

IRWINDALE

Title 8 HEALTH AND SAFETY*

Chapter 8.28 STORM WATER AND URBAN RUNOFF POLLUTION[1]

8.28.010 Title.

The ordinance codified in this chapter shall be known as the "Storm Water and Urban Runoff Pollution Prevention Ordinance" of the city of Irwindale and may be referred to as such. (Ord. 564 §2, 2002).

8.28.020 Statutory authority.

The provisions of this chapter are adopted pursuant to the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq. (Ord. 564 §2, 2002).

8.28.030 Purpose and intent.

The purpose of this chapter is to protect and improve water quality of receiving waters by:

- A. Reducing illicit discharges to the municipal storm water system to the maximum extent practicable.
 - B. Eliminating illicit connections to the municipal storm water system.
 - C. Eliminating spillage, dumping, and disposal of pollutant materials into the municipal storm water system.
 - D. Reducing pollutant loads in storm water and urban runoff, from land uses and activities identified in the municipal NPDES permit. (Ord. 564 §2, 2002).
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8.28.040 Definitions.

For the purpose of the provisions of this chapter concerning water quality hereinafter set forth, the following words and phrases shall be construed to have the meanings set forth, unless it is apparent from the context that a different meaning is intended:

"Best management practice" or "BMP" means any program, technology, process, siting criteria, operating method, measure, or device which controls, prevents, removes, or reduces pollutants in storm water and non-storm water runoff.

"Clean Water Act" means the Federal Water Pollution Control Act as amended, 33 U.S.C. 1251, et seq.

"Commercial Facility" means restaurants; automotive service facilities; automotive dealerships, and retail gasoline station outlets or any other definition provided in the municipal NPDES permit or Storm Water Quality Management Plan.

"Executive officer" means executive officer of the California Regional Water Quality Control Board, Los Angeles.

"Illicit connection" means any device through or by which an illicit discharge is conveyed into the municipal storm water system without a permit, including but not limited to floor drains, pipes or any fabricated or natural conduits, excluding roof drains which convey only storm water.

"Illicit discharge" means the entry of any material other than storm water unless such discharge is exempted under the municipal NPDES permit, is allowed under a separate NPDES permit, including but not limited to a point source permit, a General Industrial Activity Storm Water Permit, or a General Construction Activity Storm Water Permit, or is allowed by the executive officer.

"Industrial activity" means any of the ten classifications of industrial facilities specified in 40 Code of Federal Regulations §122.26 (b)(14), defined by Standard Industrial Classification (SIC) and which is required to obtain a NPDES permit, not including construction activities.

"Maximum extent practicable" means, within the context of BMP selection, choosing effective BMPs, and rejecting applicable BMPs only (i) where effective BMPs will serve the same purpose, (ii) the BMPs would not be technically feasible, or (iii) the cost would be prohibitive.

"Municipal NPDES permit" means California Regional Water Quality Control Board, Los Angeles Region, Order No. 01-182, NPDES Permit No. CAS004001, waste discharge requirements for municipal storm water and urban runoff discharges within the county of Los Angeles, and the incorporated cities therein, except the city of Long Beach, and any amendment thereto or re-issuance thereof.

"Municipal Separate Storm Sewer System" (referred to herein as "MS4"), means those facilities within the City by which storm water discharge is conveyed to waters of the United States, including but not limited to flood control channels, roads with drainage systems, alleys, streets, catch basins, grates, inlets, curbs, gutters, ditches, storm drains, canals, pipes, and fabricated and natural channels.

"Non-storm water discharge" means any fluid discharge to the storm drain system and/or receiving waters that is not composed entirely of storm water but may not necessarily be an illicit discharge.

"NPDES" or "National Pollutant Discharge Elimination System" means a permit issued by the United States Environmental Protection Agency, the State Water Resources Control Board or a California Regional Water Quality Control Board pursuant to the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq., that authorizes discharges to waters of the United States.

"Owner" as applied to a building or real property, means any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or real property.

"Person" means, within the context of this chapter, any natural person, firm, association, organization, partnership, business trust, corporation, or company.

"Pollutant" means the same as it is defined in California Water Code §13373 and includes but is not limited to garbage, debris, lawn clippings, leaves, fecal waste, biological waste, sediment, sludge, manure, fertilizers, pesticides, oil, grease, gasoline, paints, solvents, cleaners, and any fluid or solid containing toxic or non-toxic chemicals, metals, including batteries.

"Receiving waters" means rivers, lakes, oceans, or other bodies of water that receive runoff.

"Redevelopment" means land-disturbing activity that results in the creation, addition, or replacement of five thousand square feet or more of impervious surface area on an already developed site. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition or replacement of a structure; replacement of impervious surface area that is not part of a routine maintenance activity; and land disturbing activities related to structural or impervious surfaces. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

"Regional Board" means the appointed members of the California Regional Water Quality Control Board, Los Angeles Region.

"Runoff" means the portion of rainfall or irrigation water or other water activities also known as dry-weather flows that flow across the ground surface and eventually to receiving waters. Runoff can pick up pollutants from the air or the land and carry them to receiving waters.

"State Board" means the State Water Resources Control Board of the California Environmental Protection Agency (hereinafter "SWRCB").

"Storm Water Quality Management Program" means the Los Angeles Countywide Storm Water Quality Management Program, which includes descriptions of programs, collectively developed by the permittees in accordance with provisions of the NPDES permit, to comply with applicable federal and state law, as the same is amended from time to time.

"Storm water runoff" means any surface water flow produced by rain or snow melt. (Ord. 564 §2, 2002).

8.28.050 Illicit discharges, dumping, and non-storm water discharges.

A. No person shall cause or allow an illicit discharge to enter the municipal storm water system.

B. No person shall place, dump, dispose, litter, accumulate, maintain, discharge, or cause to enter into the MS4 any

pollutant or any foreign object such as batteries, tires, waste receptacles, yard debris, refuse, rubbish, food waste, chemicals, animal waste or oil cans -- which are also considered illicit discharges.

C. Any person causing an illicit discharge to the MS4 may be required to pay for the cost of clean-up and remediation.

D. Any owner of any private property from which a non-storm water discharge is observed may be required to pay for the cost of collecting and analyzing the discharge to determine if it is an illicit discharge.

E. The following non-storm water discharges are not considered illicit discharges:

1. Discharges determined by the executive officer not to be significant sources of pollution, including but are not limited to: natural springs and rising ground water; flows from riparian habitats or wetlands; stream diversions, permitted by the State Board; and uncontaminated ground water infiltration [as defined by 40 CFR 35.2005(20)]; reclaimed and potable landscape irrigation runoff; potable drinking water supply and distribution system releases (consistent with American Water Works Association guidelines for dechlorination and suspended solids reduction practices); drains for foundations, footings, and crawl spaces; air conditioning condensate; dechlorinated/debrominated swimming pool discharges; dewatering of lakes and decorative fountains; noncommercial car washing by residents or by non-profit organizations; and sidewalk rinsing.

2. Discharges specifically allowed under a separate NPDES permit, including but not limited to, a General Industrial Storm Water Activity Permit or General Construction Storm Water Activity Permit. (Ord. 564 §2, 2002).

8.28.060 Illicit connections.

A. No person shall maintain or intentionally use a connection that operates to convey an illicit discharge to the municipal storm water system.

B. Upon discovery of an illicit connection, the person owning or operating such connection shall either remove it or render it incapable of conveying an illicit discharge.

C. If any person fails to eliminate an illicit connection after being called upon by the city to do so, the city manager or the director of public works or his/her designee(s), shall impose appropriate measures to remove or disable the illicit connection and may recover the costs from the owner of such illicit connection. (Ord. 564 §2, 2002).

8.28.070 Reduction of pollutants in runoff.

A. No person shall cause or threaten to cause the discharge of pollutants to the MS4 by exposing such pollutants to storm water runoff. (Ord. 564 §2, 2002).

8.28.080 Control of pollutants from commercial facilities.

A. Subject commercial facilities shall implement BMPs prescribed by the regional board or its executive officer, through programs or actions made pursuant to the municipal NPDES permit, as called for more particularly in the city's Storm Water Quality Management Program, or any revisions made thereto. (Ord. 564 §2, 2002).

8.28.090 Control of pollutants from industrial activities.

A. It shall be a violation of this chapter for any industry in the city that is subject to waste discharge requirements specified in the SWRCB Water Quality Order No. 97-03-DWQ, Permit No. CAS00001, any revision or a reissuance thereof, to operate without a General Industrial Activities Storm Water NPDES Permit.

B. Industries that require a General Industrial Activities Storm Water NPDES Permit shall retain on-site the following documents: (i) a copy of the Notice of Intent for General Permit to Discharge Storm Water Associated with Industrial Activity; (ii) a waste discharge identification number issued by the SWRCB; and/or (iii) a Storm Water Pollution Prevention Plan and Monitoring Program Plan.

C. Any industry in the city requiring a General Industrial Activities Storm Water NPDES Permit shall, upon reasonable request from a duly authorized officer of the city, provide any of the documents described in paragraph B of this section. (Ord. 564 §2, 2002).

8.28.100 Control of pollutants from other industrial facilities.

A. Industrial facilities not subject to the General Industrial Activities Storm Water NPDES Permit but are subject to pollution control requirements under the municipal NPDES permit, shall implement BMPs prescribed by the regional board or its executive officer, through programs or actions made pursuant to the municipal NPDES permit. (Ord. 564 §2, 2002).

8.28.110 Control of pollutants from state permitted construction activities.

A. No person shall be granted a grading permit or shall commence or continue any construction activity that is subject to a General Construction Activity Storm Water NPDES Permit without showing proof of having applied for such permit.

B. Any person engaged in a construction activity requiring an NPDES General Construction Activity Storm Water NPDES Permit construction permit shall retain at the construction site the following documents: (i) a copy of the Notice of Intent to Comply with Terms of the General Permit to Discharge Water Associated with Construction Activity; (ii) a waste discharge identification number issued by the SWRCB; (iii) a Storm Water Pollution Prevention Plan and Monitoring Program Plan for the construction activity requiring the construction permit; and (iv) records of all inspections, compliance and non-compliance reports, evidence of self-inspection and good housekeeping practices.

C. Any person engaged in a construction activity in the city requiring an NPDES General Construction Storm Water Activity Permit shall, upon reasonable request from a duly authorized officer of the city, provide any of the documents specified in paragraph B of this section and shall retain said documents for at least three years after completion of construction. (Ord. 564 §2, 2002).

8.28.120 Control of pollutants from other construction activities.

A. Any person engaged in a construction activity that is not subject to the General Construction Storm Water Activity NPDES Permit but is subject to the municipal NPDES permit, shall comply with all requirements specified in the Storm Water Management Quality Program, including any revisions made thereto. (Ord. 564 §2, 2002).

8.28.130 Control of pollutants from new developments/redevelopment projects.

A. Prior to the construction of a new development or redevelopment project, the subject project shall be evaluated for its potential to discharge pollutants to the MS4, based on its intended land use and other considerations. Such evaluation shall be conducted in accordance with development planning requirements established by the regional board or its executive officer, pursuant to the municipal NPDES permit, as specified in the City's Storm Water Quality Management Program, including any revisions made thereto.

B. Once a new development or redevelopment project has been evaluated for its potential to discharge pollutants to the MS4, the city shall require appropriate BMPs to be installed during construction for implementation following project completion. The prescription of such BMPs shall be in keeping with development planning requirements established by the regional board or its Executive Officer, pursuant to the municipal NPDES permit, as specified in the city's Storm Water Quality Management Program, including any revisions made thereto. (Ord. 564 §2, 2002).

8.28.140 Fees.

A. Fees to be charged for plan checking, inspection, enforcement, and other activities carried out by the city under this chapter shall be specified by resolution of the city council. (Ord. 564 §2, 2002).

8.28.150 Responsibility for administration.

A. The responsibility for the administration, oversight, and implementation of this chapter is delegated to the director of public works and/or any other designee of the city manager. (Ord. 564 §2, 2002).

8.28.160 Inspection and enforcement.

A. Inspections. The city manager or the director of public works, or any designee thereof, may, upon twenty-four hour oral or written notice, unless exigent circumstances justify a shorter time period, enter upon and inspect any private premises for the purposes of verifying compliance with the terms and conditions of this chapter. Such inspection may include, but is not limited to:

1. Identifying products produced, processes conducted, chemicals and materials used, stored or maintained on the subject premises;
2. Identifying points of discharge of all wastewater, non-storm water, processed water systems and pollutants;
3. Investigating the natural slope of the premises, including drainage patterns and man-made conveyance systems;
4. Establishing location of all points of discharge from the premises, whether by surface runoff or through a storm drain system;
5. Locating any illicit connection or illicit discharge;
6. Investigating and inspecting a vehicle, truck, trailer, tank or other mobile equipment;
7. A review and inspection of all records of the owner or occupant of public or private property relating to chemicals or processes presently or previously stored or occurring on the property, 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, storm water pollution prevention plans, and any and all records relating to illicit connections, illicit discharges, or any other source of contribution or potential contribution of pollutants to the municipal storm drain system;
8. Inspecting, sampling and testing any area runoff, soils area (including groundwater testing), process discharge, materials with any waste storage area (including any container contents), and/or treatment system discharges for the purpose of determining the potential for contribution of pollutants to the municipal storm drain system;
9. Inspecting the integrity of all storm drain and sanitary sewer systems, any connection to other pipelines on the property, including the use dye and smoke tests, video surveys, photographs or videotapes, and the taking of measurements, drawings or any other records reasonably necessary to document conditions as they exist on the premises;
10. The installation and maintenance of monitoring devices for the purpose of measuring any discharge or potential source of discharge to the municipal storm drain system;
11. Evaluating compliance with this chapter or the Clean Water Act.

B. Enforcement. 1. Any violation of this chapter is a misdemeanor and shall be punishable by either a fine of up to one thousand dollars or six months in the county jail, or both.

2. Any person who may otherwise be charged with a misdemeanor as a result of a violation of this chapter may be charged, at the discretion of the prosecuting attorney, with an infraction punishable

by a fine of not more than one hundred dollars for the first violation, two hundred dollars for the second violation, and two hundred fifty dollars for each additional violation thereafter.

3. As a part of any sentence or other penalty imposed or the award of any damage, the court may also order that restitution be paid to the city or an injured person, or, in the case of a violator who is a minor, by the minor's parent or lawfully designated guardian or custodian. Restitution may include the amount of any reward.

4. Any person violating the provisions of this chapter shall reimburse the city for any and all costs incurred by the city in responding to, investigating, assessing, monitoring, treating, cleaning, removing, or remediating any illicit discharge or pollutant from the municipal storm drain system; rectifying any illicit connection; or remediating any violation of this chapter. Such costs to be paid to the city include all administrative expenses and all legal expenses, including costs and attorneys' fees, in obtaining compliance, and in litigation including all costs and attorneys' fees on any appeal. The costs to be recovered in this Section 8.28.110 shall be recoverable from any and all persons violating this chapter.

5. In the event any violation of this chapter constitutes an imminent danger to public health, safety, or the environment, the city manager or director of public works, or any authorized agent thereof, may enter upon the premises from which the violation emanates, abate the violation and danger created to the public safety or the environment, and restore any premises affected by the alleged violation, without notice to or consent from the owner or occupant of the premises. An imminent danger shall include but is not limited to exigent circumstances created by the discharge of pollutants, where such discharge presents a significant and immediate threat to the public health or safety, or the environment.

6. Violations of this chapter may further be deemed to be a public nuisance which may be abated by administrative or civil or criminal action in accordance with the terms and provisions of this code and state law.

7. All costs and fees incurred by the city as a result of any violation of this chapter which constitute a nuisance, including all administrative fees and expenses and legal fees and expenses, shall become a lien against the subject premises from which the nuisance emanated and a personal obligation against the owner, in accordance with Government Code Sections 38773.1 and 38773.5. The owner of record of the premises subject to any lien shall receive notice of the lien prior to recording, as required by Government Code Section 38773.1. The city attorney is authorized to collect nuisance abatement costs or enforce a nuisance lien in an action brought for money judgment, or by delivery to the county assessor of a special assessment against the premises in accordance with the conditions and requirements of Government Code Section 38773.5.

8. Any person acting in violation of this chapter may also be acting in violation of the Clean Water Act or the California Porter-Cologne Act (California Water Code Section 13000 et seq.) and the regulations thereunder, and other laws and regulations, and may be subject to damages, fines and penalties, including civil liability under such other laws. The city attorney is authorized to file a citizens suit pursuant to the Clean Water Act, seeking penalties, damages, and orders compelling compliance and appropriate relief.

9. The city attorney is authorized to file in a court of competent jurisdiction a civil action seeking an injunction against any violation or threatened or continuing violation of this chapter. Any temporary, preliminary or permanent injunction issued pursuant hereto may include an order for reimbursement to the city for all costs incurred in enforcing this chapter, including costs of inspection, investigation, monitoring, treatment, abatement, removal or remediation undertaken by or at the expense of the city, and may include all legal expenses and fees and any and all costs incurred relating to the restoration or remediation of the environment.

10. Each separate discharge in violation of this chapter and each day a violation of this chapter exists, without correction, shall constitute a new and separate violation punishable as a separate infraction, misdemeanor and/or civil violation.

11. The city may utilize any and all other remedies as otherwise provided by law. (Ord. 564 §2, 2002).

[1] Prior ordinance history: Ord. 510.