

ORDINANCE CODE: ORDINANCE 96-1
FRESNO METROPOLITAN FLOOD CONTROL DISTRICT

CHAPTER 6
URBAN STORM WATER QUALITY MANAGEMENT AND
DISCHARGE CONTROL

6.100 Title, Purpose, and General Provisions

6.101 Title.

This chapter shall be known as the "Urban Storm Water Quality Management and Discharge Control Ordinance" of the Fresno Metropolitan Flood Control District and may be so cited.

6.102 Purpose and Intent.

The purpose and intent of this chapter is to ensure the health, safety, and general welfare of citizens, and protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the federal Clean Water Act (33 U.S.C. § 1251 et seq.) by reducing pollutants in urban storm water discharges to the maximum extent practicable and by effectively prohibiting non-storm water discharges to the storm drain system.

6.103 Definitions.

The terms used in this chapter shall have the following meanings:

- a. Agricultural Lands. A parcel of land under a single ownership and of five or more acres used primarily for agricultural pursuits consisting of raising tree, vine, field, forage, or other plant life, crops of all kinds, or the maintenance, breeding, and raising of animals.
- b. Authorized Enforcement Agent. The General Manager of the District and any individual designated in writing by the General Manager as an Authorized Enforcement Agent.
- c. Best Management Practices. Activities, practices, and procedures to prevent or reduce the discharge of pollutants directly or indirectly to the municipal storm drain system and waters of the United States. Best Management Practices include but are not limited to: treatment facilities to remove pollutants from storm water; operating and maintenance procedures; facility management practices to control runoff, spillage or leaks of non-storm water, waste disposal, and drainage from materials storage; and the prohibition of specific activities, practices, and procedures.

- d. Clean Water Act. The federal Water Pollution Control Act enacted by Public Law 92-500 as amended by Public Laws 95-217, 95-576, 96-483, and 97-117 (33 U.S.C. § 1251 et seq.), and any regulations adopted pursuant thereto.
- e. General Manager. The General Manager-Secretary of the Fresno Metropolitan Flood Control District and his or her duly authorized representative.
- f. Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- g. Illicit Connections. An illicit connection is defined as either of the following:
 - 1) Any drain, conveyance, or condition of property whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system, including but not limited to any conveyances which allow sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or
 - 2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the District.
- h. Illicit Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Article II, Section 1 of this chapter.
- i. Industrial National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permits. General, group, and individual storm water discharge permits which regulate facilities defined in federal NPDES regulations as engaging in industrial activity pursuant to the Clean Water Act. The California Regional Water Quality Control Board, Central Valley Region (hereinafter, Regional Board) and the State Water Resources Control Board have adopted general storm water discharge permits, including but not limited to the General Construction Activity and General Industrial Activity permits.

- j. Municipal NPDES Storm Water Discharge Permit. The area-wide NPDES storm water discharge permit issued pursuant to the Clean Water Act by the Regional Board to the District, City of Fresno, City of Clovis, County of Fresno, Caltrans, and California State University Fresno to regulate discharges from the municipal separate storm drain system to waters of the U.S. (Order No. 94-244, NPDES Permit No. CA0083500, and any amendments, revisions, or reissuance thereof.)
- k. Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.
- l. Permit Area. The area subject to the terms and conditions of the municipal NPDES storm water discharge permit; said area being the planned urban local drainage areas specified within the District's adopted Storm Drainage and Flood Control Master Plan, as it may be amended from time to time.
- m. Person. Any natural person, firm, association, club, organization, corporation, partnership, business trust, company, government agency, or other entity which is recognized by law as the subject of rights or duties.
- n. Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous solid wastes and yard wastes; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind.
- o. Pollution. The man-made or man-induced alteration of the quality of waters by waste to a degree which unreasonably affects, or has the potential to unreasonably affect, either the waters for beneficial uses or the facilities which serve these beneficial uses (CWC §13050).
- p. Porter-Cologne Act. The California Porter-Cologne Water Quality Control Act, and as it may be amended from time to time (California Water Code § 13000 et seq.).
- q. Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

- r. Storm Drain System. Publicly-owned facilities operated by the District by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and man-made or altered drainage channels, reservoirs, and other drainage structures which are within the Permit Area and are not part of a publicly owned treatment works as defined at 40 CFR Section 122.2.
- s. Storm Water. Any surface flow, runoff, and drainage associated with rain storm events and snow melt.
- t. Water of the United States (U.S.). Surface watercourses and water bodies as defined at 40 CFR § 122.2.

6.104 Applicability.

This chapter shall apply to all storm water generated on any developed and undeveloped urban lands lying within the District and within the Permit Area including any amendments or revisions thereto. This chapter shall not apply to storm water generated on agricultural lands.

6.105 Administration.

The General Manager shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the General Manager may be delegated in writing by the General Manager to persons or entities acting in the beneficial interest of or in the employ of the District.

6.106 Severability.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect other provisions or application of this chapter.

6.107 Regulatory Consistency.

This chapter shall be construed to assure consistency with the requirements of the federal Clean Water Act and California Porter-Cologne Act and acts amendatory thereof or supplementary thereto, applicable implementing regulations, and NPDES permit No. CA0083500 and any amendments, revisions, or reissuance thereof.

6.108 Ultimate Responsibility of Discharger.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore, this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants into waters of the U.S. caused by said person. This chapter shall not create liability on the part of the District, or any agent or employee thereof, for any damages, claims, or liabilities that result from any discharger's reliance on this chapter or any administrative decision lawfully made hereunder.

6.200 Discharge Prohibitions

6.201 Prohibition of Illicit Discharges.

The commencement, conduct or continuance of any illicit discharge to the storm drain system is prohibited except as described below.

- a. Discharges from the following activities will not be considered a source of pollutants to the storm drain system and to waters of the U.S. when properly managed to ensure that potential pollutants are not present, and therefore they shall not be considered illicit discharges subject to this prohibition, unless specifically determined to cause a violation of the provisions of the Porter-Cologne Act, Clean Water Act, or this ordinance: water line flushing; uncontaminated pumped ground water and other discharges from potable water sources; landscape irrigation and lawn watering; irrigation water, storm water runoff, and return flows from agricultural lands; diverted stream flows; rising ground water; uncontaminated ground water infiltration to the storm drain system; foundation and footing drainage; water from crawl space pumps; air conditioning condensate; springs; individual residential and occasional non-commercial car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; municipal and construction-related street wash waters; and waters from fire fighting.
- b. The prohibition shall not apply to any non-storm water discharge permitted or approved under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the State of California under the authority of the federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations and provided that written approval has been granted by the District for any discharge to the storm drain system.

- c. With written concurrence of the Regional Board, the District may exempt in writing other non-storm water discharges which are not a source of pollutants to the storm drain system or waters of the U.S.

6.202 Prohibition of Illicit Connections.

- a. The construction, use, maintenance or continued existence, beyond the commencement of this ordinance, of illicit connections to the storm drain system are prohibited.
- b. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

6.203 Waste Disposal Prohibitions.

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, kept, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system, or water of the U.S., any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets immediately prior to and for the purposes of collection are exempted from this prohibition.

6.204 Discharges in Violation of Municipal NPDES Storm Water Discharge Permit.

Any discharge that could result in or contribute to a violation of the municipal NPDES storm water discharge permit or any amendment or revision thereto or reissuance thereof, is a violation of this chapter and is prohibited. Person(s) causing or responsible for the discharge are liable therefor, and shall defend, indemnify, and hold harmless the District in any administrative or judicial enforcement action relating to such discharge.

6.205 Discharges in Violation of Industrial NPDES Storm Water Discharge Permit.

Any person subject to any industrial NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the General Manager prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

6.300 Regulations and Requirements

6.301 Requirement to Prevent, Control, and Reduce Storm Water Pollutants.

- a. Authorization to Adopt and Impose Best Management Practices. The District may adopt requirements identifying appropriate Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. Where Best Management Practices requirements are promulgated by the District or any federal, State of California, regional agency, for any activity, operation, or facility which would otherwise cause the discharge of pollutants to the storm drain system or water of the U.S., every person undertaking such activity or operation, or owning or operating such facility shall comply with such requirements.
- b. New Development and Redevelopment. The District may adopt requirements identifying appropriate Best Management Practices to control the volume, rate, and to reduce or eliminate the potential pollutant load of storm water runoff from new development and redevelopment projects as may be appropriate to minimize the generation, transport and discharge of pollutants. The permitting agency may incorporate such requirements in any land use entitlement and construction or building-related permit to be issued relative to such development or redevelopment. The owner and developer shall comply with the terms, provisions, and conditions of such land use entitlements and building permits as required in this chapter and the District Drainage Fee Ordinance, Chapter 4.
- c. Responsibility to Implement Best Management Practices. Notwithstanding the presence or absence of requirements promulgated pursuant to subsections a. and b., any person engaged in activities or operations, or owning facilities or property, which will or may result in pollutants entering storm water, the storm drain system, or waters of the U.S. shall implement Best Management Practices to the extent they are technologically and economically achievable to prevent and reduce such pollutants.

6.302 Requirement to Eliminate Illicit Discharges.

The Authorized Enforcement Agent may require by written notice that a person responsible for an illicit discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illicit discharges.

6.303 Requirement to Eliminate or Secure Approval for Illicit Connections.

- a. The Authorized Enforcement Agent may require by written notice that a person responsible for an illicit connection to the storm drain system comply with the requirements of this chapter to eliminate or secure approval for the connection by a specified date, regardless of whether or not the connection or discharges to it had been established or approved prior to the effective date of this chapter.
- b. If, subsequent to eliminating a connection found to be in violation of this chapter, the responsible person can demonstrate that an illicit discharge will no longer occur, said person may request District approval to reconnect. The reconnection or reinstallation of the connection shall be at the District's discretion and shall be subject to such conditions as the District may determine; such reconnection or reinstallation shall be at the responsible person's expense.

6.304 Requirement to Remediate.

Whenever an Authorized Enforcement Agent finds that a discharge of pollutants is taking place or has occurred which may result in or has resulted in pollution of storm water, the storm drain system, or water of the U.S., the agent may require by written notice to the responsible person that the pollution cease, be remediated, and the affected property restored within a specified time.

6.305 Requirement to Monitor and Analyze.

The Authorized Enforcement Agent may require by written notice of requirement that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution, illicit discharges, and/or non-storm water discharges to the storm drain system or waters of the U.S., to undertake at said person's expense such monitoring and analyses and furnish such reports to the District as the agent deems necessary to determine compliance with this chapter.

6.306 Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of a hazardous material, said person shall immediately notify emergency response officials of the occurrence via emergency

dispatch services (911). In the event of a release of non-hazardous materials, said person shall notify the District in person or by phone or facsimile no later than 5:00 p.m. of the next business day. Notifications in person or by phone shall be confirmed by written notice from said person, addressed and mailed to the District within three business days of the phone notice.

6.400 Inspection and Monitoring

6.401 Authority to Inspect.

Whenever necessary to make an inspection to enforce any provision of this chapter, or whenever an Authorized Enforcement Agent has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this chapter, the agent may enter such premises at all reasonable times to inspect the same and to inspect and copy records related to storm water compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the agent is hereby empowered to seek assistance from any other governmental agency and/or any court of competent jurisdiction in obtaining such entry.

6.402 Authority to Sample, Establish Sampling Devices, and Test.

During any inspection as provided herein, the Authorized Enforcement Agent may take any samples deemed necessary to aid in the pursuit of the inquiry or to record site activities. Subject to the access provisions of Section 6.401, the agent may establish on any property such devices as are necessary to conduct sampling or metering and may perform smoke or dye tests to determine the source of a discharge or pipe.

6.500 Enforcement

6.501 Notice of Violation.

Whenever an Authorized Enforcement Agent finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the agent may order compliance with this chapter by written notice of violation to the responsible person. Such notice may require, without limitation:

- a. The performance of monitoring, analyses, and reporting;
- b. The elimination of illicit connections or discharges;
- c. That violating discharges, practices, or operations shall cease and desist;

- d. The abatement and/or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- e. The implementation of source control or treatment BMPs.

6.502 Administrative Hearings and Appeals.

Any person receiving a notice of requirement or violation pursuant to this chapter shall be provided the opportunity for a noticed administrative hearing before the General Manager and subsequent appeal to the District Board of Directors as such proceedings are otherwise provided by law or policy of the District Board of Directors.

6.503 Enforcement Procedures and Penalties.

Any person who is in violation of this chapter is subject to all enforcement actions and penalties authorized by law, including but not limited to any procedures and penalties set forth in applicable District ordinances.

6.504 Compensatory Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the Authorized Enforcement Agent may impose upon a violator alternative compensatory actions, such as storm drain stenciling and attendance at compliance workshops.

6.505 Violations Deemed a Public Nuisance

In addition to the enforcement processes and penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored by any authorized enforcement official, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the District.

6.506 Acts Potentially Resulting in a Violation of the Federal Clean Water Act and/or California Porter-Cologne Act.

Any person who violates any provision of this chapter or any provision of any requirement issued pursuant to this chapter, may also be in violation of the federal Clean Water Act, the California Porter-Cologne Act, and other laws and may be subject to the sanctions of those acts including civil and criminal penalties. Any enforcement action authorized under this Chapter shall also include written notice to the violator of such potential liability.

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