

RESOLUTION NO. 2012-7604

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN  
MARCOS APPROVING TWO APPLICATIONS TO THE PROPOSITION  
84 STORM WATER GRANT PROGRAM

WHEREAS, the City of San Marcos (hereinafter "City") is a public agency of the State of California; and

WHEREAS, the State water Resources Control Board has been delegated the responsibility by the legislature of the State of California for the administration of the Storm Water Grant Program, setting up necessary procedures governing the Application; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of San Marcos:

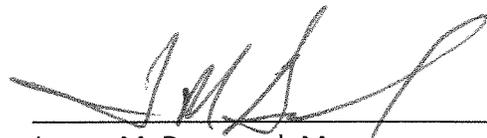
1. Approves the filing of a Planning grant application for the Upper San Marcos Creek & Lake San Marcos TMDL Diagnostic Project; and
2. Approves the filing of an Implementation concept proposal and grant application for the San Marcos Creek Urban Runoff, Pollutant Abatement, and Storm Water Management Project; and
3. Certifies that the applicant commits to allocate the needed amount of local matching funds to the project (s) if grant funds are awarded; and
4. Delegates the authority to the City Engineer to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the grant scope; and
5. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council held this 10th day of January, 2012, by the following roll call vote:

AYES: COUNCILMEMBERS: JABARA, JONES, MARTIN, ORLANDO, DESMOND

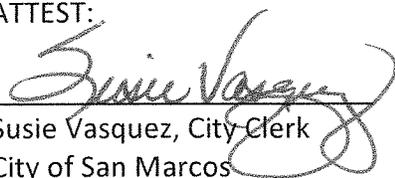
NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: NONE



James M. Desmond, Mayor  
City of San Marcos

ATTEST:



Susie Vasquez, City Clerk  
City of San Marcos

CHAPTER 14.15STORM WATER MANAGEMENT AND DISCHARGE CONTROLSections:

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**14.15.010 Definitions.** For purposes of this Chapter, the following words shall have the meanings set out in this section:

**Authorized Enforcement Official** means any designee of the City Manager who is authorized to enforce the provisions of this Chapter. **(Ord. No. 2008-1302, 4-8-08)**

**Best Management Practices (BMPs)** means the schedule of activities, prohibitions of practices, maintenance procedures, prevention and control measures and other management practices to prevent or reduce to the Maximum Extent Practicable the pollution of the waters of the United States. BMPs also include, but are not limited to, treatment requirements, operating procedures and practices to control site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage. **(Ord. No. 2008-1302, 4-8-08)**

**City Manager** means the City Manager of the City or his authorized representative or designee. **(Ord. No. 2008-1302, 4-8-08)**

**Development** means any land development, construction, alteration or improvement of real property pursuant to discretionary or ministerial permits issued by the City. **(Ord. No. 2008-1302, 4-8-08)**

**Discharger** means any person or entity engaged in activities or operations or owning facilities or property that will or may result in pollutants entering storm water, the storm water conveyance system or receiving waters, and the owners of real property upon which such activities or facilities are located, provided, however, that a local government or public authority is

not a discharger as to activities conducted by others on public rights-of-way. **(Ord. No. 2008-1302, 4-8-08)**

***Illegal Connection*** means any unpermitted or undocumented physical connection to the storm water conveyance system or receiving waters which has not been approved by the City, or which drains or conveys illegal discharges either directly or indirectly into the storm water conveyance system, or a permitted and/or authorized pipe, facility or other device which conveys illegal discharges. **(Ord. No. 2008-1302, 4-8-08)**

***Illegal Discharge*** means any discharge to the storm water conveyance system or receiving waters that is not composed entirely of storm water including, but not limited to, sewage, discharges of wash water resulting from the hosing or cleaning of gas stations, auto repair garages or other types of automotive services facilities; discharges resulting from the cleaning, repair or maintenance of any type of equipment, machinery or facility including motor vehicles, cement-related equipment and port-a-potty servicing; discharges of wash water from mobile operations such as mobile automobile washing, steam cleaning, power washing and carpet cleaning; discharges of wash water from the cleaning or hosing of impervious surfaces in municipal, industrial, commercial and residential areas including parking lots, streets, sidewalks, driveways, patios, plazas, work yards and outdoor eating and drinking areas; discharge of runoff from material storage areas containing chemicals, fuels, grease, oil or other hazardous materials; discharges of pool or fountain water containing chlorine, biocides or other chemicals; discharges of pool or fountain filter backwash water; discharges of sediment, pet waste, vegetation clippings or other landscape or construction-related wastes; discharges of food-related wastes (e.g., grease, fish processing and restaurant kitchen mat and trash bin wash water); and discharges that require a NPDES permit that has not been issued or has not been acknowledged by the discharger to be applicable. Discharges regulated under an applicable NPDES permit or Storm Water Pollution Prevention Plan (SWPPP) are illegal discharges for the purpose of this Chapter unless such NPDES permit has been issued and compliance with all applicable NPDES permit and SWPPP conditions are maintained. Provided, however, that the following discharges shall not be considered illegal discharges provided they do not cause or contribute to violations of water quality standards: water line flushing and other discharges from potable water sources, irrigation water, diverted stream flows, rising ground waters, infiltration to separate storm drains, uncontaminated pumped ground water, foundation and footing drains (not including active groundwater dewatering systems), water from crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges or flows from emergency fire fighting activities, and waters not otherwise containing pollutants or wastes as defined in California Water Code Section 13050(d) and California Health and Safety Code Section 25117. **(Ord. No. 2008-1302, 4-8-08)**

***Jurisdictional Urban Runoff Management Plan (JURMP)*** means the comprehensive program developed by the City for reduction and elimination of pollutants from its storm drain system, consisting of the following components: Municipal (Existing Development); Industrial (Existing Development); Commercial (Existing Development); Residential (Existing Development); Land Use Planning for New Development and Redevelopment; Construction; Illicit Discharges Detection and Elimination; Education Component; Public Participation Component; Assessment of JURMP Effectiveness, and Fiscal Analysis. **(Ord. No. 2002-1163, 1-14-03)**

***Maximum Extent Practicable (MEP)*** means the technology based standard established by Congress in the Clean Water Act, Section 402(p)(3)(B)(iii), that municipal dischargers of urban runoff must meet. MEP generally emphasizes pollution prevention and source control BMPs as primary mechanisms in combination with treatment methods that collectively are effective and not

cost prohibitive, with the major emphasis on effectiveness. In order to determine if a BMP is effective and has achieved the MEP standard, the following factors shall be considered: the BMP must effectively address a pollutant or pollutant source of concern; the BMP must be in compliance with all applicable storm water regulations and other environmental regulations; the BMP should have public support; the cost of implementing the BMP should have a reasonable relationship to the pollution control benefits to be achieved; and the BMP must be technically feasible considering soils, geography, water resources and other available resources. **(Ord. No. 2008-1302, 4-8-08)**

***NPDES Permit or National Pollution Discharge Elimination System Permit*** means a permit issued by the Regional Water Quality Control Board or the State Water Resources Control Board pursuant to Chapter 5.5, Division 7 of the California Water Code, or any other "permit" as defined in 40 C.F.R. Section 122.2, to control discharges from point sources to waters of the United States.

***Pollutant*** means any pollutant as defined in 40 CFR Section 122.2 or any waste as defined in California Water Code Section 13050(d).

***Premises*** means any real property or portion thereof, including any buildings or portions of building located on such real property.

***Redevelopment*** means any construction alteration or improvement of an already developed site that will increase the total impervious surface area of that site, or that involves activities that could expose contaminants to rainfall. Redevelopment can include, but is not limited to, the expansion of building footprints, the addition or replacement of a structure, exterior construction and remodeling, replacement of existing impervious surfaces that are not part of a routine maintenance activity, and other activities that create additional impervious surface. **(Ord. No. 2008-1302, 4-8-08)**

***Storm Water (or Stormwater)*** means storm water runoff, snow melt runoff, and surface runoff and drainage. **(Ord. No. 2008-1302, 4-8-08)**

***Storm Water Conveyance System*** means those municipal 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, natural and artificial channels, aqueducts, canyons, stream beds, gullies, curbs, gutters, ditches, natural and artificial channels or storm drains.

***Storm Water Program Manager*** means the administrator of the City's storm water management program as designated by the City Manager. **(Ord. No. 2008-1302, 4-8-08)**

***Storm Water Pollution Prevention Plan (SWPPP)*** means a document which meets the requirements for a SWPPP set forth in the statewide General Construction Storm Water Permit or the statewide General Industrial Storm Water Permit. A SWPPP submitted to the City must describe the BMPs to be implemented and other steps to be taken by the discharger to meet the requirements of this Chapter. **(Ord. No. 2008-1302, 4-8-08)**

***Stormwater Standards Manual (SSM)*** means the manual that sets for the permanent Best Management Practices (BMPs) adopted by the City for development and redevelopment projects, as well as the procedures and criteria for the selection, implementation and maintenance of the same. **(Ord. No. 2008-1302, 4-8-08)**

**08) *Wet Season*** means October 1 through April 30 of each year. **(Ord. No. 2008-1302, 4-8-08)**

**14.15.020 Responsibility for Administration.** This Chapter shall be administered by the City Manager and the Storm Water Program Manager. **(Ord. No. 2008-1302, 4-8-08)**

**14.15.030 Illegal Discharges Prohibited.** The discharge of illegal discharges to the storm water conveyance system is prohibited, except that the following discharges are exempt from the prohibition set forth above: **(Ord. No. 2008-1302, 4-8-08)**

(a) Any discharge regulated under a NPDES permit issued to the discharger and administered by the State of California pursuant to Chapter 5.5, Division 7 of the California Water Code, provided that the discharger is in compliance with all requirements of the permit and other applicable laws and regulations.

(b) Any discharge which the City Manager or designee and the Regional Water Quality Control Board determine are necessary for the protection of the public health and safety. **(Ord. No. 2008-1302; 4-8-08)**

**14.15.040 Illegal Connections.** It is prohibited to establish, use, maintain, or continue illegal connections to the storm water conveyance system. **(Ord. No. 2008-1302, 4-8-08)**

**14.15.050 Reduction of Pollutants in Storm Water.** Any person engaged in activities that will or may result in pollutants entering the storm water conveyance system is a discharger under this Chapter 14.15 and shall implement BMPs in accordance with the JURMP or Stormwater Standards Manual to prevent and reduce such pollutants to the maximum extent practicable. The following requirements shall apply: **(Ord. No. 2008-1302, 4-8-08)**

(a) **General Prohibitions.** The following discharges are prohibited and shall constitute a violation of this Chapter: **(Ord. No. 2001-1123, 11-27-01)**

(1) Discharges into the storm water conveyance system in a manner causing, or threatening to cause, a condition of pollution, contamination or nuisance (as defined in California Water Code § 13050) in waters of the state.

(2) Discharges into the storm water conveyance system containing pollutants that have not been reduced to the maximum extent practicable. **(Ord. No. 2008-1302, 4-8-08)**

(3) Post-development runoff from new development or significant redevelopment that has not been reduced to the maximum extent practicable. **(Ord. No. 2008-1302, 4-8-08)**

(b) **Industrial, Commercial and Business Related Activities.** All owners or operators of premises where pollutants from industrial, commercial and business related activities may enter the storm water conveyance system shall implement BMPs in accordance with the JURMP to reduce any such pollutants generated from the premises to the maximum extent practicable. Examples of industrial, commercial and business related activities include, but are not limited to, maintenance, repair, storage, manufacturing, assembly, equipment operations, vehicle loading, fueling, landscaping, pest control, waste treatment and disposal, vehicle washing, pool and fountain cleaning, cement mixing, painting and/or cleanup procedures. The City Manager or designee may require the owner or operator of

the premises to develop and implement a Storm Water Pollution Prevention Plan (SWPPP) which describes the on site program activities which the owner or operator will take to eliminate or reduce to the maximum extent practicable, pollutant discharges to the storm water conveyance system. The SWPPP shall include, but not be limited to, the following site information: **(Ord. No. 2008-1302, 4-8-08)**

- (1) An inventory of all materials/wastes that are handled on premises and have a reasonable potential to impact storm water quality.
- (2) A description of measures taken which will reduce the possibility or likelihood of accidental spillage resulting from equipment failure or employee error.
- (3) A description of on-site control/response equipment and procedures to prevent contaminants from entering the storm water conveyance system.
- (4) A site map indicating all building structures, materials and waste storage areas, outdoor equipment storage areas, vehicle service areas, paved areas, areas of existing and potential erosion, storm drains inlets, and point(s) of discharge to a municipal storm water conveyance system or receiving waters. The site map shall include an estimate of the size of the facility and the facility's impervious area.
- (5) A documented Employee Training Program for all persons responsible for implementing the SWPPP. The Employee Training Program shall include, but is not limited to, the following topics:
  - a) Laws, regulations, and local ordinances associated with storm water pollution prevention, and an overview of the potential impacts of polluted storm water on the receiving waters of the San Diego region.
  - b) Proper handling of all materials and wastes to prevent spillage.
  - c) Mitigation of spills including spill response, contaminant and cleanup procedures.
  - d) Visual monitoring of all effluent streams to ensure that no illegal discharges enter the storm water conveyance system. **(Ord. No. 2008-1302, 4-8-08)**
  - e) Discussion of the differences between the storm water conveyance system and the sanitary sewer system.
  - f) Identification of all on-site connections to the storm water conveyance system.
  - g) Preventive maintenance and good housekeeping procedures.
  - h) Material management practices employed by the facility to reduce or eliminate pollutant contact with storm water discharge.

A documented employee training program prepared pursuant to any NPDES permit shall meet the definition of an Employee Training Program for the purposes of this Chapter.

Failure to comply with any SWPPP prepared pursuant to this Chapter or pursuant to a State NPDES Construction or NPDES Industrial Activity Permit shall constitute a violation of this Chapter. **(Ord. No. 2001-1123, 11-27-01)**

(c) Best Management Practices for Construction Activities. Any person performing construction work in the City shall prevent, to the maximum extent practicable, pollutants from entering the storm water conveyance system by complying with applicable provisions of the Standard Specifications for Public Works Construction manual, the JURMP and the General Construction Activity Storm Water NPDES permit issued by the State Water Resources Control Board. The City may establish controls on the volume and rate of storm water runoff from new development and redevelopment as may be appropriate to minimize the discharge and transport of pollutants. Any person or entity performing construction activities in the City and any owners of land on which construction activity is performed shall implement BMPs to the maximum extent practicable during all construction activities, including the following BMPs and other measures: **(Ord. No. 2008-1302, 4-8-08)**

- (1) Erosion prevention measures;
- (2) Seasonal restrictions on grading including, but not limited to, minimizing grading during the wet season;
- (3) Stabilization of slopes;
- (4) Phased grading;
- (5) Permanent revegetation or landscaping as early as feasible;
- (6) General site management BMP's, and;
- (7) Retention and proper management of sediment and other construction pollutants on site.

An Authorized Enforcement Official may prepare, maintain and disseminate guidance documents identifying pollution prevention and control practices for construction activities and other activities that have been determined by the Public Works Director or the Authorized Enforcement Official to be effective and practicable in specified circumstances. An Authorized Enforcement Official may take any such guidance into account when determining whether any practice proposed in a grading plan, a SWPPP or any other submittal is a BMP that will prevent or control pollution to the maximum extent practicable. **(Ord. No. 2001-1123, 11-27-01)**

d) Best Management Practices for Development and Redevelopment. Any person or entity that is developing or redeveloping a site in the City shall prevent, to the maximum extent practicable, pollutants from entering the storm water conveyance system by complying with applicable provisions of the Stormwater Standards Manual. No landowner or development or redevelopment project proponent shall receive any City discretionary or ministerial permit or approval unless such project meets the requirements set forth in the Stormwater Standards Manual. 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. The following BMPs and other measures, per the Stormwater Standards Manual, are required of all development and redevelopment projects within the City: **(Ord. No. 2008-1302, 4-8-08)**

- (1) Preservation of natural hydrologic features;
- (2) Preservation of riparian buffers and corridors;
- (3) Design, construction and maintenance of all low impact development site design and source control BMPs; and
- (4) For Priority Projects as defined in the Stormwater Standards Manual, design, construction and maintenance of treatment control BMPs that meet the criteria of the Stormwater Standards Manual.

(e) Best Management Practices for Residential Development. All City residents shall prevent, to the maximum extent practicable, pollutants from entering the storm water conveyance system through common residential uses of property in the City by implementing the BMP's set forth in the JURMP which include, but are not limited to, automobile maintenance and repair, automobile washing, automobile parking, home and garden care activities and product use (e.g. pesticides, herbicides and fertilizers), disposal of household hazardous waster (e.g. paints and cleaning products) and disposal of pet waste. **(Ord. No. 2008-1302, 4-8-08)**

(f) 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 real property, except as allowed by applicable solid waste ordinances.

The occupant or tenant, or 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 the sidewalk free of dirt or litter to the maximum extent practicable. Sweepings from the sidewalk shall not be swept or otherwise made or allowed to go into the gutter or roadway, but shall be disposed of in receptacles maintained on the real property as required for the disposal of garbage.

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

(g) Standard for Parking Lots and Similar Structures: Persons owning or operating a parking lot or impervious surfaces used for similar purposes shall clean those structures thoroughly as is necessary to prevent the discharge of pollutants to the storm water conveyance system to the maximum extent practicable. Such cleaning shall occur not less than once prior to each wet season. Sweepings or cleaning residue from parking lots or impervious surfaces shall not be swept or otherwise made or allowed to go into the gutter or roadway.

(h) Compliance with NPDES Storm Water Permits: Each industrial discharger, discharger associated with construction activity, or other discharger subject to any NPDES storm water permit addressing such discharges shall comply with, and undertake all other activities required by any storm water permit applicable to such discharges, including but not limited to, the State Water Resources Control Board, statewide General Industrial and General Construction Activity Storm Water Permits, and the Regional Water Quality Control Board, San Diego Region General De-Watering Permits (Orders No. 91-10 and 90-31). Each discharger identified in an individual NPDES permit relating to storm water discharges shall comply with and undertake all activities required by such permit.

(i) Compliance with Adopted SSM, Adoption of SSM and JURMP: All BMPs referenced in and/or required by this Section 14.15.050 shall be at least as stringent as those set forth in the then-current version of the SSM adopted by resolution of the City Council. The SSM and the JURMP, also adopted by resolution of the City Council, may be amended from time to time in the same manner. **(Ord. No. 2008-1302, 4-8-08)**

**14.15.060 Watercourse Protection:** Every person owning real 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, and other obstacles which would pollute, contaminate, or significantly retard the flow of water through the watercourse; shall maintain existing privately owned structures within or adjacent to 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 maintenance, which shall be accomplished in a manner that minimizes the vulnerability of the watercourse to erosion.

Except as permitted pursuant to a written permit from the California Department of Fish and Game or other appropriate State or Federal Agency, no person shall commit or cause to be committed any of the following acts:

- (a) Discharge pollutants into or connect any pipe or channel to a watercourse;
- (b) Modify the natural flow of water in a watercourse;
- (c) Carry out developments within thirty feet of the center line of any creek or twenty feet of the top of a bank, whichever is the greater distance from the top of the bank;
- (d) Deposit in, plant in, or remove any material from a watercourse including its banks, except as required by necessary maintenance;
- (e) Construct, alter, enlarge, connect to, change, or remove any structure in a watercourse; or
- (f) Place any loose or unconsolidated material along the side of or within a watercourse or so close to the side as to cause a diversion of the flow, or to cause a probability of such material being carried away by storm waters passing through such a watercourse.

**14.15.070 Inspection and Enforcement.**

(a) Authority to Inspect. During normal and reasonable hours of operation, any Authorized Enforcement Official shall have the authority to make an inspection to enforce the provisions of this Chapter, and to ascertain whether the purposes of this Chapter are being met. An inspection may be made after the Authorized Enforcement Official has presented proper credentials and the owner and/or occupant authorizes entry. If the Authorized Enforcement Official is unable to locate the owner or other persons having charge or control of the premises, or the owner and/or occupant refuses the request for entry, the City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining entry. **(Ord. No. 2008-1302, 4-8-08)**

After obtaining legal entry, the Authorized Enforcement Official may:

- (1) Inspect the premises.

- (2) Carry out any sampling activities necessary to enforce this Chapter, including taking samples from the property of any person or from any vehicle that the Authorized Enforcement Official reasonably believes is currently, or has in the past, caused or contributed to causing an illegal discharge to the storm water conveyance system. Upon request, split samples shall be given to the person from whose property or vehicle the samples were obtained. **(Ord. No. 2008-1302, 4-8-08)**
- (3) Stop and inspect any vehicle reasonably suspected of causing or contributing to an illegal discharge to the storm water conveyance system when accompanied by a law enforcement officer in a clearly marked vehicle. **(Ord. No. 2008-1302, 4-8-08)**
- (4) Conduct tests, analyses and evaluations to determine whether a discharge into the storm water conveyance system is an illegal discharge or whether the requirements of this Chapter are met. **(Ord. No. 2008-1302, 4-8-08)**
- (5) Photograph any effluent stream, material or waste, material or waste container, container label, vehicle, waste treatment process, waste disposal site, or condition contributing to storm water pollution and constituting a violation of this Chapter found during an inspection.
- (6) Review and obtain a copy of the Storm Water Pollution Prevention Plan prepared by an owner and/or occupant or facility operator, if such a plan has been required.
- (7) Require the owner and/or occupant or facility operator to retain evidence for a period not to exceed 30 days.
- (8) Review and obtain copies of all storm water monitoring data compiled by the owner and/or occupant or facility operator, if such monitoring is required.

Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this Chapter, including but not limited to random sampling and/or sampling in areas with evidence of storm water pollution, illegal discharges, or similar factors. **(Ord. No. 2008-1302, 4-8-08)**

(b) Inspection Procedures. During the inspection, the Authorized Enforcement Official shall comply with all reasonable security, safety and sanitation measures. In addition, the Authorized Enforcement Official shall comply with reasonable precautionary measures specified by the owner and/or occupant or facility operator.

At the conclusion of the inspection, and prior to leaving the site, the Authorized Enforcement Official will review with the owner and/or occupant or facility operator each of the violations noted by the Authorized Enforcement Official and the necessity for any corrective actions. A report listing any violation found during the inspection shall be prepared by the Authorized Enforcement Official and shall be kept on file in the enforcement agency. A copy of the report shall be provided to the owner and/or occupant or facility operator, or left at the premises if no person is available. If corrections are needed, the owner and/or occupant or facility operator shall implement a plan of corrective action based on a written plan of correction, submitted to the enforcement agency, which

states the actions to be taken and the expected dates of completion. Failure to implement the plan of correction constitutes a violation of this Chapter.

(c) Authority to Sample and Establish Sampling 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.

(d) Notification of Spills. As soon as any person who is responsible for emergency response for, or in charge of, any premises or facility has knowledge of any confirmed or unconfirmed significant release of materials, pollutants or waste which may result in pollutants or illegal discharges entering the storm water conveyance system, such person shall take all necessary steps to ensure the containment and minimize the damages of such release, provided that such steps do not violate applicable health and safety regulations and/or facility hazardous materials handling procedures and policies. Such person shall notify the County Department of Health Services' Environmental Health Services' Hazardous Materials Management Division, and any other appropriate agency, of the occurrence within 24 hours of the incident's occurrence. **(Ord. No. 2008-1302, 4-8-08)**

(e) Requirement to Test, Monitor or Mitigate.

(1) The City Manager or designee may require that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution, or illegal discharges to the storm water conveyance system, undertake such monitoring activities, including physical and chemical monitoring and/or analyses, and furnish reports as the City Manager or designee may specify if the person, or facility owner, or operator fails to eliminate illegal discharges after receiving a written notice by the enforcement agency, or the City manager or designee has documented repeated violations of this Chapter which may have contributed to storm water pollution. Specific monitoring requirements shall bear a reasonable relationship to the types of pollutants that may be generated by the person's activities or the facility's operations. If the City Manager or designee has evidence that a pollutant is originating from a specific premises, then the City Manager or designee may require monitoring for that pollutant regardless of whether the pollutant may be generated by routine activities or operations. 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. **(Ord. No. 2008-1302, 4-8-08)**

(2) Any persons required to monitor pursuant to subsection 14.15.070(e)(1) shall implement a storm water monitoring program to include, at a minimum:

- a) Routine visual monitoring for dry weather flows.
- b) Routine visual monitoring for spills which may pollute storm water runoff.

c) A monitoring log including monitoring date, potential pollution sources and a description of the mitigation measures taken to eliminate any potential pollution sources.

(3) The City Manager or designee, in cooperation with local waste water programs, may require a person, or facility owner or operator, to install or implement storm water pollution reduction or control measures, including but not limited to, process modification to reduce the generation of pollutants or a pretreatment program approved by the Regional Water Quality Control Board and/or the City if: **(Ord. No. 2008-1302, 4-8-08)**

a) the person, or facility owner or operator, fails to eliminate illegal discharges after receiving a written notice by the enforcement agency, or

b) the person, or facility owner or operator, fails to implement a storm water pollution prevention plan, as required by the enforcement agency; or

c) the enforcement agency has documented repeated violations of this Chapter which may have contributed to storm water pollution.

(4) A person, or facility owner or operator, may discontinue sampling and analyses required pursuant to this Chapter if pollutants are not detected in significant quantities after two consecutive sampling events. If testing, monitoring, or mitigation required pursuant to this Chapter are deemed no longer necessary by the City Manager or designee, then any or all of the above requirements will be discontinued. **(Ord. No. 2008-1302, 4-8-08)**

(5) A storm water monitoring program prepared and implemented pursuant to any NPDES permit shall meet the requirements of a monitoring program for the purposes of this Chapter.

**14.15.080 Violations of this Chapter.** 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 notwithstanding any other provisions of this Chapter, any such violation constituting a misdemeanor under this Chapter may, in the discretion of the City be charged and prosecuted as an infraction. Penalties, fines and procedures for violations shall be in accordance with Chapter 1.12 of this Code. Additionally, violations of this Chapter are deemed adverse and detrimental to the public health, safety and welfare and, therefore, constitute a public nuisance. The assistance of a law enforcement officer may be enlisted to arrest violators as provided in the California Penal Code and/or to issue a citation and notice to appear. **(Ord. No. 2008-1302, 4-8-08)**

**14.15.085 Violations of Federal or State Requirements or City Grading Permits.** Any violation of an applicable federal or state-issued storm water permit, or any failure to conform to an applicable SWPPP prepared pursuant to such permit or pursuant to this Chapter, or any failure to comply with storm water-related provisions of a City-issued grading permit or of a grading plan prepared to secure such a permit, is a violation of this Chapter.

**14.15.090. Acts Potentially Resulting in Violation of Federal Clean Water Act and/or Porter Cologne-Act.** Any person who violates any provision of this Chapter, any provision of any permit issued pursuant to this Chapter, or who discharges pollution, or who violates any cease and desist order, prohibition, or effluent limitation, may also be in violation of the Federal Clean

Water Act and/or Porter-Cologne Act and may be subject to the sanctions of those Acts including civil and criminal liability. Any enforcement action authorized under this Article should also include notice to the violator of such potential liability.

**14.15.100 Civil Actions.** In addition to prosecution of any violations of this Chapter as criminal offenses, and any other remedies provided in this Chapter, any violation of this Chapter may be enforced by civil action brought by the City. There is no requirement that administrative enforcement procedures be pursued before such actions are filed. In any such action, the City may seek, without limitation, and the Court shall grant, as appropriate, any or all of the following remedies: **(Ord. No. 2008-1302, 4-8-08)**

- (a) Injunctive relief;
- (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 cost 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 costs associated with monitoring and establishing storm water discharge pollution control systems and/or implementing and/or enforcing the provisions of this Chapter. **(Ord. No. 2008-1302, 4-8-08)**
- (d) Compensatory damages, including, but not limited to, those associated with loss of, or destruction to, water quality, wildlife, fish and aquatic life. **(Ord. No. 2008-1302, 4-8-08)**
- (e) A maximum civil penalty of \$2,500 per violation of this Chapter for each day during which any violation of any provision of this Chapter is committed, continued, permitted or maintained by such person(s). **(Ord. No. 2001-1123, 11-27-01)**

**14.15.110 Cease and Desist Orders.** When an Authorized Enforcement Official finds that a discharge has taken place or is likely to take place in violation of this Chapter, the Authorized Enforcement Official may issue an order to cease and desist such discharge, or practice, or operation likely to cause such discharge and direct that those persons not complying shall: a) comply with the requirement, b) comply with time schedule for compliance, and/or c) take appropriate remedial or preventative action to prevent the violation from recurring. If it is determined by an Authorized Enforcement Officer that the public interest requires the posting of a bond or other security to assure the violation is corrected, such bond or security may be required by the Authorized Enforcement Official. **(Ord. No. 2008-1302, 4-8-08)**

**14.15.120 Notice and Order to Clean, Test or Abate.** Whenever an Authorized Enforcement Official finds any oil, earth, dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or any other material of any kind, in or upon the sidewalk abutting or adjoining any parcel of real estate, or upon any parcel of real estate or grounds, which may result in an increase in pollutants entering the storm water conveyance system, the Authorized Enforcement Official may issue orders and give written notice to test, abate and/or remove such oil, earth, dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or other material, in any manner that the Authorized Enforcement Official may reasonably provide. The recipient of such notice shall undertake the activities as described in the notice. **(Ord. No. 2008-1302, 4-8-08)**

**14.15.130 Public Nuisance Abatement.** If a public nuisance is determined to exist under Section 14.15.080 or if actions ordered by an Authorized Enforcement Official under Sections 14.15.110 and 14.15.120 are not performed, the City may abate the public nuisance using the

nuisance abatement procedures set forth in Chapter 10.04 of this Code. **(Ord. No. 2001-1123, 11-27-01)**

**14.15.140 Stop Work Orders.** Whenever any work is being done contrary to the provisions of this Chapter, or other laws implemented through enforcement of this Chapter, an Authorized Enforcement Official may order the work stopped by notice in writing served on any person engaged in doing or causing such work to be done, and any such person shall immediately stop such work until authorized by the Authorized Enforcement Official to proceed with the work. **(Ord. No. 2008-1302, 4-8-08)**

**14.15.150 Permit Suspension or Revocation.** Violations of this Chapter may be grounds for permit and/or other City license suspension or revocation in accordance with applicable sections of the San Marcos Municipal Code. **(Ord. No. 2008-1302, 4-8-08)**

**14.15.160 Storm Water Management Fee; Failure to Pay a Violation.** Each residential and business waste and recycling account in the City shall pay a storm water management fee, in an amount determined by the City Council, which fee shall be collected through the bi-monthly billing of the City's refuse collection contractor. Failure to pay the storm water management fee shall be unlawful and shall constitute a violation of this Chapter. **(Ord. No. 2001-1123, 11-27-01)**

**14.15.170 Other Acts and Omissions Constituting Violations of this Chapter.** In addition to the violations identified in Sections 14.15.010 through 15.15.060 of this Chapter, the following acts and omissions constitute violations of this Chapter, whether committed by a discharger or by another person or entity: **(Ord. No. 2008-1302, 4-8-08)**

(a) **Causing, permitting, aiding or abetting non-compliance.** Causing, permitting, aiding or abetting non-compliance with any provision of this Chapter shall constitute a violation of this Chapter.

(b) **Concealment, Misrepresentation and False Statements.** Any falsification or misrepresentation made to the City or the Authorized Enforcement Official concerning compliance with this Chapter, including, but not limited to, any misrepresentation in a voluntary disclosure, any submission of a report that omits required material facts without disclosing such omission, and any withholding of information required to be submitted to the City or pursuant to this Chapter, whether or not the intent of such withholding is to delay City enforcement action, is a violation of this Chapter.

(c) **Failure to Promptly Correct Non-Compliance.** Violations of this Chapter must be corrected within the time period specified by an Authorized Enforcement Official. Each day or part thereof in excess of that period during which action necessary to correct a violation is not initiated and diligently pursued shall constitute a separate violation of this Chapter. Notwithstanding the granting of any period of time to the discharger to correct the damage resulting from his non-compliance, such discharger shall remain liable for some or all of any fines or penalties imposed pursuant to this Chapter, or by the RWQCB.

(d) **Failure to Comply With City Permits and SWPPPS.** Any failure to conform to an applicable Storm Water Pollution Prevention Plan (SWPPP) prepared pursuant to this Chapter, any failure to comply with storm water-related provisions of a City-issued grading permit or grading plan prepared to secure such a permit, and any failure to comply with storm water related provisions in any other City permit or approval is also a violation of this Chapter. For purposes of this Chapter, a permit provision or condition of approval is "storm water-related" if compliance with

the provision or condition would have the effect of preventing or reducing contamination of storm water or of moderating run-off flows or rates of velocities, whether or not the provision or condition was initially imposed to promote those outcomes.

**14.15.180 Remedies Not Exclusive.** Remedies under this Chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided in this Chapter shall be cumulative and not exclusive. **(Ord. No. 2008-1302, 4-8-08)**