

CITY COUNCIL ORDINANCE NO. 10-06

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE AMENDING THE CODE OF ORDINANCES OF THE CITY OF IRVINE BY AMENDING CHAPTER 3 OF DIVISION 8 "STORMWATER AND URBAN RUNOFF" TO TITLE 6 "PUBLIC WORKS" TO FURTHER IMPROVE WATER QUALITY AND COMPLY WITH STATE AND FEDERAL REQUIREMENTS ON THE CONTROL OF POLLUTANTS IN STORMWATER AND URBAN RUNOFF

WHEREAS, the United States Congress passed the Clean Water Act as a mandate, in part, that Cities in major metropolitan areas, such as Orange County, obtain permits to "effectively prohibit non-stormwater discharges into the storm sewers" and "require controls to reduce the discharge of pollutants to the maximum extent practicable . . . ." This permitting authority has been delegated by the United States Environmental Protection Agency ("EPA") to the State of California, which has authorized the State Water Resources Control Board and the regional water quality regulatory agencies, the Regional Water Quality Control Boards, to control discharges to California's waterways;

WHEREAS, the Regional Water Quality Control Board, Santa Ana Region, has addressed the obligation to implement the Clean Water Act by issuing Waste Discharge Requirements for the County of Orange, Orange County Flood Control District and the Incorporated Cities of Orange County Within the Santa Ana Region Areawide Urban Stormwater Runoff, Orange County Order No. R8-2009-0030 (NPDES No. CAS618030) (the "Santa Ana Regional Board Permit"). The Santa Ana Regional Board Permit, as issued in 2009, but as it may be reissued in the future and/or as it may be amended from time to time, shall be referred to herein as the "National Pollution Discharge Elimination System Permit" or "NPDES Permit";

WHEREAS, the City of Irvine is participating as a "Co-permittee" under the NPDES Permit and pursuant to such permit, has determined to review and amend its water quality ordinance to ensure it has the adequate legal authority as may be necessary to carry out the requirements of the NPDES Permit and accomplish the requirements of the Clean Water Act;

WHEREAS, "stormwater" or "urban" runoff (which terms include both wet weather and dry weather runoff) is one step in the natural cycle of water. Human activities, however, such as agriculture, construction and the operation and maintenance of an urban infrastructure may result in undesirable discharges of pollutants and certain sediments, which may accumulate in local drainage channels and waterways and eventually may be deposited in the waters of the State of California and the Pacific Ocean;

WHEREAS, the purpose of this Ordinance is to continue the City's participation in the improvement of water quality and to assure adequate legal authority exists for the

City to enforce federal and State requirements for the control of pollutants from stormwater/urban runoff;

WHEREAS, the City of Irvine is authorized by Article XI, §5 and §7 of the State Constitution to exercise the police power of the State by adopting regulations promoting the public health, public safety and general prosperity;

WHEREAS, the City of Irvine has determined that a legitimate local purpose is present in complying with the provisions of the NPDES Permit;

WHEREAS, a reduction in stormwater/urban runoff borne pollution will promote the public health and safety and protect the general welfare of the locality by reducing the level of artificial and naturally occurring pollutants, which may improve the quality of the waters in this region;

WHEREAS, the land use authority exercised by the City of Irvine, pursuant to California Government Code §65300 *et seq.*, requires regional planning and the adoption of policies protecting the environment through the imposition of reasonable conditions on the use of land;

WHEREAS, this Ordinance conforms to the policies and goals of the General Plan adopted by the City of Irvine, pursuant to California Planning and Zoning Law, for the protection of the regional watershed by implementing measures to control erosion and prevent the discharge of pollutants to streams and other waters;

WHEREAS, certain provisions of this Ordinance may be appended to the Local Coastal Program for inclusion in Coastal Development Permits, pursuant to California Public Resources Code §30607, as mitigation for the negative effects of grading, construction, re-construction, and changes to the intensity of use of land or water resources within the coastal zone;

WHEREAS, the Subdivision Map Act, California Government Code §66411 *et seq.*, authorizes the City of Irvine to regulate and control the design and improvement of subdivided lands and mitigate the burdens of proposed development by imposing reasonable conditions on map approval;

WHEREAS, California Constitution Article XI, §7 and Government Code §38660 authorize the City to establish appropriate conditions for the issuance of building permits, which require the installation of improvements reasonably related to the proposed use of property;

WHEREAS, Government Code §38771 authorizes the City to declare as public nuisances, undesirable acts which may injure health or cause interference with the comfortable enjoyment of life or property and to provide for the abatement of the same;

WHEREAS, the NPDES Permit requires that the City of Irvine: (i) develop and implement stormwater management programs and implementation plans, (ii) obtain adequate legal authority as necessary to ensure compliance with the stormwater

management programs and implementation plans, (iii) pursue enforcement actions as necessary to ensure compliance with stormwater management programs and implementation plans, (iv) prohibit illicit and illegal discharges into the stormwater conveyance systems, subject only to specific exceptions, (v) ensure adequate response to emergency situations, including spills, leaks, and illicit or illegal discharges, and (vi) develop and require implementation of best management practices to ensure that pollution is reduced to the maximum extent practicable;

WHEREAS, all dischargers subject to the provisions of the operative State General Industrial Stormwater Permit and General Construction Activity Stormwater Permit (referred to collectively herein as the "State general permits") must comply with the lawful requirements of the City of Irvine, which regulate discharges of stormwater/urban runoff to the storm drain system within its jurisdiction;

WHEREAS, all dischargers subject to the provisions of the operative State general permits are required to maintain Stormwater Pollution Prevention Plans on-site and make them available to the City of Irvine for inspection;

WHEREAS, all dischargers subject to the provisions of the operative State General Construction Activity Stormwater Permit may be required by the City of Irvine, with the concurrence of the Santa Ana Regional Water Quality Control Boards, to amend their Stormwater Pollution Prevention Plans;

WHEREAS, all industrial dischargers subject to the provisions of the State General Industrial Stormwater Permit are required to maintain a description of the required monitoring program on-site and make it available to the City of Irvine for inspection;

WHEREAS, the City of Irvine has jurisdiction over certain stormwater facilities and other watercourses within the City of Irvine, and these facilities may receive stormwater discharges from properties and activities regulated under the provisions of the State general permits, and thus, the City may, upon presentation of credentials and other documents required by law, (i) enter upon the discharger's premises where a regulated facility is located or where records must be kept under the conditions of the State general permits, (ii) access and copy, at reasonable times, any records that are required to be kept under the conditions of the State general permits, (iii) inspect, at reasonable times, any facility or equipment related to or potentially adversely impacting stormwater quality, and (iv) sample or monitor for the purpose of ensuring compliance with the State general permits;

WHEREAS, pursuant to the findings and provisions of the NPDES Permit, the City hereby finds that certain construction, industrial, and commercial activities may cause harm to the public health and safety as such activities present an increased threat of the discharge of pollutants to waters of the State and the United States, thereby degrading water quality;

WHEREAS, pursuant to the requirements and authorization of the NPDES Permit, the City must develop an inventory of construction, industrial, and commercial activities and sites within the City, prioritize the potential threat to water quality posed by certain construction, industrial, and commercial activities, establish priorities for inspection requirements, and conduct inspections of such activities and sites;

WHEREAS, to protect the health and safety of the public and to ensure compliance with the Clean Water Act, the Porter-Cologne Act, the NPDES Permit, and at the same time, the United States, and California Constitutions, the City is hereby adopting an administrative process for conducting routine inspections of construction, industrial, and commercial sites, uses, and areas that are tributary to or within 500 feet of an area defined by the 1990 Water Quality Control Plan for Ocean Waters of California as an Area of Biological Significance;

WHEREAS, the amendments to the City's municipal code through this Ordinance are being made in accordance with the NPDES Permit, the requirements of which are exempt from the California Environmental Quality Act pursuant to Public Resources Code §21000, *et seq.* ("CEQA"); and

WHEREAS, this Ordinance is subject to CEQA categorical exemption classes 1 through 4, 6 through 9, 21 and 22, pursuant to the CEQA Guidelines, respectively, Title 14, California Code of Regulations Sections 15301, 15302, 15303, 15304, 15306, 15307, 15308, 15309, 15321 and 15322;

NOW, THEREFORE, the City Council of the City of Irvine does hereby ORDAIN:

SECTION 1. Title 6. "Public Works" of the Code of Ordinances of the City of Irvine is hereby amended by replacing Chapter 3 "Stormwater and Urban Runoff" of Division 8 "Pollution" with a new Chapter 3 entitled "Stormwater/Urban Runoff," to read in its entirety as follows:

Chapter 3

STORMWATER/URBAN RUNOFF

Sections:

- 6-8-301 Definitions
- 6-8-302 Prohibition of Illicit Connections and Prohibited Discharges
- 6-8-303 Control of Stormwater/Urban Runoff
- 6-8-304 Inspections
- 6-8-305 Enforcement
- 6-8-306 Interagency Cooperation
- 6-8-307 Compliance with Chapter is not compliance with other laws

### CHAPTER 3. STORMWATER/URBAN RUNOFF

#### **Sec. 6-8-301. Definitions.**

The following terms, as used in this chapter, shall, unless the text clearly indicates otherwise, have the respective meanings herein set forth:

*Authorized inspector* shall mean the Chief Building Official, City Manager, or Director of Community Development, and persons designated and under the instruction and supervision of any of them, who are assigned to investigate compliance and detect violations of this chapter.

*Best management practices* shall mean schedules of activities, pollution treatment practices or devices, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices or devices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or the stormwater drainage system. Best management practices also include but are not limited to treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage. Best management practices may include any type of pollution prevention and pollution control measure that can help to achieve compliance with this chapter.

*BMPs* shall mean best management practices.

*City* shall mean the City of Irvine, Orange County, California.

*Co-permittee* shall mean the County of Orange, the Orange County Flood Control District, and/or any one of the 26 municipalities, including the City of Irvine, under the jurisdiction of the Regional Water Quality Control Board, Santa Ana Region, which are responsible for compliance with the terms of the NPDES permit.

*DAMP* shall mean the Orange County Drainage Area Management Plan, as the same may be amended from time to time. The Orange County Drainage Area Management Plan is available for review in the Chief Building Official's office at City Hall during normal working hours.

*Director* shall mean the Director of Community Development or his or her designated representative.

*Discharge* shall mean any release, spill, leak, pump, flow, escape, leaching (including subsurface migration or deposition to groundwater), dumping or disposal of any liquid, semi-solid or solid substance.

*Discharge exception* shall mean the group of activities not restricted or prohibited by this chapter, including only:

1. Discharges composed entirely of stormwater,

2. Discharges that are permitted by EPA, the State Water Resources Control Board, and/or the Santa Ana Regional Water Quality Control Board, including discharges permitted under the NPDES Permit,
3. Landscape irrigation, lawn garden watering and other irrigation waters,
4. Air conditioning condensate,
5. Passive foundation drains,
6. Passive footing drains,
7. Water from crawl space pumps,
8. Dechlorinated swimming pool/spa discharges (cleaning wastewater and filter backwash discharges, however, are prohibited),
9. Noncommercial vehicle washing,
10. Diverted stream flows,
11. Rising groundwaters and natural springs,
12. Groundwater infiltration as defined in 40 CFR 35.2005(20) and uncontaminated pumped groundwater,
13. Flows from riparian habitats and wetlands,
14. Emergency fire fighting flows (i.e. flows necessary for the protection of life and property). Where reasonably feasible, however, and without interfering with health and safety, the use of BMPs should be considered,
15. Waters not otherwise containing wastes as defined in California Water Code section 13050 (d), and
16. Other types of discharges identified and recommended by the permittees and approved by the Santa Ana Regional Water Quality Control Board.

The following discharges shall also be considered to be "discharge exceptions" where the stated conditions have been met:

1. For discharges outside the Newport Bay watershed the de minimus types of discharges listed in the Regional Board's General De Minimus Permit for Discharges to Surface Waters, Order No. R8-2009-0003, NPDES No. CAG 998001 (General De Minimus Permit), shall be in compliance with the terms and conditions of the General De Minimus Permit. Separate coverage under the General De Minimus Permit is not required. For discharges within the Newport Bay watershed, separate permit authorization for these de minimus discharges will be required when the discharges

contain selenium, nitrogen or other pollutants at levels of concern as set forth in the General De Minimus Permit.

2. Discharges from potable water sources, including water line flushing, superchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water: Planned discharges shall be dechlorinated to a concentration of 0.1 ppm or less, pH adjusted if necessary, and volumetrically and velocity controlled to prevent causing hydrologic conditions of concern in receiving waters.

3. Discharges from lawn, greenbelt and median watering and other irrigation runoff from non-agricultural operations. All such discharges shall be minimized, however, through compliance with all applicable water efficiency landscape requirements.

4. Dechlorinated swimming pool discharges: Dechlorinated to a concentration of 0.1 ppm or less, pH adjusted and reoxygenated if necessary, and volumetrically and velocity controlled to prevent causing hydrologic conditions of concern in receiving waters. Swimming pool cleaning wastewater and filter backwash shall not be discharged to the municipal separate storm sewer systems.

5. Construction dewatering wastes: The maximum daily concentration limit for total suspended solids shall not exceed 75mg/l, sulfides 0.4mg/l, oil and grease 15mg/l, total petroleum hydrocarbons 0.1mg/l.

6. Discharges from facilities that extract, treat and discharge water diverted from waters of the United States ("US"): These discharges shall meet the following conditions: (1) The discharges to waters of the US must not contain pollutants added by the treatment process or pollutants in greater concentration than the influent; (2) The discharge must not cause or contribute to a condition of erosion; (3) The extraction and treatment must be in compliance with Section 404 of the Clean Water Act; and (4) Monitoring is to be conducted in accordance with all applicable monitoring requirements imposed.

*Domestic sewage exception* shall mean discharges which are exceptions to this chapter and excluded from the definition of prohibited discharge, as defined herein, including only:

Discharges composed entirely of accidental spills of untreated sanitary wastes (commonly called domestic sewage) and other wastes, but limited solely to wastes that are controlled by and are within publicly owned wastewater treatment system collection facilities immediately prior to the accidental spill.

*Effective date* shall mean effective date of this chapter.

*Enforcing attorney* shall mean the City Attorney or District Attorney acting as counsel to the City of Irvine and his/her designee, which counsel is authorized to take enforcement action as described herein. For purposes of criminal prosecution, only the District Attorney and/or City Attorney shall act as the enforcing attorney.

*EPA* shall mean the Environmental Protection Agency of the United States.

*Hazardous material* shall mean any substrate that poses a threat to human health or the environment due to its toxicity, corrosiveness, ignitability, explosive nature or chemical reactivity. The term "hazardous material" includes those materials designated by the United States Environmental Protection Agency to be reported if a designated quantity of the material is spilled into waters of the United States or is emitted into the environment.

*Hearing officer* shall mean the Director of Community Development or his/her designee, who shall preside at the administrative hearings authorized by this chapter and issue final decisions on the matters raised therein.

*Hydrologic Conditions of Concern* shall mean a change in land conditions that are anticipated to impact stream channels due to changes in runoff and sediment yield.

*Illicit connection* shall mean any man-made conveyance or drainage system, pipeline, conduit, inlet or outlet, through which the discharge of any pollutant to the stormwater drainage system occurs or may occur. The term "illicit connection" shall not include legal nonconforming connections or connections to the stormwater drainage system that are hereinafter authorized by the agency with jurisdiction over the system at the location at which the connection is made.

*Invoice for costs* shall mean the actual costs and expenses of the City incurred during any inspection conducted pursuant to section 6-8-304 of this chapter, where a notice of noncompliance, administrative compliance order or other enforcement option under section 6-8-305 of this chapter is utilized to obtain compliance with this chapter.

*Legal nonconforming connection* shall mean connections to the stormwater drainage system existing as of the enactment of this chapter that were in compliance with all federal, State and local rules, regulations, statutes and administrative requirements in effect at the time the connection was established, including but not limited to any discharge permitted pursuant to the terms and conditions of an individual discharge permit issued pursuant to sections 6-4-301 through 6-4-328 (Chapter 3. "Sewage Disposal") of this Code.

*Local implementation plan* shall mean the City's plan, as approved by the City Council and as may be amended from time to time, which details how the requisite stormwater programs within the DAMP are to be implemented within the City. The local implementation plan is available for review in the Chief Building Official's Office at City Hall during normal business hours.

*Low Impact Development or LID* shall mean a strategy for land development and redevelopment that seeks to mitigate the impacts of increases in pollution from stormwater/urban runoff. Low Impact Development (LID) involves site design approaches and best management techniques that promote the use of natural,

structural and/or non-structural, systems for infiltration, evapotranspiration, reuse, and/or biotreatment of runoff.

*Maximum extent practicable* shall mean to the maximum extent feasible, taking into account considerations of synergistic, additive, and competing factors, including but not limited to, the gravity of the problem, technical feasibility, fiscal feasibility, public health risks, societal concerns, and social benefits.

*New development* shall mean all public and private residential (whether single family, multi-unit or planned unit development), industrial, commercial, retail, and other non-residential construction projects, or mass grading for future construction, for which either a discretionary land use permit or grading permit or building and safety permit is required.

*NPDES permit* shall mean the municipal discharge permit issued by the Santa Ana Regional Water Quality Control Board and entitled "Waste Discharge Requirements for the County of Orange, Orange County Flood Control District and The Incorporated Cities of Orange County Within the Santa Ana Region Areawide Urban Stormwater Runoff Orange County Order No. R8-2009-0030 (NPDES No. CAS618030)" (the "Santa Ana Regional Water Quality Control Board Permit"). The Santa Ana Regional Board NPDES permit, as issued in 2009, but as it may be reissued in the future and/or as it may be amended from time to time, shall be referred to hereinafter as the "NPDES permit;"

*Person* shall mean any natural person as well as any corporation, partnership, government entity or subdivision, trust, estate, cooperative association, joint venture, business entity, or other similar entity, or the agent, employee or representative of any of the above.

*Pollutant* shall mean the following liquid, solid, or semi-solid substances, or combination thereof:

1. Artificial materials, chips or pieces of natural or manmade materials (such as floatable plastics, wood or metal shavings);
2. Household waste (such as trash, paper, plastics, lawn clippings and yard wastes; animal fecal materials; excessive pesticides, herbicides and fertilizers; used oil and fluids from vehicles, lawn mowers and other common household equipment);
3. Metals, such as cadmium, lead, zinc, copper, silver, nickel, chromium, and nonmetals, such as phosphorus and arsenic;
4. Petroleum hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants and grease);
5. Excessive eroded soils, sediment and particulate materials;

6. Animal wastes (such as discharge from confinement facilities, kennels, pens and recreational facilities, including, stables, show facilities, or polo fields);

7. Substances having characteristics such as a pH less than 6.5 or greater than 8.5, or unusual coloration, or turbidity, or excessive levels of fecal coliform, fecal streptococcus or enterococcus;

8. Waste materials and wastewater generated on construction sites and by construction activities (such as painting, staining; use of sealants, glues, limes; excessive pesticides, fertilizers or herbicides; use of wood preservatives and solvents; disturbance of asbestos fibers, paint flakes or stucco fragments; applications of oils, lubricants, hydraulic, radiator or battery fluids; construction equipment washing, concrete pouring and cleanup wash water or use of concrete detergents; steam cleaning or sand blasting residues; use of chemical degreasing or diluting agents; and super chlorinated water generated by potable water line flushing);

9. Materials causing an increase in biochemical oxygen demand, chemical oxygen demand or total organic carbon;

10. Materials which contain base/neutral or acid extractible organic compounds;

11. Those pollutants defined in Title 33 U.S.C. section 1362(6) of the Federal Clean Water Act;

12. Any other constituent or material that may interfere with or adversely affect the beneficial uses of the receiving waters, flora or fauna of the State.

The term "pollutant" shall not include uncontaminated stormwater, potable water or reclaimed water generated by a lawfully permitted water treatment facility.

*Priority development project* shall mean a new development or significant redevelopment project that falls within any of the following categories:

1. All significant redevelopment projects, where significant redevelopment is defined as projects that include the addition or replacement of 5,000 square feet or more of impervious surface on a developed site. 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 the addition or replacement of less than fifty 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 of required structural BMPs applies only to the addition or replacement, and not to the entire developed site. Where redevelopment results in the addition or replacement of more than fifty percent of the impervious surfaces of a previously existing developed site, the numeric sizing criteria of required structural BMPs applies to the entire development.

2. New development projects that create 10,000 square feet or more of impervious surface (collectively over the entire project site) including commercial, industrial, residential housing subdivisions (i.e., detached single family home subdivisions, multi-family attached subdivisions (town homes), condominiums, apartments, etc.), mixed-use, and public projects. This category includes development projects on public or private land, which fall under the planning and building authority of the City.

3. Automobile repair shops (with SIC codes 5013, 5014, 5541, 7532-7534, 7536-7539).

4. Restaurants (with SIC code 5812) where the land area of development is 5,000 square feet or more, including parking areas.

5. All hillside developments on 5,000 square feet or more, which 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 or more of impervious surface or more adjacent to (within 200 feet) or discharging directly into environmentally sensitive areas, such as areas designated in the Ocean Plan and areas of special biological significance or waterbodies 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 surface exposed to stormwater. Parking lot is defined as a land area or facility for the temporary storage of motor vehicles for the purpose of this section.

8. Streets, roads, highways and freeways of 5,000 square feet or more of paved surface shall incorporate USEPA guidance, "Managing Wet Weather with Green Infrastructure: Green Streets" in a manner consistent with the maximum extent practicable standard. This category includes any paved surface used for the transportation of automobiles, trucks, motorcycles and other vehicles and excludes any routine road maintenance activities where the footprint is not changed.

9. Retail gasoline outlets of 5,000 or more square feet with a projected average daily traffic of 100 or more vehicles per day.

10. Emergency and public safety projects in any of the above-listed categories may be excluded if the delay caused due the requirement for a WQMP compromises public safety, public health and/or environmental protection.

*Private property* shall mean any real property, irrespective of ownership, which is not open to the general public.

*Prohibited discharge* shall mean any discharge, which is not composed entirely of stormwater and which contains any pollutant, from public or private property to:

1. The stormwater drainage system;

2. Any upstream flow, which is tributary to the stormwater drainage system;
3. Any groundwater, river, stream, creek, wash or dry weather arroyo, wetlands area, marsh, coastal slough, or
4. Any coastal harbor, bay or the Pacific Ocean.

The term "prohibited discharge" shall include but is not limited to discharges of sewage, wash water resulting from the hosing or cleaning of gas stations, auto repair garages, and other types of automobile service stations; discharges from the cleaning, repair, or maintenance of any type of equipment, machinery or facility, including motor vehicles, concrete mixing equipment, portable toilet servicing and related discharges; wash water for mobile auto detailing and washing, steam and pressure cleaning, carpet cleaning, and other such mobile commercial industrial activities; water from cleaning of municipal, industrial, and commercial sites, including parking lots, streets, sidewalks, driveways, patios, plazas, work yards towards an outdoor eating or drinking areas and related areas; runoff from material storage areas or uncovered receptacles that contain chemicals, fuels, grease, oil, or other hazardous materials; discharges of runoff from the washing of toxic materials from paved or unpaved areas; discharges of pool or fountain water containing chlorine, biocides, or other chemicals, including pool filter backwash containing debris and chlorine; pet waste, yard waste, litter, debris and settlement and related debris; and restaurant or food processing facility wastes such as grease, floor mat and trash bin wash waters, food waste and similar waste.

The term "prohibited discharge" shall not include:

1. Discharges occurring in compliance with the NPDES permit;
2. Discharges occurring pursuant to a State general permit, or any regional water quality control board, State Water Resources Control Board or U.S. Environmental Protection Agency issued permit or permit waiver;
3. Discharges allowable under the discharge exception, or
4. Discharges allowable under the domestic sewage exception.

*Receiving waters* shall mean all waters that are "waters of the State" within the scope of the California Water Code, including but not limited to natural streams, creeks, rivers, reservoirs, lakes, ponds, water in vernal pools, lagoons, estuaries, bays, the Pacific Ocean, and groundwater.

*Responsible party* shall mean the person(s) identified in and responsible for compliance with the provisions of a WQMP approved by the City's Community Development Department.

*Significant redevelopment* shall mean the addition or replacement of 5,000 or more square feet of impervious surface on an already developed site, including adding additional buildings and/or structures, the extension of the existing footprints of the

building, as well as the construction of parking lots, and any private residential (whether single-family, multi-unit or planned unit development), industrial, commercial, retail or other non-residential development, including those significant redevelopment projects undertaken within an existing priority development project.

*State general permit* shall mean the operative State general industrial stormwater permit or the operative State general construction permit, and the terms and requirements of either or both. In the event EPA revokes the in-lieu permitting authority of the State Water Resources Control Board, then the term "State general permit" shall also refer to any EPA administered stormwater control program for industrial and construction activities.

*Stormwater* shall mean "storm water" as defined in the federal regulations to the Clean Water Act, 40 CFR 122.26(b)(13), *i.e.*, all "storm water runoff, snow melt runoff and surface runoff and drainage."

*Stormwater drainage system* shall mean street gutter, channel, storm drain, constructed drain, lined diversion structure, wash area, inlet, outlet or other facility, which is a part of or tributary to the County-wide stormwater runoff system and owned, operated, maintained or controlled by County of Orange, the Orange County Flood Control District or any co-permittee city, and used for the purpose of collecting, storing, transporting, or disposing of stormwater.

*Toxic material* shall mean any chemical or mixture that may present an unreasonable risk of injury to health or the environment.

*Water quality management plan (WQMP)* shall mean a water quality management plan as described in the City's local implementation plan and DAMP, that sets forth proposed BMPs to be developed to control pollutants in stormwater and urban runoff from a new development or significant redevelopment project. The plan may include pollution prevention via site design and routine source control measures to reduce the discharge of pollutants and prevent exceedances of water quality standards, to the maximum extent practicable.

*Water quality standards* shall mean those water quality objectives and designated beneficial use or uses (*e.g.*, swimming, fishing, municipal drinking water supply, etc.) of the water body or bodies in issue, as adopted by the State Water Resources Control Board and the Santa Ana Regional Water Quality Control Board, and included as a part of the operative water quality control plan for the Santa Ana Region (also known as the "basin plan") and/or as a part of any State water quality control plan, such as the Ocean Plan.

#### **Sec. 6-8-302. Prohibition on Illicit Connections and Prohibited Discharges.**

- A. Unless otherwise permitted by this chapter, no person shall:
1. Construct, maintain, operate and/or utilize in any way an illicit connection.

2. Cause, allow facilitate, or contribute to any prohibited discharge.
  3. Act, cause, permit or require any agent, employee, or independent contractor, to construct, maintain, operate or utilize any illicit connection, or cause, allow or facilitate any prohibited discharge.
- B. No person shall cause, facilitate or contribute to a discharge into the stormwater drainage system, or into an area or in a manner that will result in a discharge into the stormwater drainage system of:
1. Any substance causing, or threatening to cause, a condition of pollution, contamination, or a nuisance, as that term is defined in section 13050 of the California Water Code.
  2. Any substance causing or contributing to an exceedance of any water quality standard for surface water or groundwater.
  3. Any substance containing pollutants which have not been reduced to the maximum extent practicable.
- C. Any owner and/or operator of an illicit connection shall immediately cause the connection to be removed and/or eliminated.
- D. The prohibitions set forth in this section against illicit connections shall apply irrespective of whether the illicit connection was established prior to the effective date; however, legal nonconforming connections shall not become illicit connections until the earlier of the following:
1. For all structural improvements to property installed for the purpose of discharge to the stormwater drainage system, the expiration of five years from the effective date.
  2. For all nonstructural improvements to property (including natural surface flow patterns, depressions or channels traversing one or more properties) existing for the purpose of discharge to the stormwater drainage system, the expiration of six months following delivery of a notice to the owner or occupant of the property, identifying the legal nonconforming connection.
- E. A civil or administrative violation of subsection 6-8-302.A. shall occur irrespective of the negligence or intent of the violator to construct, maintain, operate or utilize an illicit connection or to cause, allow or facilitate any prohibited discharge.
- F. If an Authorized Inspector reasonably determines that a discharge, which is otherwise within the discharge exception, may adversely affect the beneficial uses of receiving waters, then the Authorized Inspector may give written notice to the owner of the property or facility that the discharge exception shall not apply to the subject discharge following expiration of the 30-day period commencing upon delivery of the notice. Upon expiration of the 30-day period any such discharge

shall constitute a violation of section 6-8-302.A. The notice of a legal nonconforming connection shall state the date of expiration of use under this chapter.

- G. The owner or occupant of property on which a legal nonconforming connection exists may request an administrative hearing, pursuant to the procedures set forth in subsections 6-8-305.A.6 to 10 for an extension of the period allowed for continued use of the connection. A reasonable extension of use may be authorized by an Authorized Inspector upon consideration of the following factors:
1. The potential adverse effects of the continued use of the connection upon the beneficial uses of receiving waters;
  2. The economic investment of the discharger in the legal nonconforming connection; and
  3. The financial effect upon the discharger of a termination of the legal nonconforming connection.

**Sec. 6-8-303. Control of Stormwater/Urban Runoff**

A. *New Development and Significant Redevelopment.*

1. A water quality management plan (WQMP) is required if a project is a priority project, or if approval of the project requires discretionary action involving approval of a precise plan, or if the project involves a nonresidential plumbing permit for work with the potential to impact water quality. All new development and significant redevelopment projects within the City of Irvine, including but not limited to those considered to be priority development projects, shall be undertaken in accordance with:
  - a. A WQMP prepared in accordance with the drainage area management plan (DAMP) and the City's local implementation plan; and
  - b. Any conditions and requirements established by the Community Development Department of the City, which are reasonably related to the reduction or elimination of pollutants in runoff from the project site.
2. The City shall require project applicants to submit a WQMP at one or both of the following points in the project planning and permitting process:
  - a. During the discretionary approval process (land use permit) of a proposed project, when the City must exercise judgment or deliberation in order to approve or disapprove a new development or significant redevelopment project, or

- b. During the ministerial approval process of issuing a grading, building, demolition, or similar "construction" permits in which only fixed standards or objective measures are applied.

WQMPs submitted during the discretionary approval process may be conceptual or preliminary with final WQMPs submitted during the ministerial permit process. Projects subject to the regional program (described in section A-7 of the City's local implementation plan) may rely upon the regional plan at the discretionary process.

3. Compliance with the conditions and requirements of any WQMP shall not exempt any person from the requirement to independently comply with each provision of this chapter.
4. The WQMP shall require Low Impact Development (LID) BMPs to address the design capture volume as detailed in the City's local implementation plan and the DAMP.
5. The WQMP shall evaluate and address hydrologic conditions of concern based on two-year frequency storm event as detailed in the City's local implementation plan and DAMP.
6. The above requirements in subsections 6-8-303 A. 4 and 6-8-303 A. 5 for Low Impact Development BMPs and hydrologic conditions of concern are not applicable to projects that have a WQMP approved by the City within 90 days from date of approval of the revised model WQMP (as provided for under the NPDES permit).
7. Each WQMP shall name a responsible party for the project.
8. The owner of the property of the new development or significant redevelopment project, their successors and assigns, and each named responsible party, shall be responsible for the implementation and adherence to the terms, conditions and requirements of the approved WQMP. Each failure by the owner of the property, their successors or assigns, or a named responsible party, to implement and adhere to the terms, conditions and requirements of an approved WQMP shall constitute a separate violation of this chapter.
9. The City's Community Development Department, Building and Safety Division, may require that the WQMP be recorded with the County Recorder's office by the property owner. If such a recorded document is required by the City, the signature of the owner of the property, any successive owner or the named responsible party shall be sufficient for the recording of the plan or any revised plan, and a signature on behalf of the City shall not be required for recordation.

- B. *Cost recovery.* The costs and expenses of the City incurred in the review, approval, or revision of any WQMP shall be assessed to the property owner or responsible party and shall be due and payable to the City. The City may elect to require a deposit of estimated costs and expenses, and the actual costs and expenses shall be deducted from the deposit, and the balance, if any, refunded to the property owner or responsible party.
- C. *Litter control.* No person shall discard any waste material, including but not limited to common household rubbish or garbage of any kind (whether generated or accumulated at a residence, business or other location), upon any public or private property, whether occupied, open or vacant, including but not limited to any street, sidewalk, alley, right-of-way, open area or point of entry to the stormwater drainage system. Every person occupying or having charge and control of private property on which a prohibited disposal of waste materials occurs shall cause the proper collection and disposal of same.

A prohibited disposal of waste materials creates a danger to public health, safety and welfare, and otherwise threatens the environment, surface waters and groundwater; therefore, any owner or occupant of private property who fails to remove waste material within a reasonable time may be charged with creating a nuisance upon the property and the nuisance may be abated in accordance with section 6-8-305.B. et seq. of this chapter.

- D. *Inspections of construction sites.* As a condition to any construction or grading permit that may be issued within the City, and in order to ensure compliance with the terms of this chapter and any applicable permit or license for runoff or the discharge of any "waste" (as such term is defined in the California Water Code section 13050) and further, as may be necessary to ensure compliance with any WQMP or condition of any building or grading permit, the City may conduct inspections as necessary to ensure compliance with all such requirements.
- E. *Building, construction and grading permits.* Prior to the issuance of any building, construction, or grading permit, the Authorized Inspector may require, as a condition to any such permit, the implementation of appropriate BMPs to ensure that the discharge of pollutants from any such site will be reduced to the maximum extent practicable and will not cause or contribute to an exceedance of water quality standards. BMP selection and implementation shall be in accordance with the City's local implementation plan, and shall be incorporated into the project plans and specifications to the satisfaction of the Authorized Inspector. All construction and grading activities shall comply with applicable laws, including all applicable State issued NPDES permits, the terms of this chapter, all applicable City codes, and the applicable requirements of the NPDES permit.

### **Sec. 6-8-304. Inspections**

- A. *Right to inspect.* Except where exigent circumstances require immediate entry, prior to commencing any inspection as herein below authorized, the Authorized Inspector shall obtain either the consent of the owner or occupant of the private property or shall obtain an administrative inspection warrant or criminal search warrant.
- B. *Entry to inspect.* The Authorized Inspector may enter private property to investigate the source of any discharge or potential discharge to any public street, inlet, gutter, storm drain or to the stormwater drainage system located within the jurisdiction of the City of Irvine.
- C. *Compliance assessments.* The Authorized Inspector may inspect private property for the purpose of verifying compliance with this chapter and/or the terms of any applicable permit for runoff or the discharge of waste (as such term is defined under California Water Code section 13050), including by not limited to:
  - 1. Identifying products produced, processes conducted, chemicals used and materials stored on or contained with the property;
  - 2. Identifying point(s) of discharge of all wastewater, process water systems and pollutants;
  - 3. Investigating the natural slope at the location, including drainage patterns and manmade conveyance systems;
  - 4. Establishing the location of all points of discharge from the private property, whether by surface runoff or through a storm drain system;
  - 5. Locating any illicit connection or the source of any prohibited discharge;
  - 6. Evaluating compliance with any WQMP;
  - 7. Investigating the condition of any legal nonconforming connection.
- D. *Portable equipment.* For purposes of verifying compliance with this chapter, an Authorized Inspector may inspect any vehicle, truck, trailer, tank truck or other mobile equipment.
- E. *Records review.* The Authorized Inspector may inspect all records of the owner or occupant of private property relating to chemicals or processes presently or previously stored or occurring on-site, including material and/or chemical inventories, facilities maps or schematics and diagrams, material safety data sheets, hazardous waste manifests, business plans, pollution prevention plans, State general permits, stormwater pollution prevention plans (SWPPPs), monitoring program plans and any other record(s) relating to illicit connections,

prohibited discharges, legal nonconforming connections, or any other source of contribution or potential contribution of pollutants to the stormwater drainage system.

- F. *Sample and test.* The Authorized Inspector may inspect, sample and test any area runoff, soils area (including groundwater testing), process discharge, materials within any waste storage area (including any container contents), and/or treatment system discharge for the purpose of determining the potential for contribution of pollutants to the stormwater drainage system. The Authorized Inspector may investigate the integrity of all storm drain and sanitary sewer systems, and legal nonconforming connections, or other pipelines on the property using appropriate tests, including but not limited to smoke and dye tests or video surveys. The Authorized Inspector may take photographs or videotape, make measurements or drawings, and create any other record reasonably necessary to document conditions on the property.
- G. *Monitoring.* The Authorized Inspector may erect and maintain monitoring devices for the purpose of measuring any discharge or potential source of discharge to the stormwater drainage system.
- H. *Test results.* The owner or occupant of property subject to inspection shall, on submission of a written request, receive copies of all monitoring and test results conducted by the Authorized Inspector.
- I. *Inspection fees.* Each owner or occupant of property shall reimburse the City for all reasonable inspection fees and costs incurred by the City, in accordance with the fee schedule as may be adopted from time to time by the City Council.

#### **Sec. 6-8-305. Enforcement**

- A. *Administrative remedies.*
  - 1. *Notice of noncompliance.* The Authorized Inspector may deliver to the owner or occupant of any private property, or to any person responsible for an illicit connection, prohibited discharge, or other violations of this chapter a notice of noncompliance. The notice of noncompliance shall be delivered in accordance with subsection 6-8-305.A.5.
    - a. The notice of noncompliance shall identify the violation(s) of this chapter, the applicable WQMP, or permit which has occurred. The notice of noncompliance shall state that continued noncompliance may result in additional enforcement actions against the owner, occupant, and/or person.
    - b. The notice of noncompliance shall state a compliance date that must be met by the owner, occupant, and/or responsible person; provided, however, that the compliance date may not exceed 90 days unless the Authorized Inspector extends the compliance

deadline an additional reasonable period of time, under the circumstances, where good cause exists for the extension.

2. *Administrative compliance orders.*

- a. The Authorized Inspector may issue an administrative compliance order. The administrative compliance order shall be delivered in accordance with subsection 6-8-305.A.5. of this chapter. The administrative compliance order may be issued to:
  - (1) The owner or occupant or other responsible person of any private property requiring abatement of conditions on the property that cause or may cause or contribute to a prohibited discharge, illicit connection, or other violation of this chapter;
  - (2) The owner of private property subject to the requirements of any WQMP to ensure implementation of and adherence to the terms, conditions and requirements of the plan;
  - (3) A permittee subject to the requirements of any permit issued pursuant to section 6-8-306 hereof to ensure compliance with the terms, conditions and requirements of the permit.
  - (4) Any person responsible for an illicit connection, prohibited discharge, or other violation of this chapter.
- b. The administration compliance order may include the following terms and requirements:
  - (1) Specific steps and time schedules for compliance as reasonably necessary to prevent threatened or future prohibited discharges, including but not limited to the threat of a prohibited discharge from any pool, pit, well, surface impoundment, holding or storage area;
  - (2) Specific steps and time schedules for compliance as reasonably necessary to discontinue any illicit connection;
  - (3) Specific requirements for containment, cleanup, removal, storage, installation of overhead covering, or proper disposal of any pollutant having the potential to contact runoff;
  - (4) Any other terms or requirements reasonably calculated to prevent continued or threatened violations of this chapter, including, but not limited to requirements for compliance with best management practices guidance documents promulgated by any federal, State, regional or local agency;

- (5) Any other terms or requirements reasonably calculated to achieve full compliance with the terms, conditions and requirements of any water quality management plan, or permit issued pursuant hereto.
3. *Cease and desist orders.*
  - a. The Authorized Inspector may issue a cease and desist order. A cease and desist order shall be delivered in accordance with subsection 6-8-305A.5 of the chapter. A cease and desist order may direct the owner or occupant or other responsible person of any private property, and/or any other person responsible, for a violation of this chapter, to:
    - (1) Immediately discontinue any illicit connection or prohibited discharge to the stormwater drainage system.
    - (2) Immediately contain or divert any flow of water off the property, where the flow is occurring in violation of any provision of this chapter;
    - (3) Immediately discontinue any other violation of this chapter.
    - (4) Clean up the area affected by the violation.
  - b. The Authorized Inspector may direct by cease and desist order that the owner or operator or other responsible party of any private property be subject to the terms and conditions of any WQMP, or any permittee under any permit issued pursuant to section 6-8-306 hereof immediately cease any activity not in compliance with the terms, conditions and requirements of the applicable WQMP or permit.
4. *Recovery of costs.* The Authorized Inspector may deliver to the owner or occupant or other responsible party of any private property, any permittee or any responsible party, or any other person who becomes subject to a notice of noncompliance or administrative order, an invoice of costs. An invoice for costs shall be delivered in accordance with section 6-8-305.A.5 of this chapter. An invoice for costs shall be immediately due and payable to the City for the actual costs incurred by the City in issuing and enforcing any notice or order. If any owner or occupant, permittee or other responsible party fails to either pay the invoice for costs or to successfully appeal the invoice for costs in accordance with section 6-8-305.a.6, then the enforcing attorney may institute collection proceedings.
5. *Delivery of notice.* Any notice of noncompliance, administrative compliance order, cease and desist order or invoice of costs to be

delivered pursuant to the requirements of this chapter shall be subject to the following:

- a. The notice shall state that the recipient has a right to appeal the matter as set forth in subsections 6-8-305.A.6 to 10 of this chapter.
  - b. Delivery shall be deemed complete upon:
    - (1) Personal service to the recipient;
    - (2) Deposit in the U.S. mail, postage pre-paid for first class delivery; or
    - (3) Facsimile service with confirmation of receipt.
  - c. Where the recipient of notice is the owner of the property, the address for notice shall be the address from the most recently issued equalized assessment roll for the property or as otherwise appears in the current records of the City.
  - d. Where the owner or occupant or other responsible party of any private property cannot be located after the reasonable efforts of the Authorized Inspector, a notice of noncompliance or cease and desist order shall be deemed delivered after posting on the property for a period of ten business days.
6. *Administrative hearing for notices of noncompliance, administrative compliance orders, invoices for costs and adverse determinations.* Except as set forth in subsection 6-8-305.A.8, any person receiving a notice of noncompliance, administrative compliance order, a notice of legal nonconforming connection, an invoice for costs, or any person who is subject to any adverse determination made pursuant to this chapter, may appeal the matter by requesting an administrative hearing.
7. *Request for administrative hearing.* Any person appealing a notice of noncompliance, an administrative compliance order, a notice of legal nonconforming connection, an invoice for costs or an adverse determination shall, within 30 days of receipt thereof, file a written request for an administrative hearing, accompanied by an administrative hearing fee as established by separate resolution, with the Office of the City Clerk, with a copy of the request for administrative hearing mailed on the date of filing to the Director. Thereafter, a hearing on the matter shall be held before the Hearing Officer within 45 business days of the date of filing of the written request unless, in the reasonable discretion of the Hearing Officer and pursuant to a written request by the appealing party, a continuance of the hearing is granted.

8. *Administrative hearing for cease and desist orders and emergency abatement actions.* An administrative hearing on the issuance of a cease and desist order or following an emergency abatement action shall be held within five business days following the issuance of the order or the action of abatement, unless the hearing (or the time requirement for the hearing) is waived in writing by the party subject to the cease and desist order or the emergency abatement. A request for an administrative hearing shall not be required from the person subject to the cease and desist order or the emergency abatement action.
  9. *Hearing proceedings.* The Authorized Inspector shall appear in support of the notice, order, determination, invoice for costs or emergency abatement action, and the appealing party shall appear in support of withdrawal of the notice, order, determination, invoice for costs, or in opposition to the emergency abatement action. The City shall have the burden of supporting any enforcement or other action by a preponderance of the evidence. Each party shall have the right to present testimony and other documentary evidence as necessary for explanation of the case.
  10. *Final decision and appeal.* The final decision of the Hearing Officer shall issue within ten business days of the conclusion of the hearing and shall be delivered by first-class mail, postage prepaid, to the appealing party. The final decision shall include notice that any legal challenge to the final decision shall be made pursuant to the provisions of Code of Civil Procedure §§ 1094.5 and 1094.6 and shall be commenced within ninety (90) days following the final decision. The administrative hearing fee paid by a prevailing party in an appeal shall be refunded. Notwithstanding this subsection 6-8-305.A.10, the final decision of the Hearing Officer in any proceeding determining the validity of a cease and desist order or following an emergency abatement action shall be mailed within five business days following the conclusion of the hearing.
  11. *City abatement.* In the event the owner of private property, the operator of a facility, a permittee or other responsible party fails to comply with any provision of a compliance schedule issued pursuant to this chapter, the Authorized Inspector may request the enforcing attorney to obtain an abatement warrant or other appropriate judicial authorization to enter the property, abate the condition, and restore the area. Any costs incurred by the City in obtaining and carrying out an abatement warrant or other judicial authorization may be recovered through abatement and/or collection proceedings as set forth herein.
- B. *Nuisance.* Any condition in violation of the prohibitions of this chapter, including but not limited to the maintenance or use of any illicit connection or the occurrence of any prohibited discharge, shall constitute a threat to the public health, safety and welfare, and is declared and deemed a nuisance pursuant to Government Code § 38771.

1. *Court order to enjoin or abatement.* At the request of the Chief Building Official, City Manager, or Director of Community Development, the enforcing attorney may seek a court order to enjoin and/or abate the nuisance.
2. *Notice to owner and occupant.* Prior to seeking any court order to enjoin or abate a nuisance or threatened nuisance, the Chief Building Official, City Manager, or Director of Community Development shall provide notice of the proposed injunction or abatement to the owner, occupant and responsible party, if any exist, of the property where the nuisance or threatened nuisance is occurring.
3. *Emergency abatement.* In the event the nuisance constitutes an immediate danger to public safety or the environment, the Authorized Inspector, including all persons acting under his/her direction, may enter the property from which the nuisance emanates, abate the nuisance and restore any property affected by the nuisance, without prior notice to or consent from the owner, occupant or responsible party thereof and without judicial warrant. An imminent danger shall include, but is not limited to, exigent circumstances created by the dispersal of pollutants, where the same presents a significant and immediate threat to the public safety or the environment. Notwithstanding the authority of the City to conduct an emergency abatement action, an administrative hearing pursuant to subsection 6-8-305.A.8 hereinabove shall follow the abatement action.
4. *Reimbursement of costs.* All costs incurred by the City in responding to any nuisance, all administrative expenses and all legal expenses, including costs and attorney fees and all consultant and expert fees and costs, shall be recoverable from the person(s) creating, causing, committing or maintaining the nuisance.
5. *Nuisance lien.* All costs shall become a lien against the property from which the nuisance emanated and a personal obligation against the owner thereof in accordance with Government Code § 38773.1 and § 38773.5. The owner of record of the property subject to any lien shall receive notice of the lien prior to recording as required by Government Code § 38773.1. At the direction of the Chief Building Official, City Manager, or Director of Community Development, the enforcing attorney is authorized to collect nuisance abatement costs or enforce a nuisance lien in an action brought for a money judgment or by delivery to the County Assessor of a special assessment against the property in accord with the conditions and requirements of Government Code § 38773.5.

C. *Criminal sanctions.*

1. *Prosecutor.* The enforcing attorney may act on the request of the Chief Building Official, City Manager, or Director of Community Development to

pursue enforcement actions in accordance with the provisions of this chapter.

2. *Infractions.* Any person who may otherwise be charged with a misdemeanor under this chapter may be charged, at the discretion of the prosecuting attorney, with an infraction punishable by a fine of not more than \$100.00 for a first violation, \$200.00 for a second violation, and a fine not exceeding \$500.00 for each additional violation occurring within one year.
  3. *Misdemeanors.* Any person who negligently or knowingly violates any provision of this chapter, undertakes to conceal any violation of this chapter, continues any violation of this chapter after notice thereof, or violates the terms, conditions and requirements of any water quality management plan or permit, shall be guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 or by imprisonment for a period of not more than six months, or both.
- D. *Consecutive violations.* Each day in which a violation occurs and each separate failure to comply with either a separate provision of this chapter, an administrative compliance order, a cease and desist order, an applicable water quality management plan, or a permit issued pursuant to this chapter, shall constitute a separate violation of this chapter punishable by fines or sentences issued in accordance herewith.
- E. *Non-exclusive remedies.* Each and every remedy available for the enforcement of this chapter shall be non-exclusive and it is within the discretion of the Chief Building Official, City Manager, or Director of Community Development or enforcing attorney to seek cumulative remedies, except that multiple monetary fines or penalties shall not be available for any single violation of this chapter.
- F. *Citations.* Pursuant to Penal Code § 836.5, the Chief Building Official, City Manager, or Director of Community Development shall have the authority to cause the arrest of any person committing a misdemeanor or infraction pursuant to the provisions of the chapter. The person shall be released and issued a citation to appear before a magistrate in accordance with Penal Code § 853.5, § 853.6, and § 853.9, unless the person demands to be taken before the magistrate. Following issuance of any citation, the Chief Building Official, City Manager, or Director of Community Development may refer the matter to the enforcing attorney. Each citation to appear shall state the name and address of the violator, the provisions of this chapter violated, and the time and place of appearance before the court, which shall be at least ten business days after the date of violation. The person cited shall sign the citation giving his or her written promise to appear as stated therein. If the person cited fails to appear, the enforcing attorney may request issuance of a warrant for the arrest of the person cited.

- G. *Violations of other laws.* Any person acting in violation of this chapter also may be acting in violation of the federal Clean Water Act (33 USC § 1251, et seq.) or the California Porter-Cologne Water Quality Control Act (California Water Code § 13000 et seq.) and other laws and also may be subject to sanctions including civil liability under such other laws. Accordingly, the enforcing attorney is authorized to file a citizen suit pursuant to the federal Clean Water Act (Title 33 U.S.C. section 1365(a)), seeking penalties, damages, and others compelling compliance, and other appropriate relief. The enforcing attorney may notify EPA, the State Water Resources Control Board, the Santa Ana Regional Water Quality Control Board, or any other appropriate State or local agency, of any alleged violation of this chapter.
- H. *Injunctions.* At the request of the Chief Building Official, City Manager, or Director of Community Development, the enforcing attorney may cause the filing, in a court of competent jurisdiction, of a civil action seeking an injunction against any threatened or continuing noncompliance with the provisions of this chapter. Any temporary, preliminary, or permanent injunction issued pursuant hereto may include an order for reimbursement to the City of all costs incurred in enforcing this chapter, including costs of inspection, investigation and monitoring, the costs of abatement undertaken at the expense of the City, legal expense, including costs and attorney fees, and consultant and expert fees and costs, and costs relating to restoration of the environment.
- I. *Other civil remedies.*
1. The Chief Building Official, City Manager, or Director of Community Development may cause the enforcing attorney to file an action for civil damages in a court of competent jurisdiction seeking recovery of:
    - a. All costs incurred in enforcement of the chapter, including but not limited to costs relating to investigation, sampling, monitoring, inspection, administrative expenses, legal expenses, including costs and attorney fees, and consultant and expert fees and costs, and consequential damages;
    - b. All costs incurred in mitigating harm to the environment or reducing the threat to human health; and
    - c. Damages for irreparable harm to the environment.
  2. The enforcing attorney is authorized to file actions for civil damages resulting from any trespass or nuisance occurring on public land or to the stormwater drainage system from any violation of this chapter where the same has caused damage, contamination or harm to the environment, public property, or the stormwater drainage system.

3. The remedies available to the City pursuant to the provisions of this chapter shall not limit the right of the City to seek any other remedy that may be available by law.

**Sec. 6-8-306. Interagency cooperation**

- A. The federal Clean Water Act authorizes the issuance of the NPDES permit and provides for cooperative implementation of requirements and interagency allocations of program resources and burdens. The coordinated effort of the County and the co-permittees is reflected in the National Pollutant Discharge Elimination System Permit Implementation Agreement for the Santa Ana Region, the NPDES permit, the DAMP, the City's local implementation plan, this chapter and the Enforcement Consistency Guide, the Appendices to the DAMP, including, but not limited to, the development project guidance, monitoring and data collection cooperation and regular emergency and spill response planning activities.
- B. The City may elect to contract for the services of any public agency or private enterprise to carry out the planning approvals, inspections, permits and enforcement authorized by this chapter.

**Sec. 6-8-307. Compliance with chapter is not compliance with other laws.**

Compliance by any person or entity with the provisions of this chapter shall not relieve any such person or entity from complying with other applicable local, State or federal statutory or regulatory requirements.

SECTION 2: Severability.

The City of Irvine hereby declares that should any section, paragraph, sentence, phrase, term or word of this Ordinance be declared for any reason to be invalid, it is the intent of the City Council that would have adopted all other provisions of this Ordinance independent of the elimination herefrom of any such portion as may be declared invalid.

SECTION 3: Enforcement Consistency Guide.

The City of Irvine hereby declares that enforcement actions to be taken under this Ordinance are to be consistent, to the maximum extent practicable under the circumstances, with the Enforcement Consistency Guide dated January 1995, as may be amended from time to time, copies of which are on file with the City Clerk's Office.

SECTION 4: This Ordinance shall be effective 30 days after adoption.

SECTION 5: The City Clerk of the City of Irvine shall certify to the passage and adoption of this Ordinance and shall cause the same to be posted and published in the manner required by law.

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the 13<sup>th</sup> day of July, 2010.



MAYOR OF THE CITY OF IRVINE

ATTEST:

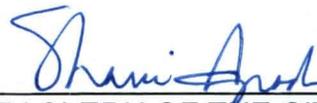


CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS  
CITY OF IRVINE )

I, SHARIE APODACA, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Ordinance was introduced for first reading on June 29<sup>th</sup>, 2010, and duly adopted at a regular meeting of the City Council of the City of Irvine held on the 13<sup>th</sup> day of July, 2010, by the following vote:

AYES: 4 COUNCILMEMBERS: Agran, Choi, Krom and Kang  
NOES: 0 COUNCILMEMBERS: None  
ABSENT: 1 COUNCILMEMBERS: Shea



CITY CLERK OF THE CITY OF IRVINE