

CHAPTER THREE: ENVIRONMENTAL PROTECTIONS

Subchapter 3.10: Town of Colma Storm Water Management and Discharge Control Code

I. TITLE, PURPOSE AND GENERAL PROVISIONS

3.10.010 Title.

This Subchapter Nine shall be known as the "*Town of Colma Storm Water Management and Discharge Control Code*" and may be so cited.

[*History*: formerly § 3.901; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

3.10.020 Purpose and Intent.

The purpose of this Chapter is to ensure the future health, safety, and general welfare of Town of Colma citizens by:

- (a) Eliminating non-storm water discharges to the municipal separate storm sewer.
- (b) Controlling the discharge to municipal separate storm sewers from spills, dumping or disposal of materials other than storm water.
- (c) Reducing pollutants in storm water discharges to the maximum extent practicable.

The intent of this Ordinance is to protect and enhance the water quality of our watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Clean Water Act.

[*History*: formerly § 3.902; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

3.10.030 Definitions.

(a) Any terms defined in the Federal Clean Water Act and acts amendatory thereof or supplementary thereto, and/or defined in the regulations for the storm water discharge permitting program issued by the Environmental Protection Agency on November 16, 1990 (as may from time to time be amended) as used in this Ordinance shall have the same meaning as in that statute or regulations. Specifically, the definition of the following terms included in that statute or regulations are hereby incorporated by reference, as now applicable or as may hereafter be amended: discharge, illicit discharge, pollutant, and storm water. These terms presently are defined as follows:

(b) *Discharge*. (a) Any addition of any pollutant to navigable waters from any point source, or (b) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

(c) *Illicit Discharge*. Any discharge to the City storm sewer system that is not composed entirely of storm water except discharges pursuant to a NPDES permit and discharges resulting from fire fighting and other emergency response activities.

(d) *Pollutant.* Dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, wrecked or destroyed equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharge into water. A pollutant shall also include any increment or increase in the total volume of storm water runoff resulting from any activity or development occurring after the effective date of this Ordinance unless provision is made for storm water detention so that the rate of runoff is not increased.

(e) *Storm Water.* Storm water runoff and surface runoff and drainage.

(f) When used in this Chapter, the following words shall have the meanings ascribed to them in this Section:

(g) *Authorized Enforcement Official.* The City Manager or his/her designees is hereby authorized to enforce the provisions of this Ordinance.

(h) *Best Management Practices ("BMPs").* Schedule of activities, prohibitions of practices, general good housekeeping practices, pollution prevention practices maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to "*waters of the United States*". BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(i) *City.* The Town of Colma.

(j) *City Storm Sewer System.* Includes but is not limited to those facilities within the City by which storm water may be conveyed to waters of the United States, including any roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains, which is not part of a *Publicly Owned Treatment Works* (POTW) as defined at 40 CFR s 122.2.

(k) *Non-Storm Water Discharge.* Any discharge that is not entirely composed of storm water except those noted within a NPDES Permit and this Ordinance.

(l) *Premises.* Any building, lot parcel, real estate, or land or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

(m) *Watercourse.* A natural stream, creek, or man-made uncovered channel through which water flows continuously or intermittently.

[*History:* formerly § 3.903 – 3.909.27; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

3.10.040 Responsibility for Administration.

This Chapter shall be administered for the City by the City Manager and his/her designees.

[*History:* formerly § 3.904; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

3.10.050 Construction and Application.

This Ordinance shall be construed to assure consistency with the requirements of the Federal Clean Water Act and acts amendatory thereof or supplementary thereto, applicable implementing regulations, and NPDES Permit No. CA0029921 and any amendment, revision or reissuance thereof.

[*History:* formerly § 3.905; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

3.10.060 Severability and Validity.

If any portion of this Ordinance is declared invalid, the remaining portions of this Ordinance are to be considered valid.

[*History:* formerly § 3.906; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

3.10.070 Waiver Procedures.

(a) It is the intent of this Ordinance to protect and enhance water quality while respecting the rights of private property owners to economically viable use of land. It is not the intent of this Ordinance to prohibit all economically viable use of any private lands, nor to result in a confiscatory impact. Accordingly, the purpose of this Section is to provide for an administrative procedure for a waiver or modification of a particular provision of this Ordinance in the event the strict application of this Ordinance would result in the denial of all economically viable use of real property.

(b) An applicant for waiver of a provision of this Ordinance shall file a Waiver Application with the City Engineer on a form provided by the City Engineer identifying the provision sought to be waived or modified. The applicant shall file a complete form and shall provide all documentation and information required by the City Engineer to determine whether application of the provision in question will prohibit any economically viable use of the land in question or otherwise have an impermissible confiscatory result.

(c) The City Engineer may approve, deny or conditionally approve a Waiver Application upon making all of the following written findings:

(1) That the strict application of the provision for which a waiver or modification is sought would result in the denial of all economically viable use of the real property in question.

(2) To the maximum extent feasible, conditions have been placed upon such a waiver or modification in order to achieve the goals of this Ordinance as closely as possible while still allowing economically viable use of the real property in question.

(3) Approval of such a waiver will not result in a public nuisance which would constitute a significant and direct threat to public health or safety.

[*History:* formerly § 3.907 – 3.907.3.3; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

II. DISCHARGE REGULATIONS AND REQUIREMENTS

3.10.080 Discharge of Pollutants.

(a) The discharge of non-storm water discharges to the City storm sewer system is prohibited. All discharges of material other than storm water must be in compliance with a NPDES Permit issued for the discharge (other than NPDES Permit No. CA0029921) and this Ordinance.

(b) *Exceptions to Discharge Prohibition.* The following discharges are exempt from the prohibition set forth in Section (a) above.

(1) The prohibition on discharges shall not apply to any discharge regulated under a National Pollutant Discharge Elimination System (NPDES) Permit used to the discharger and administered by the State of California under authority of the United States Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit and other applicable laws or regulations.

(2) Discharges from the following activities will not be considered a source of pollutants to waters of the United States when properly managed: water line flushing and other discharges from potable water sources, municipal street cleaning, municipal park maintenance, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising ground waters, infiltration to separate storm drains, uncontaminated pumped ground water, foundation and footing drains, water from crawl space pumps, air conditioning condensation, springs, individual residential car washings, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, or flows from fire fighting and other emergency response activity, and accordingly are not subject to the prohibition on discharges.

[*History:* formerly § 3.908 – 3.908.1.2; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

3.10.090 Discharge in Violation of Permit.

Any discharge that would result in or contribute to a violation of NPDES Permit No. CA0029921, the terms of which are incorporated herein by reference, and which is on file in the office of the City Clerk, and any amendment, revision or reissuance thereof, either separately considered or when combined with other discharges, is prohibited. Liability for any such discharge shall be the responsibility of the person(s) causing or responsible for the discharge, and such person(s) shall defend, indemnify, and hold harmless the City in any administrative or judicial enforcement action relating to such discharge.

[*History:* formerly § 3.909; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

3.10.100 Illicit Discharge.

It is prohibited to commence or continue any illicit discharges to the City storm sewer system.

[*History:* formerly § 3.910; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

3.10.110 Reduction of Pollutants in Storm Water.

Any person engaged in activities which will or may result in pollutants entering the City storm

sewer system shall undertake all practicable measures to reduce such pollutants. Examples of such activities include ownership and use of facilities which may be a source of pollutants such as parking lots, gasoline stations, industrial facilities, commercial facilities, stores fronting city streets, etc. The following minimal requirements shall apply:

(a) *Littering.* No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land in the City, so that the same might be or become a pollutant, except in containers or in lawfully established dumping grounds.

The occupant or tenant, or in the absence of occupant or tenant, the owner, lessee, or proprietor of any real property in the Town of Colma in front of which there is a paved sidewalk shall maintain said sidewalk free of litter to the maximum extent practicable.

No person shall throw or deposit litter in any fountain, pond, lake, stream or any other body of water in a park or elsewhere within the City.

(b) *Standard for Parking Lots and Similar Structures.* Persons owning or operating a parking lot, gas station pavement or similar structure shall clean those structures as frequently and thoroughly as practicable in a manner that does not result in discharge of pollutants to the City storm sewer system.

(c) *Best Management Practices for New Developments and Redevelopments.* Any construction contractor performing work in the City shall endeavor, whenever possible, to provide filter materials at the catch basin to retain any debris and dirt flowing in to the City's storm sewer system. City may establish controls on the volume and rate of storm water runoff from new developments and redevelopments as may be appropriate to minimize the discharge and transport of pollutants.

(d) *Compliance with Best Management Practices.* Where best management practices guidelines or requirements have been adopted by the City for any activity, operation, or facility which may cause or contribute to storm water pollution or contamination, illicit discharges, and/or discharge of non-storm water to the storm water system, every person undertaking such activity or operation, or owning or operating such facility shall comply with such guidelines or requirements (as may be identified by the City Engineer).

[History: formerly § 3.911 – 3.911.4; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

3.10.120 Watercourse Protection.

Every person owning property through which a watercourse passes, or such person's lessee or tenant, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles which would pollute, contaminate, or significantly retard the flow of water through the watercourse; shall maintain existing privately owned structures within a watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse; and shall not remove healthy bank vegetation beyond that actually necessary for said maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion.

[History: formerly § 3.912; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

III. INSPECTION AND ENFORCEMENT

3.10.130 Authority to Inspect.

Whenever necessary to make an inspection to enforce any of the provisions of this Chapter, or whenever an Authorized Enforcement Official has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this Chapter, the official may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the official by this Chapter; provided that (i) if such building or premises be occupied, he or she shall first present proper credentials and request entry; and (ii) if such building premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

Any such request for entry shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate. In the event the search owner and/or occupant refuses entry after such request has been made, the official is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this Ordinance, including but not limited to random sampling and/or sampling in areas with evidence of storm water contamination, illicit discharges, discharge of non-storm water to the storm water system, or similar factors.

[History: formerly § 3.913; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

3.10.140 Authority to Sample and Establish Devices.

The City shall have the right to establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the official may take any samples deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities on site.

[History: formerly § 3.913.1; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

3.10.150 Notification of Spills.

As soon as any person in charge of a facility or responsible for emergency response for a facility has knowledge of any confirmed or unconfirmed release of materials, pollutants, or waste which may result in pollutants or non-storm water discharges entering the City storm sewer system, such person shall take all necessary steps to ensure the discovery and containment and clean up of such release and shall notify the City of the occurrence and steps taken to contain and clean up the spill or containment by telephoning the City Engineer at City Hall, Colma, California and confirming the notification by correspondence to the City Engineer, c/o City Hall, Town of Colma, 1198 El Camino Real, Colma, California 94014.

[History: formerly § 3.913.2; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

3.10.160 Requirement to Test or Monitor.

Any authorized enforcement official may request that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution or contamination, illicit discharges, and/or discharge of non-storm water to the storm water system, undertake such monitoring activities and/or analyses and furnish such reports as the official may specify. The burden, including costs, of these activities, analyses and reports shall bear a reasonable relationship to the need for the monitoring, analyses and reports and the benefits to be obtained. The recipient of such request shall undertake and provide the monitoring, analyses and/or reports requested.

[History: formerly § 3.913.3; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

3.10.170 Violations Constituting Misdemeanors.

Unless otherwise specified by Ordinance, the violation of any provision of this Chapter, or failure to comply with any of the mandatory requirements of this Chapter shall constitute a misdemeanor, except that notwithstanding any other provisions of this Chapter, any such violation constituting a misdemeanor under this Chapter may, at the discretion of the enforcing authority, be charged and prosecuted as an infraction.

[History: formerly § 3.914; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

3.10.180 Continuing Violation.

Unless otherwise provided, a person, firm, corporation or organization, shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this Chapter is committed, continued or permitted by the person, firm, corporation or organization and shall be punishable accordingly as herein provided.

[History: formerly § 3.915; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

3.10.190 Concealment.

Causing, permitting, aiding, abetting or concealing a violation of any provision of this Chapter shall constitute a violation of such provision.

[History: formerly § 3.916; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

3.10.200 Civil Actions.

In addition to any other remedies provided in this section, any violation of this section may be enforced by civil action brought by the City. In any such action, the City may seek, and the court shall grant, as appropriate, any or all of the following remedies:

- (a) A temporary and/or permanent injunction.
- (b) Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection.

(c) Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation, including reasonable attorney's fees and court costs.

(d) Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life. Assessments under this subsection shall be paid to the City to be used exclusively for costs associated with monitoring and establishing storm water discharge pollution control systems and/or implementing or enforcing the provisions of this Ordinance.

[*History*: formerly § 3.917; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

3.10.210 Administrative Enforcement Powers.

In addition to the other enforcement powers and remedies established by this Ordinance, any Authorized Enforcement Official has the authority to utilize administrative remedies.

[*History*: formerly § 3.918; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

3.10.220 Remedies Not Exclusive.

Remedies under this Article are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

[*History*: formerly § 3.919; ORD. 465, 5/11/94; ORD. 638, 12/14/05]

IV. COORDINATION WITH OTHER PROGRAMS

3.10.230 Coordination with Hazardous Materials Inventory and Response Program.

The first revision of the business plan for any facility subject to the City's hazardous materials inventory and response program shall include a program for compliance with this Chapter, including the prohibitions on non-storm water discharge and illicit discharges, and the requirements to reduce storm water pollutants to the maximum extent practicable.

[*History*: formerly § 3.920; ORD. 465, 5/11/94; ORD. 638, 12/14/05]