a written notice of correction stating the nature of the violation, the penalties for continued noncompliance, and the necessary actions that must be implemented to correct the situation. The NOC shall stipulate a time period by which the problem must be corrected. Issuance of an NOC may require a compliance monitoring fee that is subject to an inspection fees adopted by resolution that is subject to periodic review and revision by resolution, as part of the City's updated and modified schedule of service fees, inspection fees and processing fees. Issuance of a NOC shall not be a bar against, or a prerequisite for, taking any other action against the person. Nothing in this section shall limit the authority of the Public Works Director to take any action, including emergency actions or any other enforcement action.

(c) NOV.

(1) When the Public Works Director finds that any person has failed to comply with a NOC or has violated or continues to violate any prohibition, limitation or requirement contained in this chapter, any NPDES permit, City permit, or the basin plan, the City may serve upon such person a written notice of violation stating the nature of the violation and the penalties for noncompliance. At a minimum, the notice of violation shall require that the person submit to the Public Works Director within a time period specified in the notice, a plan indicating the cause of the violation and corrective actions which will be taken to prevent recurrence. The time period for submittal shall not exceed more than thirty (30) days. Nothing in this section shall limit the authority of the Public Works Director to take any action, including emergency actions or any other enforcement action.

(2) A person shall be guilty of a separate offense for every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by the person.

(3) Pursuant to Government Code sections 53069.4 and 36900(b), the following violation assessments will apply to the issuance of a notice of violation by Public Works Director:

- (A) A first notice of violation may be issued for a first violation of this chapter and may be punishable by a fine of \$100.
- (B) A second notice of violation shall be issued for a second violation of this chapter within one year and shall be punishable by a fine of \$200.
- (C) A third notice of violation shall be issued for a third violation of this chapter within one year and shall be punishable by a fine of up to \$500.
- (D) Notwithstanding subparagraphs (A) through (C), a violation that causes or threatens to cause harm to persons or the environment may be issued a fine for the first and any following violation of \$500 per violation per day.

(d) Administrative Compliance Meeting. The Public Works Director may require a IGP discharger to attend a non-compliance meeting with City staff which is intended to assist the discharger with correcting the IGP discharger's non-compliance. If a non-compliance meeting is required, the City may charge the discharger a fee.

(e) Administrative Orders

(1) Stop work order. The Public Works Director or City Engineer may issue an order identifying the provision(s) of this chapter or applicable permit or order that has been violated and directing any or all work or activities causing or contributing to the noted violation to immediately stop. A person ordered to stop any work or activity in accordance with this section must not restart the work or activity until the City has verified that corrective actions have been implemented and authorizes work or activities to resume. A stop work order shall require the discharger to pay a one thousand dollar (\$1,000) penalty fee to the City for the issuance thereof.

(2) Administrative compliance order. The Public Works Director may issue an administrative compliance order to any discharger who fails to correct a violation of this chapter, any NPDES permit or the Basin Plan. The order shall be in writing, specify the violation(s) and require appropriate compliance measures within a specified time period. The administrative compliance order may include the following terms and requirements:

- (A) Specific steps and time schedules for compliance as reasonably necessary to eliminate an existing prohibited discharge or illegal connection or to prevent the imminent threat of a prohibited discharge;
- (B) Specific requirements for containment, cleanup, removal, storage, installation of overhead covering or proper disposal of any pollutant having the potential to contact storm water;

(C) Installation of storm water treatment devices, containment structures, wash racks and addition and removal of storm water drains;

(D) Any other terms or requirements reasonably calculated to prevent imminent threat of or continuing violations of this chapter, including, but not limited to requirements for compliance with best management practices guidance documents promulgated by any federal, state or regional agency.

The Public Works Director may adopt a proposed compliance schedule submitted by the user or may adopt a revised compliance schedule if in his judgement, the proposed compliance schedule would allow the user to cause harm to the receiving waters and/or the City's storm drainage system. An administrative compliance order shall require the discharger to pay a one thousand dollar (\$1,000) penalty fee to the City for the issuance thereof.

(3) Cease and desist order. The Public Works Director may issue a cease and desist order to direct the owner or occupant of any property and/or any other person responsible for a violation of this chapter to:

(A) Immediately discontinue any illicit connection or prohibited discharge to the MS4;

(B) Immediately contain or divert any flow of water off the property, where the flow is occurring in violation of any provision of this chapter;

(C) Immediately discontinue any other violation of this chapter;

(D) Immediately clean up all areas affected by the violation; and/or

(E) Cease and desist with any or all continued work on a project (i.e., a stop work order) until such time as appropriate BMPs are implemented, the prohibited discharge is eliminated, or other appropriate actions are taken to ensure compliance with this chapter.

No cease and desist order is to be stayed, tolled or otherwise put on hold as a result of any administrative or other legal challenge to its terms. A cease and desist order is only to be stayed, tolled or put on hold where required as a result of the administrative review process or by a court of competent jurisdiction. A cease and desist order shall require the discharger to pay a one thousand dollar (\$1,000) penalty fee to the City for the issuance thereof.

(f) Permit revocation or denial. The Public Works Director may suspend, revoke, or deny a permit, license, or other approval for a development project or deny future permits on the project in accordance with the hearing procedures set forth in Section 23-559.

(g) Invoice for costs. The Public Works Director may deliver to the owner or occupant of any property, any permittee and/or any other person who becomes subject to an administrative order, an invoice for costs. An invoice for costs is immediately due and payable to the City for the actual costs incurred by the City in issuing and enforcing any

notice or order, including any costs incurred by the City to prevent, contain and/or clean up any potential or actual discharges to the MS4. If any owner or occupant, permittee or any other person subject to an invoice for costs fails to either pay the invoice for costs or successfully appeal the invoice for costs in accordance with Section 23-20, then the enforcing attorney may institute collection proceedings.

Sec. 23-553. – Inspection Fees.

(a) Inspection Fees. Industrial users and construction dischargers shall pay the applicable annual inspection fees and if necessary, the non-compliance re-inspection fees. The inspection fees shall be adopted by resolution and may be subject to periodic review and revision by resolution, as part of the City's updated and modified schedule of service fees, inspection fees and processing fees.

(b) Business License Inspection Fees. Business license inspection fees shall be collected on an annual basis for those businesses requiring regular compliance inspections. Affected businesses shall include industrial businesses subject to the IGP and other industrial and commercial sites/sources that the City determines may contribute a significant pollutant load to the MS4. The inspection fees shall be adopted by resolution and shall be subject to periodic review and revision by resolution, as part of the City's updated and modified schedule of service fees, inspection fees and processing fees.

Sec. 23-554 – Compensation for Damages

Any person who damages monitoring equipment, has the potential to affect or affects human health or the environment; discharges pollutants into the City's storm drainage system which causes or has the potential to cause increased maintenance of the system, non-routine inspection or sampling of the system, system blockages or other damage or interference to the MS4; or causes any other damages, including the imposition of fines or penalties on the City by Federal, State or local regulatory agencies, shall be liable to the City, as applicable, for all damages and additional costs, including fines and penalties. An administrative fee, which shall be fixed by the City Manager based on the City's current overhead cost allocation percentage, shall be added to these charges and shall be payable to the City within thirty (30) calendar days of invoicing.

Sec. 23-555. - Public nuisance.

(a) Any violation of this chapter shall be and the same is hereby declared to be unlawful and a public nuisance and the Public Works Director or City Attorney may commence

an action or actions for the abatement thereof, in accordance with the procedures described in Chapter 18 of this Code.

(b) Notwithstanding anything in this chapter to the contrary, the City may take all action necessary to inspect, investigate, assess, remedy or otherwise abate any discharge of a pollutant on or into any public property, including all publicly owned portions of the MS4.

(c) The cost of such abatement shall be borne by the owner of the property where the public nuisance occurs. The costs thereof may become a lien upon and against the property, if the costs are not paid and such lien shall continue in existence until the same shall be paid. If the lien is not satisfied by the owner, the property may be sold in satisfaction thereof in a like manner provided by law.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23-556. - Notices.

Unless otherwise specifically provided, all notices required under this chapter shall be given in writing and served by messenger or by first class, certified or registered mail. Notice shall be deemed received as follows, depending upon the method of transmittal:

- (1) By messenger, as of the date delivered; or
- (2) By United States mail, first class, certified or registered, as of 72 hours after deposit in the United States mail, or
- (3) By electronic mail (e-mail), as of the date delivered.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23-557. - Civil penalties.

In addition to any other remedies provided by this Code or available to the City under applicable law, the City, through its City Attorney, may enforce violations of this chapter by filing a complaint in a superior court seeking any applicable civil remedies, including, without limitation, declaratory or injunctive relief.

In any such action commenced by the City Attorney, the City shall be entitled to recover its reasonable costs and expenses, including reasonable attorney's fees and expert expenses.

Filing a suit for civil penalties shall not be a bar against, or a prerequisite for taking any other action. The City may institute further legal action to collect such penalties in the

event that the violator of this chapter fails or refuses to pay said penalty within thirty (30) days from the date that it has been assessed.

(Ord. No. 1442, § 2, 3-2-04)

Sec. 23-558. - Criminal prosecution.

Any person violating any of the provisions of this chapter or failing to comply with any mandatory requirement from the City shall be guilty of a misdemeanor and shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offence for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by any such person, and shall be punished accordingly.

(Ord. No. 1442, § 2, 3-2-04)

Sec 23-559. – Reserved Administrative Hearings and Appeals.

(a) Any person who violates any provision of this chapter, or any permit or order issued hereunder, or any person subject to an order, waiver, permit condition, permit modification, disapproval of a permit application, or any other decision made by the Public Works Director, may request — or the Public Works Director may order — an administrative hearing. An administrative hearing officer not directly involved in the enforcement of this chapter shall preside over the hearing, at which each party shall have the right to present evidence.

(1) The person requesting an administrative hearing may request a stay of the challenged decision or action during the pendency of the administrative hearing. The Public Works Director may grant such a request if the Public finds that granting the stay does not threaten public health or safety, including damage to the sewer or storm water systems.

(2) Notwithstanding subsection (1), the imposition of fines or penalties shall be automatically stayed during pendency of the administrative hearing, unless the Public Works Director or administrative hearing officer determines that such a stay would threaten public health or safety.

(b) The city shall serve written notice on the person subject to the hearing. The notice shall specify the time and place of the hearing, the challenged action or violation, and the proposed enforcement action, if any. For administrative hearings regarding proposed enforcement actions under this chapter, the notice shall direct the person subject to the enforcement action to show cause before the hearing officer why the proposed enforcement action should not be taken. The notice of hearing shall be served

personally or by registered or certified mail, return receipt requested, at least ten (10) days and no more than sixty (60) days before the hearing. Service may be made on any agent or officer of the person.

(c) Such a hearing shall not be a bar to, or a prerequisite for, taking any other authorized action against the person.

(d) Administrative hearing decisions issued pursuant to this chapter may be appealed to the City Manager. The City Manager may amend, modify, confirm, or reject any such decision, provided that the purpose and intent of this chapter are not violated. The City Manager's determination shall constitute the final administrative decision of the city.

(1) The person requesting an appeal may request a stay of the administrative hearing decision during the pendency of the appeal. The City Manager may grant such a request if the City Manager finds that granting the stay does not threaten public health or safety, including potential damage to the sewer or storm water systems.

(2) Notwithstanding subsection (1), the imposition of fines or penalties shall be automatically stayed during the appeal period, unless the Public Works Director, administrative hearing officer, or City Manager determines that such a stay would threaten public health or safety.

