

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 3.10 shall be known as the "*Town of Colma Storm Water Management and Discharge Control Code*" and may be so cited. This Code may be referenced throughout as "Chapter" or "Subchapter."

[*History:* formerly § 3.901; ORD. 465, 5/11/94; ORD. 638, 12/14/05; ORD. 795, 8/28/19]

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 Subchapter is to protect and enhance the water quality of our water courses, 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; ORD. 795, 8/28/19]

3.10.030 Definitions.

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 Subchapter 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 and other terms presently are defined as follows:

- (a) *Authorized Enforcement Official.* The City Manager or his/her designees.
- (b) *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 green infrastructure, treatment

requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

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

(d) *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 are not part of a *Publicly Owned Treatment Works* (POTW) as defined at 40 CFR s 122.2.

(e) *Construction activity*. Any activity that disturbs soil, including, but not limited to, clearing, grading, paving, disturbances to ground such as stockpiling, and excavation.

(f) *Discharge*. (a) Any addition of any pollutant to the City storm sewer system or any water course, 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.

(g) *Illicit Discharge*. Any discharge to the City storm sewer system or any watercourse or in any location that threatens to enter the City storm sewer system or any watercourse that is not composed entirely of storm water except discharges pursuant to a NPDES permit or otherwise authorized by this Subchapter.

(h) *Green Infrastructure*. A range of natural and built approaches to stormwater management—such as rain gardens, bioretention, and permeable paving—that mimic natural systems by cleaning stormwater and letting it absorb back into the ground. Green infrastructure could reduce the amount of runoff that enters the traditional piped stormwater system below ground and could prevent overflows that pollute nearby water bodies. Green infrastructure elements are mandated and further defined under the Municipal Regional Permit and the City's Green Infrastructure Plan.

(i) *Green Infrastructure Plan*. The plan adopted by the City to implement the green infrastructure requirements in the Municipal Regional Permit.

(j) *Municipal Regional Permit*. The permit regulating discharges to and from the City's storm sewer system issued by the San Francisco Bay Regional Water Quality Control Board, as it currently exists or may be reissued or amended (NPDES Permit No. CAS612008, Order No. R2-2015-0049).

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

(l) *Pollutant*. Includes, but is not limited to: total suspended solids; sediment; pathogens (e.g. bacteria, viruses, protozoa); heavy metals (e.g. copper, lead, zinc, and cadmium); petroleum products and PAHs; synthetic organics (e.g. pesticides, herbicides, and PCBs); nutrients (e.g. nitrogen and phosphorus fertilizers); oxygen-demanding substances (e.g. decaying vegetation and animal waste); and trash. A pollutant also includes any increment of increase in the total volume of storm water runoff resulting from any activity or development

occurring after the effective date of this Subchapter unless provision is made for storm water detention so that the rate of runoff is not increased.

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

(n) *Regulated project* means development and redevelopment projects defined by Provision C.3.b.ii of the Municipal Regional Permit, including projects that create or replace 10,000 square feet or more of impervious surface, and restaurants, retail gasoline outlets, auto service facilities, and uncovered parking lots (stand-alone or part of another use) that create and/or replace 5,000 square feet or more of impervious surface. Single family homes that are not part of a larger plan of development are specifically excluded.

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

(p) *Technical Guidance Document* means the "C.3 Stormwater Technical Guidance" document developed by the San Mateo Countywide Water Pollution Prevention Program, June 2016, version 5.0, or most current version.

(q) *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; ORD. 795, 8/28/19]

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 Subchapter 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; ORD. 795, 8/28/19]

3.10.060 Severability and Validity.

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

[*History:* formerly § 3.906; ORD. 465, 5/11/94; ORD. 638, 12/14/05; ORD. 795, 8/28/19]

3.10.070 Waiver Procedures.

(a) It is the intent of this Subchapter 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 Subchapter 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 Subchapter in the event the strict application of this Subchapter would result in the denial of all economically viable use of real property.

(b) An applicant for waiver of a provision of this Subchapter 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 Subchapter 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; ORD. 795, 8/28/19]

3.10.080 Fees and Charges.

The City may adopt reasonable fees to recover the cost of setting up and operating a stormwater pollution prevention program, including but not limited to fees for permit application and processing, monitoring and inspection, compliance actions, appeals, and other charges deemed necessary to carry out the requirements carried out herein. These fees relate solely to the matters covered by this Subchapter and are separate from all other fees, fines, and penalties charged by the City. Such fees shall be in amounts established by resolution of the City Council.

[*History*: formerly § 3.908 – 3.908.1.2; ORD. 465, 5/11/94; ORD. 638, 12/14/05; ORD. 795, 8/28/19]

II. DISCHARGE REGULATIONS AND REQUIREMENTS

3.10.090 Discharge of Pollutants.

(a) Except as otherwise authorized under Section (b) or (c), the following are prohibited:

- (1) Discharge of non-storm water to the City storm sewer system or any water course;
- (2) Placement of any solid waste at any place where it may contact or be transported to the City storm sewer system or any watercourse, including a flood plain area;
- (3) Cause, allow or facilitate any illicit discharge;
- (4) Discharge, cause, allow or facilitate any discharge that may cause or threaten to cause a condition of pollution or nuisance as defined in Water Code Section 13050, that may cause, threaten to cause or contribute to an exceedance of any water quality standard in any Statewide Water Quality Control Plan, California Toxics Rule, or Basin Plan, or that may cause or contribute to the violation of any receiving water limitation.

(b) Exceptions to Discharge Prohibition. The following discharges are exempt from the prohibition set forth in Section (a) above unless the City or Regional Water Quality Control Board determines them to be a source of pollution or to cause or threaten a violation of the Municipal Regional Permit or other law or regulation:

- (1) A discharge regulated under and in compliance with a National Pollutant Discharge Elimination System (NPDES) Permit issued to the discharger, provided that the discharger is in full compliance with all requirements of the permit and other applicable laws or regulations.
- (2) Flows from riparian habitat and wetlands; diverted stream flows; flows from natural springs; rising ground waters; uncontaminated and unpolluted ground water infiltration; single family homes' pumped groundwater, foundation drains, and water from crawl space pumps and footing drains; and pumped groundwater from drinking aquifers (excluding well development).

(c) Conditionally Exempted Discharges. The following discharges are prohibited, except in compliance with the best management practices and other restrictions required by the Municipal Regional Permit or other regulations; pumped groundwater, foundation drains, and water from crawl space pumps and footing drains; condensate from air conditioning units but only if discharge to landscaped areas or the ground it not feasible; emergency discharges of potable water; discharges from pools, hot tubs, spas, and fountains; irrigation water, landscape irrigation, and lawn or garden watering.

[History: formerly § 3.909; ORD. 465, 5/11/94; ORD. 638, 12/14/05; ORD. 795, 8/28/19]

3.10.100 Discharge in Violation of Permit.

Any discharge that would result in or contribute to a violation of the Municipal Regional Permit, 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 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 § 3.910; ORD. 465, 5/11/94; ORD. 638, 12/14/05; ORD. 795, 8/28/19]

3.10.110 Illicit Discharge.

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

[History: formerly § 3.911 – 3.911.4; ORD. 465, 5/11/94; ORD. 638, 12/14/05; ORD. 795, 8/28/19]

3.10.120 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 best management practices necessary to reduce such pollutants. Examples of such activities include ownership and use of facilities which may be a source of pollutants such as construction sites, parking lots, gasoline stations, industrial facilities, commercial facilities, stores fronting city streets, etc. The following requirements apply at a minimum:

(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 abandon 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 absence of occupant or tenant, the owner, lessee, or proprietor of any real property in the City 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) *Green Infrastructure.* Every regulated project must incorporate Green Infrastructure approved by the City and in accordance with all applicable City standards and requirements, including the latest edition of the City's Green Infrastructure Plan. Green Infrastructure facilities shall be designated to minimize the need for maintenance.

(c) *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.

(d) *Best Management Practices for New Developments and Redevelopments.* The proponent of any new development or redevelopment project must address storm water runoff pollutant discharges and prevent increases in runoff flows from the new development or redevelopment project by incorporating post-construction storm water control and low impact development measures required by the current version of the Technical Guidance Document. Best management practices may include but are not limited to full trash capture devices, green infrastructure, low impact development measures, post-construction treatment controls, and hydromodification management measures. The 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.

(e) *Best Management Practices for Construction Activities.* It is unlawful for any person to commence any construction activity without implementing all storm water and pollutant mitigation measures required by the Municipal Regional Permit, the Technical Guidance Documents, and any local regulations implementing the Municipal Regional Permit. Any person performing construction activity in the City must implement best management practices that prevent the discharge of pollutants to the City's storm sewer system.

(f) *Best Management Practices for Commercial and Industrial Sites.* The owner and operator of any premises where pollutants from business-related activities may enter the storm water conveyance system must prevent such a discharge and must implement appropriate and effective BMPs and other pollutant controls to eliminate and prevent pollutants in runoff.

(g) *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).

(h) *Maintenance Responsibility.* The applicant for a regulated project that is required to install green infrastructure measures must submit a maintenance plan for and proof of maintenance responsibility to the satisfaction of the Authorized Enforcement Official. The maintenance plan must include a schedule for maintenance of the green infrastructure and must identify the person or entity responsible for ongoing maintenance, such as the owner of the property, a homeowner's or property owners' association, or the city. The person or entity responsible for ongoing maintenance must, as a condition of development, enter into an agreement with the City to the satisfaction of the Authorized Enforcement Official, which must be recorded with the County Recorder. The agreement must include provisions for the perpetual operation, maintenance, repair, and replacement of green infrastructure measures and must include a maintenance schedule for the green infrastructure measure(s).

[History: formerly § 3.912; ORD. 465, 5/11/94; ORD. 638, 12/14/05; ORD. 795, 8/28/19]

3.10.130 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 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 § 3.913; ORD. 465, 5/11/94; ORD. 638, 12/14/05; ORD. 795, 8/28/19]

III. INSPECTION AND ENFORCEMENT

3.10.140 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 Authorized Enforcement Office may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the Authorized Enforcement 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; (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 an inspection warrant. In the event the property owner and/or occupant refuses entry after such request has been made, the Authorized Enforcement 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 Subchapter, 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 City storm sewer system, or similar factors.

[History: formerly § 3.913.1; ORD. 465, 5/11/94; ORD. 638, 12/14/05; ORD. 795, 8/28/19]

3.10.150 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 Authorized Enforcement 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 § 3.913.2; ORD. 465, 5/11/94; ORD. 638, 12/14/05; ORD. 795, 8/28/19]

3.10.160 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 entering the City storm sewer system, such person shall take all necessary steps to ensure the discovery and containment and cleanup 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 § 3.913.3; ORD. 465, 5/11/94; ORD. 638, 12/14/05; ORD. 795, 8/28/19]

3.10.170 Requirement to Test or Monitor.

Any Authorized Enforcement Official may request that any person engaged in any activity 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 City storm sewer system, undertake such monitoring activities and/or analysis and furnish such reports as the Authorized Enforcement 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 § 3.914; ORD. 465, 5/11/94; ORD. 638, 12/14/05; ORD. 795, 8/28/19]

3.10.180 Violations Constituting Misdemeanors.

Unless otherwise specified, 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 Subchapter, 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 § 3.915; ORD. 465, 5/11/94; ORD. 638, 12/14/05; ORD. 795, 8/28/19]

3.10.190 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 § 3.916; ORD. 465, 5/11/94; ORD. 638, 12/14/05; ORD. 795, 8/28/19]

3.10.200 Concealment.

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

[*History:* formerly § 3.917; ORD. 465, 5/11/94; ORD. 638, 12/14/05; ORD. 795, 8/28/19]

3.10.210 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 Subchapter.

[*History: formerly § 3.918; ORD. 465, 5/11/94; ORD. 638, 12/14/05; ORD. 795, 8/28/19*]

3.10.220 Administrative Enforcement Powers.

In addition to the other enforcement powers and remedies established by this Subchapter, any Authorized Enforcement Official has the authority to utilize administrative remedies and is authorized to enforce the provisions of this Subchapter in accordance with the enforcement response plan(s) required by the Municipal Regional Permit. Administrative remedies include but are not limited to the following:

- (a) Nuisance abatement in accordance with Subchapter 2.01;
- (b) Notice of violation;
- (c) Cease and desist order;
- (d) Compliance order;
- (e) Permit revocation and denial;
- (f) Stop work order;
- (g) Notice of ineligibility for land development after a hearing pursuant to Subchapter 1.12;
- (h) Referral to regulatory agencies;
- (i) Monetary penalties;
- (j) Cost recovery

[History: formerly § 3.919; ORD. 465, 5/11/94; ORD. 638, 12/14/05; ORD. 795, 8/28/19]

3.10.230 Remedies Not Exclusive.

Remedies under this Subchapter 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 § 3.920; ORD. 465, 5/11/94; ORD. 638, 12/14/05; ORD. 795, 8/28/19]

IV. COORDINATION WITH OTHER PROGRAMS

3.10.240 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, ORD. 795, 8/28/19]