

ORDINANCE NO. 2020-05

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARINA
AMENDING CHAPTER 8.46 REGARDING URBAN STORM WATER
QUALITY MANAGEMENT AND DISCHARGE CONTROL
IN THE CITY OF MARINA

THE CITY COUNCIL OF THE CITY OF MARINA DOES HEREBY ORDAIN AS FOLLOWS:

1. Chapter 8.46 amended. Chapter 8.46, entitled "Urban Storm Water Quality Management and Discharge Control" is hereby amended in the Municipal Code to read in its entirety as set forth on the attached fifteen (15) pages, marked Exhibit "A" and incorporated herein by this reference thereto.

2. Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its final passage.

3. Posting of Ordinance. Within fifteen (15) days after the passage of this ordinance, the City Clerk shall cause it to be posted in the three (3) public places designated by resolution of the City Council.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Marina duly held on September 15, 2020, and was passed and adopted at a regular meeting duly held on October 6, 2020, by the following vote:

AYES: COUNCIL MEMBERS: Burnett, Berkley, O'Connell, Morton, Delgado

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

EXHIBIT A

Chapter 8.46

URBAN STORM WATER QUALITY MANAGEMENT AND DISCHARGE CONTROL

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Division I. Title, Purpose and General Provisions

8.46.010 Title.

This chapter shall be known as “urban storm water quality management and discharge control” of the city of Marina and may be so cited. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.020 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 storm water discharges to the maximum extent practicable and by prohibiting non-storm water discharges to the storm drain system. This chapter shall provide a comprehensive and integrated plan to regulate urban storm water quality management and discharge control. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.030 Definitions.

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

- (a) 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; erosion and sediment control practices; and the prohibition of specific activities, practices, and procedures and such other provisions as the city determines appropriate for the control of pollutants. Please refer to the city’s BMP Guidance Series, as discussed further in Section 8.46.130(b) herein, for specific requirements. The city may adopt and amend, from time to time, its BMP Series, as discussed in Section 8.46.130 herein, to define

specific requirements imposed in conjunction with the term “best management practices.” The term “BMP” shall have the same definition as the term “best management practices.”

- (b) City. The city of Marina.
- (c) Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- (d) Construction Activity. Construction projects subject to National Pollution Discharge Elimination System (NPDES) Construction Permits or Industrial Permits. Such construction activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- (e) 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 (California Health and Safety Code § 25117) as it may be amended from time to time.
- (f) Illegal Discharge. Any direct or indirect non-storm water discharge to the storm-drain system, except as exempted in Division II, Section 8.46.090 of this chapter.
- (g) Illicit Connections. An illicit connection is defined as either of the following:
 - 1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including 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 city.
- (h) Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26(b)(14), as it may be amended from time to time.
- (i) National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permits. General, group, and individual storm water discharge permits that regulate facilities defined in federal NPDES regulations pursuant to the Clean Water Act. The California Regional Water Quality Control Board, Central Coast 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) Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.
- (k) Pollutant. Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; 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.

- (l) Pollution. The human-made or human-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 (California Water Code § 13050 as it may be amended from time to time.)
- (m) Porter-Cologne Act. The Porter-Cologne Water Quality Control Act and as amended (California Water Code § 13000 et seq., as it may be amended from time to time).
- (n) **Post Construction Requirements** means the Central Coast Regional Water Quality Control Board regulations (*CCRWQCB, Resolution R3-2012-0025 or most recent iteration*) or the City's equivalent program which stipulate that new and re-development projects within the region need to incorporate measures to reduce the discharge of pollutants from newly developed and/or re-developed properties to restore the natural watershed processes to a pre-developed state to the maximum extent practicable. These regulations stipulate the inclusion of specified storm water quality devices either structural and/or non-structural into specified new and redevelopment projects. The requirements also include the development of an Operations Maintenance Manual and Agreement to ensure that the devices are routinely cleaned, maintained, inspected, and repaired or replaced as necessary in perpetuity. All activities performed to clean, maintain, inspect, and repair or replace as necessary these devices must be reported to the City by July 15th of each reporting period (*i.e. July 1st through June 30th annually*), and to the Central Coast Regional Water Quality Control Board via SMARTS.
- (o) Private Storm Drain System or Private Stormwater Drainage System (PSDS). Privately-owned facilities operated and/or owned by an individual by which storm water is collected and/or conveyed, including but not limited storm water treatment control devices whether structural and/or non-structural in compliance with the Central Coast Regional Water Quality Control Board's Post Construction Requirements; any privately owned roads with drainage systems, privately owned streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures which are within the city and are not part of a publicly owned treatment works as defined at 40 CFR Section 122.2, as it may be amended from time to time or not part of the City's Storm Drain System. These systems must be maintained and cleaned at least annually prior to the rainy season to prevent the discharge of any pollutant into the City's Storm Drain System.
- (p) Premises. Any building, structure, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (q) Storm Drain System. Publicly-owned facilities operated by the city 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 human-made or altered drainage channels, reservoirs, and other drainage structures which are within the city and are not part of a publicly owned treatment works as defined at 40 CFR Section 122.2, as it may be amended from time to time.
- (r) Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from rainstorm events.

- (s) Waters of the United States. Surface watercourses and water bodies as defined at 40 CFR § 122.2, as it may be amended from time to time, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry storm water at and during all times and seasons. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.040 Applicability.

This chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands lying within the city. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.050 Responsibility for administration.

The city engineer of the city shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the city engineer may be delegated in writing by the city engineer to persons or entities acting in the beneficial interest of or in the employ of the city. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.060 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 the other provisions or application of this chapter. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.070 Regulatory consistency.

This chapter shall be construed to assure consistency with the requirements of the Clean Water Act and Porter-Cologne Act and acts amendatory thereof or supplementary thereto, or any applicable implementing regulations. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.080 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, nor 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 city, or any agent or employee thereof for any damages that result from any discharger's reliance on this chapter or any administrative decision lawfully made thereunder.

All persons undertaking construction activities shall employ, to the maximum extent practicable, erosion and sediment control measures, soil stabilization measures, appropriate source control measures, pollution prevention measures, measures to prevent prohibited discharges, in general prevention construction site management practices and where applicable appropriate measures associated with dewatering activities that ensure discharges do not cause or contribute to an exceedance of the water quality standards contained in a Statewide Water Quality Control Plan, the California Toxics Rule or the Central Coast Regional Water Quality Control Board Basin Plan. (Ord. No. 2009-03, § 1, 6-16-2009) or subsequently adopted order.

These standards include the requirement that persons planning on undertaking construction activities develop, submit for review and possible approval to the City appropriate plans (i.e. Erosion and Sediment Control Plans or equivalent – "Plan") to the satisfaction of the City prior to any activities on the site. The plan shall include appropriate site-specific construction site BMPs that meet not only all applicable Water Board regulations, but the City's construction site storm water runoff control ordinance. Erosion and sediment control plan or equivalent shall include the rationale used for

selecting BMPs including supporting soil loss calculations, if necessary. The plan shall list applicable permits directly associated with grading activity, including, but not limited to the State Water Board's Construction General Permit (CGP), State Water Board 401 Water Quality Certification, U.S. Army Corps 404 permit, and California Department of Fish and Game 1600 Agreement. As a condition of any grading permit the operator shall submit evidence to the City that all permits directly associated with grading activity have been obtained prior to commencing soil disturbing activities authorized by the grading permit.

If the project requires CGP compliance including the development of a site-specific SWPPP, then at the discretion of the City an erosion and sediment control plan or equivalent may not be required. Site-specific SWPPPs must meet all applicable Water Board requirements and include provisions that ensure compliance with the City's construction site storm water runoff control ordinance. If the Plan and/or site-specific SWPPP is revised, the operator of construction activity shall submit those proposed revisions prior to implementation to the City for review, consideration and possible approval.

All required erosion and sediment control measures, soil stabilization measures, appropriate source control measures, pollution prevention measures, measures to prevent prohibited discharges, in general construction site management practices and where applicable appropriate measures associated with dewatering activities shall be implemented, maintained, cleaned, repaired or replaced as necessary per industry acceptable standards as deemed appropriate by the City.

Division II. Discharge Prohibitions

8.46.090 Prohibition of illegal discharges.

No person shall discharge or cause to be discharged into the city storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

Illegal discharges include, but are not limited to, the following list unless the discharge is permitted under a separate NPDES permit or as allowed by BMPs published or approved by the city public works department:

- (a) Water from the cleaning of gas stations, vehicle service garages, or other types of vehicle service facilities;
- (b) Water, cleansers, or solvents from the cleaning of vehicles, machinery or equipment, and other such commercial and industrial operations;
- (c) Water from the washing or rinsing of vehicles containing soap, detergents, solvents, or other cleaners;
- (d) Water from the washing or rinsing of vehicles, with or without soap, from auto body repair shops;
- (e) Water from the cleaning or rinsing of vehicle engine, undercarriage, or auto parts cleaning;
- (f) Vehicle fluids;
- (g) Mat wash and hood cleaning water from food service facilities;
- (h) Food and kitchen cleaning water from food service facilities;
- (i) Leakage from dumpsters or trash containers;
- (j) Water from the cleaning or rinsing of garbage dumpster areas and areas where garbage is stored or contained;

- (k) Water from pressure washing, steam cleaning, and hand scrubbing of sidewalks, gutters, plazas, alleyways, outdoor eating areas, steps, building exteriors, walls, driveways, and other outdoor surfaces;
- (l) Wastewater or cleaning fluids from carpet cleaning;
- (m) Swimming pool and spa water;
- (n) Wash out from concrete trucks;
- (o) Potentially contaminated runoff from areas where hazardous substances, including diesel fuel, gasoline and motor oil are stored; and
- (p) Super-chlorinated water normally associated with the disinfection of potable water systems.

The discharge of sewage or other forms of polluted water from recreational activities and from vehicles, recreational vehicles and/or boats, to the city storm drain system or watercourses is an illegal discharge and is prohibited.

Property owners or occupants are responsible to clean and abate routinely (*minimum monthly*) all illicit discharges (*i.e. fecal matter, waste matter, etcetera*) any and all discharges on and immediately off their site caused by activities or negligence on their site. Property owners must report the full tonnages and/or cubic yards removed per location (*i.e. address and/or APN*) to the City annually by July 15th for the preceding Permit Year (*i.e. July 1st – June 30th*). All reports shall be submitted to the City Engineer in a format approved by the City.

Discharges of any nature that enter the City's stormwater conveyance system (*i.e. gutters, streets storm drain inlets, underground storm drainage piping, Perc Lots and etcetera*) must be fully cleaned and abated with full wash water reclaim systems upon discovery to the satisfaction of the City Engineer. This requirement applies to all utility providers (*i.e. water, waste water, telephone, cable, natural gas and etcetera*).

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (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 no potential pollutants are present, and therefore they shall not be considered illegal discharges unless determined to cause a violation of the provisions of the Porter-Cologne Act, Clean Water Act, or this chapter:
 - 1. Water line flushing;
 - 2. Landscape irrigation;
 - 3. Diverted stream flows;
 - 4. Rising ground waters;
 - 5. Uncontaminated ground water infiltration [as defined at 40 CFR § 35.2005(20)] to separate storm sewers;
 - 6. Uncontaminated pumped ground water;
 - 7. Discharges from potable water sources;
 - 8. Foundation drains;
 - 9. Air conditioning condensation;

10. Irrigation water;
 11. Springs;
 12. Water from crawl space pumps;
 13. Footing drains;
 14. Lawn watering;
 15. Individual residential car washing;
 16. Flows from riparian habitats and wetlands;
 17. Dechlorinated swimming pool discharges; and
 18. Flows from firefighting activities.
- (b) The prohibition against illegal discharge to the storm drain system shall not apply to any non-storm water discharge permitted 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 city for any discharge to the storm drain system.
- (c) Written concurrence of the regional board, shall be required for the city to provide a written exemption that a non-storm water discharge does not constitute a source of pollutants to the storm drain system or waters of the U.S. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.100 Prohibition of illicit connections.

- (a) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is 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 was first made. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.110 Waste disposal prohibitions.

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, 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 pollutant, refuse, rubbish, garbage, litter, or other discarded or abandoned objects, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.120 Discharges in violation of industrial or construction activity NPDES storm water discharge permit.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit is required in a form acceptable to the city engineer 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. (Ord. No. 2009-03, § 1, 6-16-2009)

Division III. Regulations and Requirements

8.46.130 Requirement to prevent, control, and reduce storm water pollutants.

- (a) Authorization to Adopt and Impose Best Management Practices. The city may adopt, and from time to time amend, requirements identifying best management practices for activities, operations, or facilities that may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. as a separate BMP Guidance Series. BMP requirements may incorporate by reference best management practices promulgated by federal, State of California, or regional agencies. Where best management practices requirements are promulgated in the BMP Guidance Series, each person who discharges pollutants to the storm drain system or water of the U.S., and each person owning or operating any facility that may cause such a discharge, shall comply with those BMP requirements.
- (b) Responsibility to Implement Best Management Practices. Notwithstanding the presence or absence of BMP requirements promulgated pursuant to subparagraphs (a), (b), (c), and (d) of this section, each 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 achievable to prevent and reduce such pollutants. The owner or operator of each commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the city storm drain system and/or watercourses. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at expense of the owner or operator.

As determined by the city manager, the city engineer will provide reports to the city council on the status of implementation of BMPs and any new BMPs to be developed for inclusion in the BMP Guidance Series.

- (c) Construction Sites. The city's BMP Guidance Series will include appropriate best management practices to reduce pollutants in any storm water runoff from construction activities. The city shall 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 city storm water utility ordinance.

Construction activities subject to BMP requirements shall continuously employ measures to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality, contamination, or unauthorized discharge of pollutants.

- (d) New Development and Redevelopment. The city's BMP Guidance Series will include appropriate best management practices to control the volume, rate, and 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 city shall 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.
- (e) The submission of any building, grading and/or development applications / plans shall include adequate provisions to prevent the discharge of pollutants both on and off a construction site. At a minimum these provisions shall include: (1) for sites that include ground disturbing activities appropriate erosion and sediment control measures, and (2) soil stabilization measures; (3) where

pumping of ground water may be necessary the inclusion of appropriate dewatering control measures; (4) site specific source controls to prevent the release and discharge of any pollutants; and (5) appropriate pollution prevent control measures to prevent the release and discharge of any pollutants per industry acceptable standards as deemed appropriate by the City.

- (f) All development and redevelopment projects disturbing more than 50 cubic yard, or 2,500 square feet must retain 100% of all storm water runoff for the 100 year storm event in accordance with the latest City Design Standards. The project storm water retention system shall incorporate on-site stormwater management systems (*i.e. structural and/or non-structural*) to minimize runoff and pollutants and provide permanent storm drainage to control, manage, retain, treat, infiltrate and dispose of” (1) “on-site storm drainage for the Project” and (2) “ancillary street and site drainage from the adjoining streets and sites” as stipulated in approved project plans. The design standards for storm water for the City of Marina exceeds the requirements specified in the Central Coast Regional Water Quality Control Board’s adopted order R3-2013-0032.

These requirements may include a combination of structural and non-structural BMPs and may include requirements to ensure the proper long-term operation and maintenance of these BMPs. (Ord. No. 2009-03, § 1, 6-16-2009)

(g) Failure to Submit Required Reports

As a condition of development, the issuance of a conditional use permit, the issuance of a business license, many business and/or facilities must submit specified reports. The failure to submit the required reports may result in the revocation of a building permit, the suspension of a conditional use permit and/or the revocation of a business license following Notice from the City in addition to the issuance of municipal fines.

Post Construction Requirement Reporting: For sites that required the inclusion of storm water treatment control devices whether structural and/or non-structural (*Systems*) in compliance with the City’s and the Central Coast Regional Water Quality Control Board’s Post Construction Requirements as a condition of development the applicant and site owner agreed to submit annual reports to the City reflecting the following information:

1. MAINTENANCE: A summary of all maintenance activities performed on the Systems,
2. MONITORING: A summary of all monitoring activities performed on the Systems,
3. INSPECTIONS: A summary of all inspection activities performed on the Systems
4. CLEANINGS: A summary of all inspection activities performed on the Systems,
5. REPAIRS: A summary of all repair activities performed on the Systems,

The annual reports are to be submitted to the City in a format meeting City requirements and specifications documenting all maintenance, monitoring, inspections, cleanings and repairs made to the SYSTEM during the prior reporting period (*i.e. July 1st through June 30th annually*). The Annual Report shall be submitted to the City both electronically and in paper form by July 15th of each year. The Owner shall also at own expense meet all Water Board (*State Water Resources Control Board and Central Coast Regional Water Quality Control Board*) annual reporting requirements.

The requirements just noted are typical, but not always specified in the site Operations and Maintenance Agreement and associated Manual.

8.46.140 Requirement to eliminate illegal discharges.

Notwithstanding the requirements of Division IV, Section 8.46.200 herein, the city engineer may require by written notice that a person responsible for an illegal 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 illegal discharges. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.150 Requirements of eliminate or secure approval for illicit connections.

- (a) The city engineer shall 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 illegal discharge will no longer occur, said person may request city approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.160 Requirement to protect watercourses.

Every person owning or leasing property through which a watercourse passes, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee 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. The owner or lessee shall not remove healthy bank vegetation beyond that actually necessary for maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. The property owner and lessee shall be responsible for maintaining and stabilizing that portion of the watercourse that is within their property lines in order to protect against erosion and degradation of the watercourse originating or contributed from their property. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.170 Requirement to remediate.

Whenever the city engineer finds that a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution of storm water, the storm drain system, or water of the U.S., the city engineer may require by written notice to the owner of the property and/or the responsible person that the pollution be remediated and the affected property restored within a specified time pursuant to the provisions of Sections 8.46.220 through 8.46.250 below. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.180 Requirement to monitor and analyze.

The city engineer 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, illegal 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 city as deemed necessary to determine compliance with this chapter. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.190 Requirement to notify 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 illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. from said facility, 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 (e.g., calling “911”). In the event of a release of non-hazardous materials, said person shall notify the city’s public works department 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 addressed and mailed, postage paid, to the city’s public works department within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. A copy of such records shall be provided to the city on an annual basis. Such records shall be retained for at least three years. (Ord. No. 2009-03, § 1, 6-16-2009)

Division IV. Inspection and Monitoring

8.46.200 Authority to inspect.

The city engineer is authorized to enforce any provision of this chapter. The city engineer is authorized to request entry permission upon twenty-four hours’ notice, except in case of an emergency, to inspect premises, to facilitate reasonable inspection and property, and to inspect and copy records related to storm water compliance whenever the city engineer has sufficient and probable cause to believe that there exists, or potentially exists, in or upon any premises any condition that constitutes a violation of this chapter.

In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the city is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.210 Authority to sample, establish sampling devices, and test.

During any inspection as provided herein, the city engineer, or designee, may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities. (Ord. No. 2009-03, § 1, 6-16-2009)

Division V. Enforcement

8.46.220 Intervention.

The primary focus of this chapter is to reduce and control storm water impacts, and the city will use the amount of enforcement necessary to achieve compliance. Where possible the city will rely on education rather than enforcement. The city engineer may provide education programs or other informational materials that will assist in meeting the desired erosion and sedimentation controls, and other storm water management practices outcomes. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.230 Notice of violation.

Whenever the city engineer finds that a person has violated a prohibition or failed to meet a requirement of this article, the director may order compliance 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 or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and

- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work may be done by the city or a contractor designated by the city engineer and the expense thereof shall be charged to the violator pursuant to Section 8.46.320 below. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.240 Stop work order.

Whenever any activity including, but not limited to construction activity, is being done contrary to and in violation of this chapter, the city engineer may order any activity, including, but not limited to construction activity, stopped by noticing in writing, posted on the premises, or served on the responsible party. The responsible party shall forthwith stop such work until authorized by the city engineer to proceed. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.250 Administrative compliance order.

The city may issue an administrative compliance order for any violation. The order shall be in writing, specify the violation(s) and require compliance measures. The order may also include a notice of impositions of administrative civil penalty assessment for the violation. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.260 Violation.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. Failure to comply with any of the requirements of this chapter shall constitute a citation may be issued to the responsible party, and shall be punishable as set forth in Marina Municipal Code Chapters 1.08 and 1.12. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.270 Compliance measures.

Compliance measures imposed to abate, remedy or remediate violations of this chapter may include, but shall not be limited to, one or more of the following, without limitation:

- (a) Cease and desist violating discharges, practices or operations;
- (b) The elimination of illicit connections or discharges;
- (c) The implementation of source control or treatment BMPs;
- (d) The performance of monitoring, analyses and reporting;
- (e) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- (f) Payment of an administrative civil penalty assessment;
- (g) Payment of fees to compensate remediation costs incurred by the city or its contractors;
- (h) Payment of fees to compensate for administrative costs incurred by the city or its contractors relating to enforcement, monitoring or reporting; and
- (i) Deposit of an undertaking, or presentation of a bond to assure completion of remediation and/or compliance efforts. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.280 Notices; service.

All notices/orders shall be served: (i) by personal service; or (ii) by certified mail/return receipt requested, with a duplicate copy sent by first class mail, postage prepaid. Any notice/order served by mail shall be deemed received for purposes of time computation hereunder five calendar days after the date mailed if to an address within this state, and seven calendar days after the date mailed if to an address outside this state. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.290 Settlement of administrative civil penalty assessment.

Upon receipt of notice of administrative civil penalty assessment the alleged violator may request a conference with the city manager or designee. The city manager or designee may compromise or settle any unpaid administrative civil penalty assessment. A request to settle under this section shall not act as a stay or otherwise affect the filing or processing of an appeal under Section 8.46.300. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.300 Appeal.

An affected party may appeal the determination of noncompliance or violation of provisions of this chapter, the administrative compliance order, and/or the administrative civil penalty assessment made pursuant to Section 8.46.270.

The notice of appeal must be received by the city manager within seven calendar days from the date of the violation determination, or from the date of the stop work order for an appeal of that order. The appeal shall state the name and address of the appellant, the name of any representative, the portion of the determination being appealed, the reason the determination is incorrect, and a statement as to what the correct determination should be. Failure to file a complete statement within the time or manner set forth shall constitute a waiver of objection and the appeal shall be dismissed. Hearing on the appeal before the city manager or his/her designee shall take place within thirty days from the date of city's receipt of the notice of appeal. At least ten days prior to the hearing, the city shall mail notice of the time and place of the hearing to the appellant. The decision of the city manager or designee shall be final. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.310 Abatement by city.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal under Section 8.46.300, within ten calendar days of the decision of the city manager or designee upholding the decision of the city engineer, then the city or a contractor designated by the city engineer shall enter upon the subject private property and is authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the city or designated contractor to enter upon the premises for the purposes set forth above. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.320 Charging cost of abatement/liens.

Within thirty calendar days after abatement of the nuisance by the city, the city engineer shall notify the owner of the property of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment with the city clerk within seven calendar days. The city clerk shall set the matter for public hearing by the city council. At least ten calendar days prior to the scheduled hearing, the city shall mail notice as set forth in

Section 8.46.280 of this chapter of the time and place of the hearing to the property owner. The decision of the city council shall be ratified by resolution and shall be final.

The amount due shall be paid within thirty calendar days of the decision of the city manager or designee or the expiration of such time as is set for payment. Thereafter, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. The city clerk shall cause an entry to be made on the tax roll opposite the description of the property, as follows: "Abating public nuisance, \$____," filling in the amount of the expense in each particular case, and the auditor/tax collector shall cause a corresponding entry to be made on the current assessment roll for the property; and thereafter before any further payment shall be received for any tax or for the redemption of said property, the cost of abating such nuisance shall first be paid. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.330 Urgency abatement.

The city engineer is authorized to require immediate urgent abatement of any violation of this chapter that constitutes an immediate threat to the health, safety or well-being of the public. If any such violation is not abated immediately as directed by the city engineer, the city is authorized to obtain an urgent judicial abatement warrant to enable entry onto private property and any and all measures required to remediate the violation. Any relief obtained under this section shall not prevent the city from seeking other and further relief authorized under this chapter. Any expense related to such remediation undertaken by the city shall be fully reimbursed by the property owner in accord with Section 8.46.290. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.340 Compensatory action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the city engineer may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, or other remedial activity. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.350 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 determined to be a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored by the city at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the city. (Ord. No. 2009-03, § 1, 6-16-2009)

8.46.360 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 it, may also be in violation of the Clean Water Act and/or the Porter-Cologne Act 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. (Ord. No. 2009-03, § 1, 6-16-2009)