

**ORDINANCE NO. 9328 (N.S.)**

**AN ORDINANCE AMENDING THE COUNTY CODE OF  
REGULATORY ORDINANCES RELATING TO  
STORMWATER REGULATION**

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

Section 1. Purpose - Various existing County ordinances regulate stormwater discharges. This ordinance will clarify and consolidate stormwater regulations that are associated primarily with construction activities and post-construction stormwater discharges.

Section 2. Sections 67.802 through 67.808 of the County Code of Regulatory Ordinances are hereby amended to read as follows:

**SEC. 67.802. PURPOSE/INTENT.**

The purpose of this Chapter is to provide for health, safety, and general welfare of citizens through the prohibition of pollutant discharges, to conveyance systems and the requirement of specific Best Management Practices to the Maximum Extent Practicable as necessary to prevent such discharges.

**SEC. 67.803. DEFINITIONS.**

The following definitions shall be applicable when the following words or phrases are used in this Chapter:

(a) Authorized Enforcement Official: employees or designees of the Director of the Department of Public Works, Director of the Department of Planning and Land Use and the Director of the Department of Environmental Health.

(b) Best Management Practices (BMPs): 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 Stormwater, Receiving Waters, or Stormwater Conveyance Systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

(c) Discharger: any person or entity engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering Stormwater, the Stormwater Conveyance System or Receiving Waters.

(d) Illegal Connection: a pipe, facility, or other device connected to the Stormwater Conveyance System or Receiving Waters which has not been reviewed and authorized by

County of San Diego; or a permitted/authorized pipe, facility, or other device which conveys Illegal Discharges.

(e) Illegal Discharge: any discharge into Stormwater, the Stormwater Conveyance System, or Receiving Waters that is not solely Stormwater, excluding exempt discharges listed in Section 67.806. Discharges that require a Regional Water Quality Control Board (RWQCB) permit that has not been issued or has not been acknowledged by the Discharger to be applicable, are illegal. Discharges regulated under an applicable RWQCB permit are Illegal Discharges for purpose of this Ordinance unless compliance with all RWQCB permit conditions is maintained.

(f) Maximum Extent Practicable (MEP): means implementation of effective BMPs. The following shall be used to determine if a BMP is effective: the BMPs must remove the pollutants identified at a site for reduction; the BMPs must comply with other regulations as well as Stormwater regulations; the BMPs must be compatible with the area's land use, character, facilities, and activities; the BMPs' implementation costs should not exceed benefits obtained from pollution reduction; and BMPs must be technically feasible (considering area soil, geography, water resources, and other resources available).

(g) Pollutant: means dredged spoil, rock, sand, or silt (excluding sediment, silt, or substances which would enter Stormwater from a natural undeveloped watershed) solid waste, sewage, garbage, medical waste, wrecked or discarded equipment, radioactive materials, industrial waste, and any organic or inorganic contaminant. Pollutant includes fecal coliform, fecal streptococcus, enterococcus, volatile organic carbon surfactants, oil and grease, petroleum hydrocarbons, total organic carbon, lead, copper, chromium, cadmium, silver, nickel, zinc, cyanides, phenols, and biocides and any contaminant which can significantly degrade the quality of Receiving Waters by altering pH, total suspended or settleable solids, biochemical oxygen demand, chemical oxygen demand, nutrients, or temperature, and other pathogens that pose a threat to human health.

(h) Receiving Waters: means natural streams, creeks, rivers, reservoirs, lakes, lagoons, estuaries, bays, and the pacific ocean.

(i) Stormwater: means surface runoff and drainage associated with storm events and includes naturally occurring sediment, silt, and substances present in the undeveloped watersheds.

(j) Stormwater Conveyance System: means private and public drainage facilities within the unincorporated area of San Diego County by which Stormwater may be conveyed to Receiving Waters, such as: roads, streets, constructed flood control channels, aqueducts, storm drains, pipes, street gutters, or catch basins.

(k) Stormwater Pollution Prevention Plan: means a document which describes the BMPs to be implemented by a person or business to eliminate or reduce Pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the MEP.

## **SEC. 67.804. GENERAL PROVISIONS.**

(a) Responsibility for Administration. This Chapter shall be administered for the County of San Diego by its designated Authorized Enforcement Officials.

(b) Construction and Application. Interpretation of the meanings of parts of this Chapter shall assure consistency with the purpose and intent of this Chapter.

(c) Severability and Validity. If any section of this Chapter is declared invalid by a court of law, the remaining sections shall still be considered valid.

## **ARTICLE 2. DISCHARGE REGULATIONS, EXEMPT DISCHARGES, AND POLLUTANT REDUCTION**

### **SEC. 67.805. DISCHARGE REGULATIONS.**

The following are prohibited:

(a) Illegal Discharges. Discharge of Pollutants directly or indirectly into Stormwater, the Stormwater Conveyance System, or Receiving Waters; except as permitted in Section 67.806 of this Chapter.

(b) Illegal Connections. To establish, use, maintain, or continue Illegal Connections; even if the connection was by a valid permit and was legal at the time it was constructed.

(c) Littering. To throw, deposit, leave, maintain, or keep any: refuse, rubbish, garbage, discarded or abandoned objects, articles, or other materials containing Pollutants on public or private lands which may result in an Illegal Discharge.

### **SEC. 67.806. EXEMPT DISCHARGES.**

The following discharges are exempt from discharge prohibitions established by this Chapter:

(a) Discharges regulated under a valid RWQCB permit, provided compliance with all permit conditions is maintained.

(b) Discharges from: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.

(c) Discharges specified in writing by any Authorized Enforcement Official as being necessary to protect public health and safety.

#### **SEC. 67.807. REQUIRED ACTIVITIES.**

(a) All Dischargers. All Dischargers shall implement BMPs to reduce pollutant discharges in Stormwater to the MEP.

(b) Construction Activities. Any person or entity performing construction activities in the County, and any owners of land on which construction activity is performed, is a Discharger for purposes of this Ordinance, and shall implement BMPs to prevent and reduce pollutant discharges in Stormwater to the MEP. These BMPs must provide for erosion control, sediment control, and the prevention of non-Stormwater discharges associated with construction activities. BMPs must address the following areas, and additional areas as necessary to prevent and reduce pollutant discharges to the MEP:

- (1) stabilization of exposed soils and sediment trapping;
- (2) protection of adjacent property;
- (3) control of off-site erosion;
- (4) stabilization of temporary conveyance channels and outlets;
- (5) protection of storm drain inlets;
- (6) minimization of transport of sediment by construction vehicles;
- (7) control of discharges from construction site dewatering devices;
- (8) prevention of non-Stormwater discharges;
- (9) inspection and maintenance of BMP control devices to ensure functioning at design capacity.

An Authorized Enforcement Official may prepare, maintain and disseminate guidance documents identifying pollution prevention and control practices for construction activities and other activities that have been determined by the Authorized Enforcement Official to be effective and practicable in specified circumstances. An Authorized Enforcement Official may take any such guidance into account when determining whether any practice proposed in a grading plan, a SWPPP, or any other submittal, is a BMP that will prevent or control pollution to the MEP.

(c) Post-Construction BMPs for Development and Redevelopment. Land development and redevelopment projects shall be designed to include and implement BMPs to ensure that pollutants and runoff from the development will be reduced to the MEP and will not cause or contribute to an exceedance of receiving water quality objectives. Natural BMPs, such as wetlands, grassed swales, biofilters, wet ponds, and vegetated filter strips, shall be utilized whenever practicable for post-construction BMPs that are proposed by a discharger.

(d) Stormwater Pollution Prevention Plan (SWPPP). An Authorized Enforcement Official may require the preparation of a SWPPP to reduce spills, leakage, and/or release of Pollutants. Any Discharger required to obtain approval of an SWPPP shall implement and maintain the BMPs specified in the approved SWPPP.

The SWPPP shall generally meet the requirements of the State NPDES General Construction or Industrial Permits, if applicable, and shall identify the BMPs that will be used by the Discharger to prevent or control pollution of Stormwater to the MEP.

(e) Surface Maintenance and Cleaning. Surfaces shall be cleaned and maintained free of dirt, litter and other pollutants, particularly just prior to each wet season. Waste material from cleaning surfaces such as sidewalks, driveways, parking lots, and other surfaces are to be disposed of in a legal manner.

(f) Notification of Spills. Spills or releases of Pollutants shall be reported to the appropriate agencies within 24 hours. If safe to do so, necessary actions shall be taken to contain and minimize the spill or release.

(g) Testing, Monitoring, and Mitigation. Testing, monitoring, and/or mitigation (similar to State SWPPP requirements in the State Construction or Industrial Permits) may be ordered if:

- (aa) Illegal Discharges have not been eliminated after written notice from an Authorized Enforcement Official; or
- (bb) Repeated violations have been documented by written notices from Authorized Enforcement Officials.

(h) Monitoring Elements. Monitoring ordered pursuant to Section 67.807(b)l. may include the following:

- (aa) Routine visual monitoring of dry weather flows;
- (bb) Routine visual monitoring of premises for spills or Pollutant discharges;
- (cc) A log of monitoring dates, potential Pollution sources noted above, and mitigation measures taken; and/or
- (dd) Laboratory analyses for pollutants, if determined to be necessary.

(i) Cessation of Monitoring. Required sampling, testing, monitoring, and/or mitigation may be discontinued after conditions requiring monitoring no longer exist and the Authorized Enforcement Official has been provided written notice prior to cessation. The required activity may not cease if written notice to continue is issued by an Authorized Enforcement Official.

(j) Mitigation. All violations of Section 67.805 must be mitigated to the satisfaction of the Authorized Enforcement Official. Failure to mitigate a violation may result in enforcement actions taken against the violator.

(k) Requirements Imposed by Other Agencies. Discharges subject to this Ordinance must also comply with any other local, state or federal requirements applicable to the activities they are conducting.

#### **SEC. 67.808. INSPECTION/SAMPLING.**

Authorized Enforcement Officials are granted authority by this Chapter to inspect for Illegal Discharges and Illegal Connections, and the adequacy of measures implemented to prevent and control pollution of Stormwater as follows:

- (a) Inspections. Inspection of vehicles, sites, and premises.
- (b) Sampling. Sampling, metering, and related operations on sites or premises necessary to obtain samples. The owner or operator may request and receive split samples.

Section 3. Section 87.203 of the County Code of Regulatory Ordinances is hereby amended to read as follows:

**SEC. 87.203. APPLICATION.**

A separate application with plans and specifications shall be required for each grading permit. The application shall be signed by the owner of the property to be graded. Also at the time of application, the owner shall be required to file with the County Official an "Acknowledgement to Employ Consultants" form. The owner shall list the Supervising Engineer, as required by Sec. 87.420, Soils Engineer and Engineering Geologist (if required). In addition, each listed consultant shall submit to the County Official, a signed "Acceptance of Employment by Consultants" as the owner's consultant. The owner shall be responsible for notifying the County Official of any change in the consultants listed on the "Acceptance of Employment by Consultants" form. No grading shall be done without the "Acceptance of Employment by Consultants" form being on file with the County Official. All plans and specifications shall be prepared or approved and signed by a registered civil engineer. The County Official may waive this requirement when in his opinion the work entails little hazard to any property and the proposed grading does not exceed 3,000 cubic yards, is upon a single lot or parcel of land, and will not necessitate the construction of any extensive drainage structures or facilities or interfere in any way with an existing drainage course.

The plans shall show the following:

- (a) A vicinity sketch or other data adequately indicating the site location.
- (b) Property lines of the site on which the work is performed.
- (c) Location of any buildings or structures on the site where the work is to be performed, and the location of any building or structure on land of adjacent property owners, which is within the fifteen feet (15') of the site.
- (d) Adequate contours showing the topography of the existing ground.
- (e) Elevations, dimensions, location, extent, and the slopes of all proposed grading shown by contours or other means.
- (f) The quantity of excavation and fill involved and estimated starting and completion dates and the estimated cost.
- (g) Adequate plans of all drainage devices, walls, cribbing, dams, or other protective devices to be constructed in connection with, or as part of, the proposed work together with a map showing the drainage area of land tributary to the site, the estimated runoff of the area served by any drains, and calculations of the carrying capacity of such drains.

(h) The following shall be required for grading which will require the use of groundwater and for grading to be done during a time when the San Diego County Water Authority declares that a drought is in effect:

(i) Information demonstrating to the satisfaction of the Director of Public Works the source (imported potable water, reclaimed water or groundwater) and amount of water available to be used in grading operations, including a statement from the applicable public agency or other party supplying the water specifying the dates when temporary service shall commence and when temporary service shall cease. The applicant shall specify the timing and duration of water needed to complete each phase of the project;

(ii) A short-term plan for erosion control and for slope stabilization where necessary which, in the opinion of the Director of Public Works, can be accomplished with the amount of water demonstrated to be available to the project; and

(iii) Except for grading on projects for which the Director of Planning and Land Use has approved a landscape plan, a long-term plan for erosion control and for slope stabilization where necessary to the satisfaction of the Director of Public Works.

(i) A statement of the purpose for which the proposed grading is to be done.

(j) Information demonstrating to the satisfaction of the Director of Public Works that the applicant is satisfying Chapter 8 (commencing with Section 67.801) of Division 7 of Title 6 of this Code.

(k) Such other information or data as may be required by the Director.

Section 4. Effective Date & Publication. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of the Board voting for and against it in the San Diego Commerce, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED this 2<sup>nd</sup> day of May, 2001.