

ORDINANCE NO. 98-007

ADOPTED BY THE SACRAMENTO CITY COUNCIL

FEB 03 1998

ON DATE OF _____

AN ORDINANCE ADDING TITLE 87 TO THE SACRAMENTO CITY CODE RELATING TO STORMWATER MANAGEMENT AND DISCHARGE CONTROL

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

That Title 87 is added to the Sacramento City Code, entitled "Stormwater Management and Discharge Control," to read as follows:

STORMWATER MANAGEMENT AND DISCHARGE CONTROL

87.01.101 Title.

This Title shall be known as the City of Sacramento "Stormwater Management and Discharge Control Code", and may be cited as such, and will be referred to herein as "this Title."

87.01.102 Purpose and Intent.

The purpose of this Title is to protect and promote the health, safety and general welfare to the citizens of the City of Sacramento by controlling Non-Stormwater Discharges to the Stormwater Conveyance System, by eliminating discharges to the Stormwater Conveyance System from spills, dumping, or disposal of materials other than stormwater, and by reducing Pollutants in urban stormwater discharges to the maximum extent practicable. This Title is intended to assist in the protection and enhancement of the water quality of watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Federal Water Pollution Control Act (Clean Water Act, 33 USC Section 1251 et seq.), Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq) and National Pollutant Discharge Elimination System ("NPDES") Permit No.

- 1 -

FOR CITY CLERK USE ONLY

ORDINANCE NO. 98-007

DATE ADOPTED: FEB 03 1998

CA0087597, as such permit is amended and/or renewed.

87.01.103 **Definitions.**

(a) The following words, when used in this Title, shall have the following meanings:

1. "Basin Plan" means the Water Quality Control Plan for Basin 5A and 5B, adopted by the Regional Water Quality Control Board, Central Valley Region in July 1975, and all subsequent amendments.
2. "Best Management Practices" means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and education practices, maintenance procedures, and other management practices to prevent or reduce to the maximum extent practicable the discharge of pollutants directly or indirectly to waters of the United States. Best Management Practices also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw materials storage.
3. "City" means the City of Sacramento.
4. "Development" means the building or placement of any structure or portion thereof. "Development" shall include excavation and grading.
5. "Director of Utilities" means the Director of the City of Sacramento Department of Utilities.
6. "Employee Training Program" means a documented employee training program which may be required to be implemented by a business pursuant to a Stormwater Pollution Prevention Plan for the purpose of educating its employees on methods of reducing discharge of pollutants to the stormwater conveyance system.
7. "Enforcement Official" means the Director of Utilities or his/her designee or any agent of the City authorized to enforce compliance with this Title.
8. "Enforcement Agency" means the City of Sacramento Utilities Department.
9. "Illegal Discharge" means any discharge to the Stormwater Conveyance System that violates this Title, or is prohibited by federal, state, or local laws, or

FOR CITY CLERK USE ONLY

ORDINANCE NO. 98-007

DATE ADOPTED: FEB 03 1998

which degrades the quality of receiving waters in violation of any Plan Standard.

10. "Illicit Connection" means any physical connection to the Stormwater Conveyance System which is not authorized by the City of Sacramento and the Regional Water Quality Control Board Central Valley Region.

11. "National Pollution Discharge Elimination System (NPDES) Permit" means a permit issued by the Regional Water Quality Control Board or the State Water Resources Control Board pursuant to Division 7, Chapter 5.5 of the California Water Code (commencing with Section 13370) to control discharges from point sources to waters of the United States.

12. "Non-Commercial Vehicle Washing" means the washing and rinsing of passenger vehicles on private property in which no commercial enterprise is being conducted in the washing of those vehicles.

13. "Non-Stormwater Discharge" means any discharge to the Stormwater Conveyance System that is not entirely composed of Stormwater.

14. "Order 96-105" means Regional Water Quality Control Board Order 96-105, which constitutes NPDES Permit No. CA0082597, together with all amendments, on file in the office of the City Clerk .

15. "Person" means any person, firm, corporation, business entity, or public agency, whether principal, agent, employee, or otherwise.

16. "Plan Standard" means any or all applicable requirements of the Basin Plan or any other approved plan.

17. "Pollutant" means any contaminant which can degrade the quality of the receiving water in violation of any Plan Standard.

18. "Premises" means any building, lot, parcel, land or portion of land whether improved or unimproved.

19. "Receiving Waters" means surface bodies of water as described in Order No. 96-105, including creeks and rivers, which serve as discharge points for the Stormwater Conveyance System.

20. "Stormwater" means surface runoff and drainage associated with storm events which is free of pollutants to the maximum extent practicable.

FOR CITY CLERK USE ONLY

ORDINANCE NO.

98-007

DATE ADOPTED:

FEB 03 1998

21. "Stormwater Conveyance System" means those artificial and natural facilities within the City of Sacramento, whether publicly or privately owned, by which Stormwater may be conveyed to a Watercourse or waters of the United States, including any roads with drainage systems, streets, catch basins, natural and artificial channels, aqueducts, stream beds, gullies, curbs, gutters, ditches, open fields, parking lots, impervious surfaces used for parking, and natural and artificial channels or storm drains.

22. "Stormwater Pollution Prevention Plan" means a document which describes the Best Management Practices to be implemented by the owner or operator of a business to eliminate Non-Stormwater Discharges and/or reduce to the maximum extent practicable pollutant discharges to the Stormwater Conveyance System.

23. "Watercourse" means any natural stream, whether flowing continuously or not, that is fed from permanent or natural sources, and includes, without limitation rivers, creeks, runs, and rivulets.

(b) Any term(s) defined in the federal Clean Water Act, as amended, and/or defined in the regulations for the storm water discharge permitting program issued by the Environmental Protection Agency, as amended, and which are not specifically defined in subsection 87.01.103(a) of this Title shall, when used in this Title, have the same meaning as set forth in said act or regulation.

87.01.104 Conflicts with Other Laws.

In the event of any conflict between this Title and any Federal or State law, regulation, order, or permit, that requirement which establishes the higher standard for public health or safety shall govern. To the extent permitted by law, nothing in this Title shall preclude enforcement of any other applicable law, regulation, order, or permit.

87.01.105 Discharge of Non-Stormwater Prohibited.

Except as provided in Section 87.01.106, it is unlawful for any person to make or cause to be made any Non-Stormwater Discharge. Notwithstanding the exemptions provided by 87.01.106(a) and 87.01.106 (b) herein, if the Regional Water Quality Control Board or the Enforcement Official determines that any otherwise exempt discharge causes or significantly contributes to violations of any Plan Standard, or conveys significant quantities of Pollutants to surface water(s) or Watercourse(s), or is a danger to public health or safety, such discharge shall be prohibited from entering the Stormwater Conveyance System.

87.01.106 **Exceptions to Discharge Prohibition.**

Subject to the authority granted to the Regional Water Quality Control Board and the Enforcement Official in Section 87.01.105 herein, the following discharges to the Stormwater Conveyance System are exempt from the prohibition set forth in Section 87.01.105:

- (a) Any discharge or connection regulated under a NPDES permit issued to the discharger and administered by the State of California pursuant to Division 7, Chapter 5.5 of the California Water Code, provided that the discharger is in compliance with all requirements of the permit and all other applicable laws and regulations.
- (b) Discharges from the following activities which do not cause or contribute to the violation of any Plan Standard:
 - (1) Water line flushing and other discharges from potable water sources,
 - (2) Landscape irrigation and lawn watering,
 - (3) Rising ground waters or springs,
 - (4) Passive foundation and footing drains,
 - (5) Water from crawl space pumps and basement pumps,
 - (6) Air conditioning condensate,
 - (7) Non-commercial vehicle washing,
 - (8) Natural flows from riparian habitats and wetlands,
 - (9) Dechlorinated swimming pool discharges,
 - (10) Flows from fire suppression activities, including fire hydrant flows,
 - (11) Waters not otherwise containing wastes as defined in California Water Code Section 13050(d) and California Health and Safety Code Section 25117,
 - (12) Diverted stream flows,

FOR CITY CLERK USE ONLY

ORDINANCE NO. 98-007

DATE ADOPTED: FEB 03 1998

- (13) Uncontaminated ground water infiltration to separate storm sewers.
- (c) Any discharge which the Enforcement Official, the local health officer, or the Regional Water Quality Control Board determines in writing is necessary for the protection of the public health and safety.
- (d) Any discharge caused by flooding or other natural disaster which could not have been reasonably foreseen or mitigated for in advance by the discharger, as determined by the Enforcement Official.

87.01.107 **Ground Water Discharges.**

Discharges of pumped groundwater not subject to a NPDES permit may be permitted to discharge to the Stormwater Conveyance System upon written approval from the City and in compliance with conditions of approval set forth by the City.

87.01.108 **Discharge in Violation of Permit.**

It is unlawful for any person to cause either individually or jointly any discharge to the Stormwater Conveyance System which results in or contributes to a violation of Order 96-105.

87.01.109 **Illicit Connections Prohibited.**

It is unlawful and a violation of this Title for any person to establish, use, or maintain any Illicit Connection.

87.01.110 **Concealment and Abetting**

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

87.01.111 **Acts Potentially Resulting in Violation of Federal Clean Water Act and/or Porter-Cologne Act.**

Any person who violates any provision of this Title, any provision of any permit issued pursuant to this Title, or who discharges waste or wastewater which causes pollution, or who violates any cease and desist order, prohibition, or effluent limitation, may also be in violation of the Federal Clean Water Act (33 USC 1251 et seq) and/or Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq) and may be subject to the sanctions of those Acts including civil and criminal penalties.

FOR CITY CLERK USE ONLY

ORDINANCE NO. 98-007

DATE ADOPTED: FEB 03 1998

87.01.112 **Reduction of Pollutants in Stormwater.**

Any person engaged in activities which may result in Pollutants entering the Stormwater Conveyance System shall, to the maximum extent practicable, undertake the measures set forth below to reduce the risk of Non-Stormwater Discharge and/or Pollutant discharge.

(a) **Business Related Activities**

- (1) **Stormwater Pollution Prevention Plan:** The Enforcement Official may require any business in the City that is engaged in activities which may result in Pollutant discharges to develop and implement a Stormwater Pollution Prevention Plan, which must include an Employee Training Program. Business activities which may require a Stormwater Pollution Prevention Plan include, but are not limited to, maintenance, storage, manufacturing, assembly, equipment operations, vehicle loading or fueling, or cleanup procedures which are carried out partially or wholly out of doors.
- (2) **Coordination with Hazardous Materials Release Response Plans and Inventory:** Any business requiring a Hazardous Materials Release Response and Inventory Plan under Chapter 6.95 (commencing with Section 25500) of Division 20 of the California Health and Safety Code, shall include in that plan provisions for compliance with this Title, including the provisions prohibiting Non-Stormwater Discharges and illegal discharges, and requiring the release of Pollutants to be reduced to the maximum extent practicable.
- (3) **Coordination with Hazardous Waste Generator Contingency Plan and Emergency Procedures.** Any business requiring a Hazardous Waste Generator Contingency Plan and Emergency Procedures pursuant to California Code of Regulations, Title 22, §66265.51 to §66265.56, shall include in that plan provisions for compliance with this Title, including the provisions prohibiting non-stormwater discharges and illegal discharges, and requiring the release of Pollutants to be reduced to the maximum extent practicable.

(b) **Development**

- (1) The Enforcement Official may develop controls as appropriate to minimize the long-term, post construction discharge of stormwater

- 7 -

FOR CITY CLERK USE ONLY

ORDINANCE NO. 98-007

DATE ADOPTED: FEB 03 1998

pollutants from new Development(s) or modifications to existing Development(s). Controls may include source control measures to prevent pollution of Stormwater and/or treatment controls designed to remove Pollutants from Stormwater.

- (2) Any Person performing construction in the City shall prevent Pollutants from entering the Stormwater Conveyance System and comply with all applicable Federal, State and Local laws, ordinances or regulations including but not limited to the General Permit for Storm Water Discharges Associated with Construction Activity and the City Grading, Erosion and Sediment Control Ordinance (City of Sacramento Ordinance #93-068).

(c) Compliance with General Permits

Each industrial discharger, discharger associated with construction activity, or other discharger subject to any general stormwater permit issued by the United States Environmental Protection Agency, the State Water Resources Control Board, the Regional Water Quality Control Board Central Valley Region or the City of Sacramento shall comply with the requirements of such permit.

(d) Compliance with Best Management Practices

Every person undertaking any activity or use of a Premises which may cause or contribute to Stormwater pollution or contamination, Illegal Discharges, or Non-Stormwater Discharges shall comply with Best Management Practices guidelines or pollution control requirements as may be reasonably established by the Enforcement Official.

87.01.113 Containment and Notification of Spills.

Any person owning or occupying a Premises who has knowledge of any release of Pollutants or Non-Stormwater Discharge from or across those Premises which might enter the Stormwater Conveyance System, other than a release or discharge that is permitted by this Title, shall immediately take all reasonable action to contain and abate the release of Pollutants or Non-Stormwater Discharge, and shall notify the Enforcement Agency within twenty four (24) hours of the release of Pollutants or Non-Stormwater Discharge.

FOR CITY CLERK USE ONLY

ORDINANCE NO. 98-007

DATE ADOPTED: FEB 03 1998

87.01.114 **Inspection Authority.**

Whenever necessary to make an inspection to enforce any of the provisions of this Title, 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 this Title, the Enforcement Official may enter such building or Premises at all reasonable times to inspect the same or perform any duty imposed upon the officer by this Title. Any 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 upon issuance of a warrant issued by a court of competent jurisdiction. In the event the owner or occupant refuses entry after such request has been made, the Enforcement Official is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry. Inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this Title, including but not limited to, random sampling and/or sampling in areas with evidence of Stormwater contamination, Illegal Discharge, Non-Stormwater Discharge to the Stormwater Conveyance System, or similar factors.

- (a) **Sampling Authority:** During any inspection, the Enforcement Official may take samples as necessary in order to implement and enforce the provisions of this Title. This authority may include the installation of sampling and metering devices on private property, or requiring the person owning or occupying the Premises to supply samples.
- (b) **Monitoring, Analysis and Reporting Authority:** The Enforcement Official may require monitoring, analysis and reporting of discharges from any Premises to the Stormwater Conveyance System. Upon service of written notice by the Enforcement Official, the burden, including cost, of these activities, analyses and reports, incurred in complying with the requirement shall, to the extent permitted by law, be borne by the property owner or occupant of the facility or activity for which testing and monitoring has been requested.

87.01.115 **Enforcement Authority.**

The Enforcement Official may exercise any enforcement powers authorized or provided in the Sacramento City Code, including without limitation, administrative penalties pursuant to City Code Section 1.01.070, as may be necessary to effectively implement and enforce this Title.

- (a) **Administrative Enforcement Powers:** The Enforcement Official may also exercise any of the following supplemental enforcement powers as may be

FOR CITY CLERK USE ONLY

ORDINANCE NO. 98-007

DATE ADOPTED: FEB 03 1998

necessary or advisable in the Enforcement Official's judgment under the circumstances:

- (1) Notice of Violation (NOV): Whenever the Enforcement Official finds that any person owning or occupying a Premises has violated or is violating this Title or order issued hereunder, the Enforcement Official may serve, by personal service, or by registered or certified mail, upon said person a written NOV. Within thirty (30) days of the receipt of this notice, or shorter period as may be prescribed in the NOV, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, which shall include specific required actions, shall be submitted to the Enforcement Official. Submission of this plan shall in no way relieve the person of liabilities for violations occurring before or after receipt of the NOV.
- (2) Cease and Desist Orders: The Enforcement Official may require any person owning or occupying a Premises to cease and desist all activities that may cause or contribute to discharge in violation of this Title. This order may also require such person to: (i) comply with the applicable provisions of this Title within a designated period of time or; (ii) take appropriate remedial or preventative action to keep the violation from recurring.
- (3) Notice to Clean and Abate: The Enforcement official may require any person owning or occupying a Premises to clean up and abate any release of Pollutants on those Premises which may result in a violation of this Title. The Enforcement Official may also order abatement of activities or practices which may reasonably result in such a violation.
- (4) Mitigation: The Enforcement Official shall have authority to order the mitigation of circumstances which may result in or contribute to Illegal Discharges.
- (5) Stormwater Pollution Prevention Plan: The Enforcement Official shall have the authority to establish elements of a Stormwater Pollution Prevention Plan, and to require any business to adopt and implement such a Plan, as may be reasonably necessary to fulfill the purposes of this Title.

- 10 -

FOR CITY CLERK USE ONLY

ORDINANCE NO.

98-007

DATE ADOPTED:

FEB 03 1998

- (6) Best Management Practices: The Enforcement Official may establish the requirements of Best Management Practices for any Premises.
- (7) Violations Constituting Misdemeanors: In addition to civil penalties provided for in this Title, any violation of this Title may be punishable as a misdemeanor as provided by Section 1.01.070 of the Sacramento City Code.
- (8) Violations Deemed a Public Nuisance: In addition to the penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this Title is a threat to the public health, safety or welfare and is thus deemed a nuisance. Any such nuisance may be summarily abated and/or restored by any authorized Enforcement Official. The City Attorney is authorized to pursue civil action(s) pursuant to subsection 87.01.115(b) herein to abate, enjoin, or otherwise compel the cessation of the nuisance.
- (9) Cost Recovery: The cost of the abatement and restoration shall be borne by the owner of the property and the cost therefore shall be invoiced to the owner of the property. If the invoice is not paid within sixty (60) days, the Enforcement Official shall have the authority to place a lien upon and against the property. If the lien is not satisfied within three (3) months, the Enforcement Official is authorized to take all legal measures as are available to enforce the lien as a judgment, including, without limitation, enforcing the lien in an action brought for a money judgment or by delivery to the County Assessor of a special assessment again the property in accordance with Government Code section 38773.5.
- (10) Seasonal and Recurrent Nuisance: If any violation of this Title constitutes a seasonal and recurrent nuisance, the Enforcement Official shall so declare. Thereafter such seasonal and recurrent nuisance shall be abated every year without the necessity of any further hearing.
- (11) Costs of Enforcement: If the City prevails in any administrative, civil, or criminal proceeding initiated under this Title, the City shall be entitled to seek reimbursement for all costs incurred in connection with said proceeding. Such reimbursable expenses may include, but are not limited to, costs of investigation, administrative overhead, out-of-pocket expenses, costs of administrative hearings, and costs of

FOR CITY CLERK USE ONLY

ORDINANCE NO. 98-007

DATE ADOPTED: FEB 03 1998

suit. If any such costs are granted to the City, said costs shall be recoverable pursuant to section 87.01.115(a)(9) of this Title.

- (b) Civil Actions: In addition to any other remedies provided in this Title, any violation of this Title may be enforced by civil action brought by the City Attorney. Monies recovered under this subsection 87.01.115(b) shall be paid to the City to be used exclusively for costs associated with monitoring and establishing Stormwater discharge pollution control systems and/or implementing or enforcing the provisions of this Title. In any such action, the City may seek, as appropriate, any or all of the following remedies:
- (1) A temporary and/or permanent injunction.
 - (2) 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 87.01.115(b).
 - (3) Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation.
 - (4) Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life.
- (c) Authority to Arrest or Issue Citations: Any authorized Enforcement Official shall have and is hereby vested with the authority to arrest or cite and release any person who violates any section of this Title in the manner provided by the California Penal Code for the arrest or release on citation of misdemeanors or infractions as described by Chapters 5, 5(c), and 5(d) of Title 3, Part 2 of the California Penal Code (or as the same may hereafter be amended). Such authorized Enforcement Official may issue citations and notice to appear in the manner prescribed by Chapter 5(c) of Title 3, Part 2 of the California Penal Code, including Section 853.6 (or as the same may hereafter be amended). It is the intent of the City Council that the immunities prescribed in Section 836.5 of the California Penal Code be applicable to public officers or employees acting in the course and scope of employment pursuant to this Title.
- (d) Emergency Orders and Abatements. The Enforcement Official may order the abatement of any discharge from any source to the Stormwater Conveyance System when, in the opinion of the Enforcement Official, the discharge

causes or threatens to cause a condition which presents an imminent danger to the public health, safety, or welfare, or the environment, or a violation of a NPDES permit. In emergency situations where the property owner or other responsible party is unavailable and time constraints are such that service of a notice and order to abate cannot be effected without presenting an immediate danger to the public health, safety, or welfare, or the environment or a violation of a NPDES permit, the City may perform or cause to be performed such work as shall be necessary to abate said threat or danger. The costs of any such abatement shall be borne by the owner and shall be collectable in accordance with the provisions of section 87.01.115(a)(9) of this Title.

- (e) Contents of Notice. Any NOV, Cease and Desist Order, or other civil notice or civil order issued by the Enforcement Official pursuant to this Title shall include a copy of Section 87.01.117 of this Title outlining appeal rights.

87.01.116 **Remedies Not Exclusive.**

Remedies under this Title 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.

87.01.117 **Appeal.**

Any person served with a NOV, who is subject to a cease and desist order, who is subject to an abatement order, who is required to perform monitoring, analyses, reporting and/or corrective activities by an authorized Enforcement Official, or who is otherwise grieved by the decision of the authorized Enforcement Official, may appeal the decision to the Director of Utilities within ten (10) days following the effective date of the decision by filing a written appeal with the Director of Utilities. Upon receipt of such request, the Director of Utilities shall request a report and recommendation from the authorized Enforcement Official and shall set the matter for hearing at the earliest practical date. Due notice of the hearing shall be provided to the person appealing the decision of the authorized Enforcement Official. At the hearing, the Director of Utilities may hear additional evidence, and may reject, affirm or modify the authorized Enforcement Official's decision. The Director of Utilities decision shall be final.

87.01.118 **Disclaimer of Liability.**

The degree of protection required by this Title is considered reasonable for regulatory purposes and is based on scientific, engineering, and other relevant technical

considerations. The standards set forth herein are minimum standards and this Title does not imply that compliance will ensure that there will be no unauthorized discharge of pollutants into the waters of the United States. This Title shall not create liability on the part of the City, any officer or employee thereof for any damages that result from reliance on the Code or any administrative decision lawfully made thereunder.

87.01.119 **City Authority.**

The Enforcement Official is authorized to make any decision on behalf of the City required or called for by this Title.

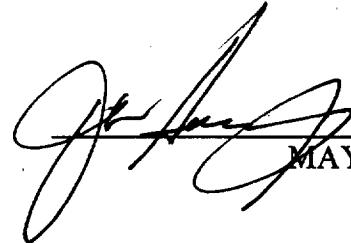
87.01.120 **Judicial Review.**

The provisions of California Code of Civil Procedure section 1094.5 and section 1094.6 are applicable to judicial review of City decisions pursuant to this Title.

87.01.121 **Severability.**

If any provision, paragraph, word, section, or article of this Title is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be effected and shall remain in full force and effect.

DATE PASSED FOR PUBLICATION: January 27, 1998
DATE ENACTED: February 3, 1998
DATE EFFECTIVE: March 5, 1998


MAYOR

ATTEST:


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ORDINANCE NO. 98-007

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