

ORDINANCE NO. 2473 (N.C.S.)

AN ORDINANCE AMENDING CHAPTER 29 OF THE SALINAS CITY CODE REGARDING STORMWATER MANAGEMENT AND DISCHARGE CONTROL

WHEREAS, on June 1, 1999, the City Council adopted Ordinance No. 2350 adding Chapter 29 to the Salinas City Code to establish a program for stormwater management and control; and

WHEREAS, the City of Salinas seeks to comply with all provisions of state and federal law; and

WHEREAS, to ensure compliance with federal and state regulatory requirements, and to comply with the terms of the City's 2005 National Pollutant Discharge Elimination System (NPDES) Permit, the City must amend its existing stormwater management and discharge control ordinance; and

WHEREAS, the implementation of these amended pollutant control measures is exempt from the provisions of the California Environmental Quality Act (CEQA); Chapter 3 (commencing with Section 21100) of Division 13 of the California Public Resources Code in accordance with Section 13389 of the California Water Code as provided in categorical exemption classes 7 and 8 of the CEQA Guidelines (Title 14, California Code of Regulations Section 15307 through 15308); and

WHEREAS, this proposed ordinance has been duly processed and the City Council has conducted legally noticed public hearings and provided all interested parties and opportunity to be heard on these issues.

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF SALINAS as follows:

Section 1: Chapter 29 of the Salinas City Code entitled Stormwater Management and Discharge Control is hereby amended as follows:

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Sec. 29-1. Title.

This ordinance shall be known as the "City of Salinas Stormwater Management and Discharge Control Ordinance" and may be so cited. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-2. Purpose and intent.

The purpose and intent of this chapter is to ensure the health, safety and general welfare of citizens, and protect the water quality of watercourses and water bodies in a manner pursuant to and consistent with the requirements of the NPDES permit issued to the City of Salinas by the California Regional Water Quality Control Board and the Federal Clean Water Act (33 U.S.C. Section 1251 et seq.) by reducing pollutants in urban stormwater discharges to the maximum extent practicable and by effectively prohibiting non-stormwater discharges to the storm sewer drain system. ~~(Ord. No. 2350 (NCS), § 1.)~~ The provisions of this chapter shall be implemented and enforced in such a manner as to prevent or reduce downstream erosion, to protect stream habitat and to implement controls for the post-development runoff and discharges. To that end, development within the jurisdictional authority of the City of Salinas shall be done in a manner consistent with

Low Impact Development guidance set forth in the Stormwater Development Standards document established by the City of Salinas.

Sec. 29-3. Definitions.

When used in this chapter, the following words shall have the meanings ascribed to them in this section:

~~(a) "Act" means the Federal Water Pollution Control Act, including the 1972 amendments, referred to as the Clean Water Act or CWA (33 U.S.C. Section 1251 et seq.).~~

(a) "Approval Authority" means the state of California Central Coast Regional Water Quality Control Board.

(b) "Authorized enforcement officer" means the City Engineer and those individuals designated by the City Engineer to enforce the provisions of this chapter.

(c) Authorized Representative of Industrial Activity (Use). An authorized representative of an industrial user may include, but is not limited to the following persons:

(1) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or

(3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facility from which the discharge originates.

(d) "Best management practices (BMP)" means a program, schedule of activity, technology, process, siting criteria, operating method, measure, device, prohibition, practice (including, but not limited to, general housekeeping practices and pollution prevention practices), procedure or other management policy which effectively controls, prevents, removes or ~~minimizes~~reduces the discharge of pollutants, directly or indirectly to the municipal storm drain system and waters of the United States.

(e) "California general construction activities stormwater permit" means the general permit as adopted by the California State Water Resources Control Board for the permitting of stormwater discharges associated with construction activities.

(f) "California general industrial activities stormwater permit" means the general permit as adopted by the California State Resources Control Board for the permitting of stormwater discharges associated with given industrial activities.

(g) "Clean Water Act" means the federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.) and any subsequent amendments thereto and regulations adopted thereunder.

(h) "CFR" means the Code of Federal Regulations.

(i) "City" means the City of Salinas.

(j) "City Engineer" means the City Engineer of the City of Salinas

(k) "City storm sewer drainage system" or "storm drainage system" means and includes, but is not limited to, those facilities owned and operated by the City through which stormwater may be collected and/or conveyed to the waters of the United States, including flood control channels, any roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains which are not part of a publicly-owned treatment works (POTW) as defined at 40 Code of Federal Regulations Section 122.2 and all conduits, pumping plants, collection facilities and other appurtenances owned and operated by the City of Salinas for carrying, collecting, pumping and/or disposing of stormwater, surface water, groundwater, roof runoff or other unpolluted water.

(k) "City's NPDES permit" means the municipal separate storm sewer system (MS4) permit issued to the City under Section 402(p) of the Clean Water Act.

(l) "Construction activity" means activities subject to the California general construction activities permit.

(m) "Development" means the construction, building or placement of any structure or portion thereof which would require a building permit.

(n) "Enforcement Officer" means the City Engineer -or his designee.

(o) "Facility" means any nonresidential premises.

(p) "Hazardous materials" means 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.

(q) "Illicit discharge" or "illegal discharge" means any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Section 29-10 of this chapter.

(r) "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-stormwater discharge including sewage, process wastewater and wash water to enter the storm drainage system and any connections to the storm drainage 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 drainage system, which has not been documented in plans, maps or equivalent records and approved by the City.

(s) "Industrial activity" means any activity that involves manufacturing, processing or raw materials storage areas. Further definition of activities covered is given in 40 Code of Federal Regulations Section 122.26 (b).

(t) "Inspector" means an authorized enforcement officer as defined in this section.

(u) "Low Impact Development (LID) means the stormwater management approach towards development planning and design that minimizes post-construction stormwater runoff pollutant loads and stormwater runoff quantity, by promoting infiltration and biofiltration, and minimizing the installation of impervious surfaces. The LID design orientation is to minimize the site stormwater runoff impact of development by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to its source.

(v) "Maximum Extent Practicable" (MEP) is a standard for the control of pollutants required by Section 402(p) [33 U.S.C. §1342(p)] of the Clean Water Act requiring the application of practical, technologically feasible, and economically achievable management practices, including but not limited to, pollution control techniques, and system, design, and engineering methods.

(w) "National Pollutant Discharge Elimination System (NPDES) permit" means a permit issued by the Approval Authority pursuant to the Clean Water Act, which authorizes a discharge to the waters of the state.

(x) "Non-stormwater discharge" means any discharge to the storm drain system that is not entirely composed of stormwater.

(y) "Notice of intent (NOI)" means the formal notification to the State Regional Water Quality Control Board by the applicant that either a construction or industrial activity will occur in compliance with the conditions of the general permit and thereby commits the applicant to prepare and implement a stormwater pollution prevention plan.

(z) "Outfall" means the point at which the City's storm drainage system discharges to the waters of the state.

(aa) "Person" means any natural person, corporation, partnership, business trust, company, government agency, association or other entity.

(bb) "Point Source" means any discernible, confined and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock or vessel or other floating craft. (33 U.S.C. Sec. 1362(14); 40 C.F.R. Sec. 122.2)

(cc) "Pollutant" includes dredged soil, solid waste, incinerator residue, sewage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water; 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; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

(dd) "Pollution" means ~~human-caused~~ man-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 alteration of the chemical, physical, biological, or radiological integrity of water or other media.

(ee) "Porter-Cologne Act" means the Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.) and any subsequent amendments thereto and regulations adopted thereunder.

(ff) "Premises" means any building, lot parcel, real estate or land or portion of land, whether improved or unimproved, including adjacent sidewalks and ~~parkwaying~~ strips or other surface area which is capable of contributing runoff to the City's storm drainage system.

(gg) "Redevelopment" means any construction, alteration or improvement at an already developed site that will increase the total impervious surface area of that site. Redevelopment could include, but is not limited to, the expansion of building footprints, the addition or replacement of a structure, exterior construction or remodeling, replacement of existing impervious surfaces that is not part of a maintenance activity, and other activities that create additional impervious surfaces. "Significant Redevelopment" is a level of redevelopment at or above a defined threshold set forth in the Stormwater Development Standards.

(hh) "State" means the state of California.

(ii) "Stormwater" means stormwater runoff, snowmelt runoff, and surface runoff and drainage.

(jj) "Stormwater Control Plan" means a engineered plan with calculations for stormwater drainage and treatment. The plan shall show how runoff from each drainage area on a development or redevelopment project will be handled to meet the requirements of the Stormwater Development Standards.

(kk) "Stormwater Management Program" means a comprehensive planning process to reduce discharge of pollutants to the maximum extent practicable using best management practices.

(ll) "Stormwater Management Facility" means any device designated to detain, retain, filter or infiltrate stormwater.

(mm) "Stormwater Development Standards" means the current City of Salinas Stormwater Development Standards and any amendments and/or supplements thereto.

(nn) "Stormwater Pollution Prevention Plan (SWPPP)" means the report required to be prepared by industrial or construction site stormwater dischargers, which sets forth the site map, identifies the activities that have the potential to pollute stormwater and describes the proposed BMPs to be implemented by the discharger.

(oo) "User" means any person who contributes, causes or permits the contribution of stormwater to the City's storm drainage system.

(pp) "Unpolluted water" means water to which no pollutant has been intentionally or accidentally introduced so as to render such water unacceptable to the City for disposal to storm or natural drainages or directly to surface waters.

(qq) "Waters of the state" means surface watercourses, and water bodies as defined at 40 CFR Section 122.2 and any subsequent amendment. (Ord. No. 2350 (NCS), § 1.)

(rr) "Waters of the U.S." or "waters of the United States" shall have the meaning set forth in 40 CFR §122.2.

Sec. 29-4. Responsibility for administration.

This part shall be administered by the City Engineer for the City of Salinas and authority to enforce this part is delegated to the City Engineer and his designee(s). (Ord. No. 2350 (NCS), § 1.)

Sec. 29-5. Construction and application.

The rules and regulations set forth in this chapter shall be construed in a manner consistent with and shall in no way be construed in such a manner so as to diminish the authority of the requirements of the ~~federal Water Pollution Control Act and the 1972 amendments thereto, referred to as the Clean Water Act, and any amendments or supplements thereto and its applicable implementing regulations; the Porter-Cologne Act;~~ the City of Salinas NPDES ~~stormwater~~municipal separate storm sewer system permit and any amendment, revision or reissuance thereof; and all other provisions contained in the Salinas Municipal Code. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-6. Severability and application.

If any portion of this chapter is declared invalid, the remaining portions of this chapter are to be considered severable and valid. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-7. Taking.

The provisions of this chapter shall not operate to deprive any landowner of substantially all of the market value of his or her property or otherwise constitute an unconstitutional taking without compensation. If application of this chapter to a specific project would create a taking, then pursuant to the chapter the City Council may allow additional land uses; but only to the extent necessary to avoid a taking. Such uses shall be consistent with and carry out the purposes of this chapter as stated in Section 29-2. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-8. Effective date.

This ordinance codified in this chapter will take effect thirty days from the date of passage, and shall be published following passage as required by the California Government Code. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-9. General discharge prohibition--Illegal discharges.

Non-stormwater discharges to the City storm drain system are prohibited, except as specifically exempted allowed in Section 29-10. No person shall contribute or cause to be contributed, directly or indirectly, to the City's storm drainage system any pollutant, wastewater or any substance or material which will interfere with the operation or performance of the storm drainage system, violate the City's NPDES permit or violate other applicable law or regulations. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-10. Discharges exempt from the general prohibition.

(a) The general discharge prohibition shall not apply to any discharge regulated under an NPDES permit, or, in the case of a non-point source discharge, a waiver or waste discharge order issued to the discharger and administered by the State of California under the authority of the United States Environmental Protection Agency ("USEPA"), provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws or regulations.

(b) Unless otherwise determined by the City Engineer, discharges from the following activities shall not be considered a source of pollutants to waters of the United States 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) Diverted stream flows
- (2) Rising ground waters
- (3) Uncontaminated ground water infiltration [as defined by 40 CFR 35.2005(20)]
- (4) Uncontaminated pumped ground water
- (5) Foundation drains
- (6) Springs
- (7) Water from crawl space pumps
- (8) Footing drains
- (9) Air conditioning condensation
- (10) Flows from riparian habitats and wetlands
- (11) Water line flushing
- (12) Lawn and landscape irrigation from potable water sources
- (13) Discharges from potable water sources
- (14) Irrigation water
- (15) Individual residential car washing
- (16) De-chlorinated or de-brominated swimming pool / spa water

(c) Discharges or flows from firefighting activities are excluded from the non-stormwater discharge prohibition and need only be addressed where identified as significant sources of pollutants to water of the United States. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-11. Discharge in violation of permit.

Any discharge not managed in accordance with the City's Stormwater Management Program as referenced in the City's NPDES permit or any amendment, revision or reissuance thereof, either separately considered or when combined with other discharges, is prohibited. Liability for any such discharge shall be the responsibility of the person(s)

causing or responsible for the discharge, and such person(s) shall defend, indemnify, and hold the City harmless against any litigation, administrative proceeding, claim, expense, liability, fine, penalty or payment for injury or damage to any person or property resulting from such discharges. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-12. Requirement to eliminate illegal discharges.

(a). An authorized enforcement officer may require by written notice that a person responsible for an illegal discharge immediately, or by a specified date, discontinues the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges. (Ord. No. 2350 (NCS), § 1.)

(b). Unauthorized non-stormwater discharges include, but are not limited to, the following:

(1). Sanitary sewer overflows;

(2). Discharges of wash water resulting from the hosing off or cleaning of gas stations, vehicle repair services, or other types of automotive service facilities;

(3). Discharges resulting from the storage, cleaning, repair, or maintenance of any type of equipment, machinery, or facility including, but not limited to, motor vehicles, cement-related equipment, and portable toilet servicing;

(4). Discharges of wash water from mobile operations including, but not limited to, mobile vehicle washing, steam cleaning, power washing, and carpet cleaning;

(5). Discharges of wash water from the cleaning of impervious surfaces in municipal, industrial and commercial areas including, but not limited to, parking lots, streets, sidewalks, driveways, patios, plazas, work yards and outdoor eating or drinking areas;

(6). Discharges of runoff from material storage areas containing chemicals, fuels, grease, oil, or other hazardous materials;

(7). Discharges of pool or fountain water containing chlorine, biocides, or other chemicals and discharges of pool or fountain filter backwash water;

(8). Discharges of sediment, pet waste, vegetation clippings, or other landscape or construction-related wastes;

(9). Discharges of food-related wastes (e.g., grease, fish processing, and restaurant kitchen mat and trash bin wash water);

(10). Discharge of runoff from washing toxic materials from paved or unpaved areas; and

(11). Discharge of materials such as litter, landscape debris, construction debris, or any state or federally banned pesticides.

Sec. 29-13. Illicit connections.

It is unlawful for any person to establish, use, maintain or continue illicit discharges or illicit drainage connections to the City storm drainage system. This prohibition shall apply to connections in existence at the time of the adoption of the ordinance codified in this chapter, irrespective of whether such connection was made under a permit or other authorization or whether permissible under the law or practices applicable or prevailing at the time the connection was made. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-14. Requirement to eliminate or secure approval for illicit connections.

The authorized enforcement officer may require by written notice that a person responsible for an illicit connection to the storm drain system comply with the requirements of this article 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 article.

If, subsequent to eliminating a connection found to be in violation of this article, the responsible person can demonstrate that an illegal discharge will no longer occur, such person may request City approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-15. Reduction of pollutants in stormwater.

Storm water runoff, soil erosion and non-point source pollution can be controlled and minimized through the regulation of storm water runoff from development sites. These goals are achieved by designing sites that disturb only the smallest area necessary, minimize soil compaction and imperviousness, preserve natural drainages, vegetation and buffer zones, and utilize on-site storm water treatment techniques. These principles and techniques are collectively known as Low Impact Development (LID). The California Regional Water Resources Control Board has determined that LID techniques are effective, feasible and economically practical, and that they are a component of the maximum extent practicable (MEP) standard as defined in section 29-3 of this chapter.

Any person engaged in activities, which will, or may result in pollutants entering the City storm drainage system or which may otherwise cause or contribute to pollution shall undertake all feasible measures to reduce the introduction of such pollutants, including the implementation of LID techniques. Where best management practices requirements are promulgated by the City or any federal, state or regional agency for any activity, operation or facility which would otherwise cause the discharge of pollutants to the storm drain system or waters of the United States, every person undertaking such activity or operation, or owning or operating such facility shall comply with such requirements.

The City's Stormwater Management Program shall establish minimum requirements that apply to pollutant generating activities within the City. With regard to such activities, the following minimum requirements shall apply. Where applicable, the requirements of paragraphs (d) through (h) shall be made conditions of any ministerial or discretionary building permit.

(a) Littering. No person shall throw, deposit, leave, maintain, keep or permit to be thrown, deposited, placed or left, 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 any other drainage structures, business place or upon any public or private plot of land in the City, so that the same might be or become a pollutant. No person shall throw or deposit litter in any fountain, pond, lake, stream or any other body of water in a park or elsewhere in the City. This section shall not apply to the storing of such potential pollutants in containers or in lawfully established waste disposal facilities.

(b) Owners of Abutting Property. The occupants, tenants, owners, lessees and/or proprietors of any real property in the City of Salinas in front of which there is a paved sidewalk shall be responsible for maintaining such sidewalk and keeping the same free of dirt and litter to the maximum extent practicable. Sweepings from such 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 such real property as required for the disposal of garbage.

(c) Owners and Operators of Parking Lots and Similar Structures. Persons owning or operating a paved parking lot, gas station pavement, paved private street or road, or similar structure, shall clean those structures in a manner that does not result in discharge of pollutants to the City storm drain system.

(d) Best Management Practices for Construction Sites. All construction shall comply with Resolution No. 10836 (NCS) the City of Salinas Standards to Control Excavations, Cuts, Fills, Clearing, Grading, Erosion and Sediments, as adopted by the City Council and as the same may be amended from time to time. Any construction contractor performing work in the City shall keep debris and dirt out of the City's storm drain system. The authorized enforcement officer may require any construction contractor performing work in the City to submit a stormwater pollution prevention plan prior to final map approval by city or prior to issuance of a building permit by City, whichever occurs first.

(e) ~~Best Management Practices for New Development and Redevelopment.~~ The authorized enforcement officer may adopt regulations establishing controls on volume and rate of stormwater runoff for new development and redevelopment within the city as may be appropriate to minimize the discharge and transport of pollutants. Implementation of Post-Construction Pollutant Control Strategies. Every person undertaking any new development or significant redevelopment, as defined herein, that may discharge pollutants to waters of the United States or cause or contribute to pollution, shall implement Low Impact Development (LID) strategies and/or structural treatment control BMPs as specified in the Stormwater Development Standards or other applicable standards adopted by the City. Every such person shall also implement any additional storm water control strategies specified by the City Engineer based on site or project considerations. All new development and significant redevelopment, as defined herein, shall develop and implement a storm water control plan, as defined herein, demonstrating how the site's drainage will be managed. The storm water control plan shall be included in the building permit application. The approved plan shall become a condition of the building permit. These requirements apply to both ministerial and discretionary projects.

Any person subject to this paragraph shall be solely responsible for any costs and expenses necessary to develop and implement the LID and/or structural treatment control BMPs and shall be solely responsible for the ongoing maintenance of such features. All storm water treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include any and all

maintenance easements required to access and inspect the storm water treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the storm water treatment practice. All applicable building permits shall have, as a requirement of the permit, an enforceable operation and maintenance agreement. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all storm water treatment practices shall be secured prior to issuance of a certificate of occupancy.

Prior to the issuance of any permit that requires a storm water management facility, the applicant or owner of the site must execute a maintenance easement or agreement that shall be binding on all subsequent owners of land served by the storm water management facility. The easement or agreement shall provide for access to the facility at reasonable times for periodic inspection by the City, or its contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet Stormwater Development Standards and any other requirements of this Chapter. The easement or agreement shall be recorded by the owner of record prior to issuance of a certificate of final occupancy.

Maintenance of all storm water management facilities shall be ensured through the creation of an easement or other maintenance covenant that must be approved by the City and recorded prior to final plan approval. The City, in lieu of a maintenance covenant, may accept dedication of any existing or future storm water management facility for maintenance, in accordance with the Stormwater Development Standards.

The City Engineer may only exempt requirements for LID strategies or other development standards in accordance with a waiver program incorporated into in the Stormwater Development Standards, and only in circumstances where, in the opinion of the City Engineer, it is not feasible to implement; or where implementation of such requirements would provide no benefit to water quality.

(f) Notification of Intent and Compliance with General Permits. Each industrial discharger, discharger associated with construction activity, or other discharger, described in any general stormwater permit addressing such discharges, as may be adopted by the USEPA, the State Water Resources Control Board, or the California Regional Water Quality Control Board, Central Coast Region, shall provide notice of intent, comply with, and undertake all other activities required by any general stormwater permit applicable to such discharges unless the discharger is covered by an individual permit. Each discharger identified in an individual NPDES permit relating to stormwater discharges shall comply with and undertake all activities required by such permit. Violation of any applicable general or individual NPDES storm water permit shall constitute a violation of this chapter.

(g) Compliance with Best Management Practices. Where best management practices guidelines or requirements have been defined in City ordinances, the Stormwater Development Standards, the City's Stormwater Management Program, by the City Engineer or adopted by any federal, state, regional, county and/or City agency, for any activity, operation or facility which may cause or contribute to stormwater pollution or contamination, and/or discharges of non-stormwater to the stormwater system or waters of the United States, provided the same is first determined by the City Engineer to be equivalent, every person undertaking such activity or operation or use of premises, or owning or operating any facility, that may cause or contribute to stormwater pollution or contamination, illegal discharges or non-stormwater discharges shall comply with such guidelines or requirements. Any person engaged in activities or operations, or owning

facilities or property which will or may result in pollutants entering stormwater, the storm drainage system or waters of the U.S. shall implement best management practices to the extent they are technologically achievable to prevent or reduce the discharge or runoff of such pollutants.

(h) **Watercourse Protection.** Every person owning property through which a watercourse passes, or such person's lessee, 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~~ cause or contribute to pollution or significantly retard the flow of water through the watercourse, except as prohibited by the regulations of the California Department of Fish and Game. 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 such vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. The property owner 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. 2350 (NCS), § 1.)

Sec. 29-16. Spill prevention plan.

Each facility shall provide protection from spills of hazardous or prohibited materials or other substances regulated by this chapter. The methods, procedures, mechanisms and facilities established and utilized for the purpose of preventing accidental discharges or spills of materials with pollution potential shall be provided and maintained at the owner's own cost and expense.

Facilities required to file a NOI for coverage under the California general industrial activities stormwater permit shall submit to the city a copy of the stormwater pollution prevention plan (SWPPP) prepared for the general permit. The SWPPP shall outline the user's spill prevention and response procedure, describe the nature and location of any chemicals stored on the user's premises and shall contain procedures for immediately notifying the City and preventing adverse impacts of any discharge of such chemicals, substances or materials. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-17. Notification of spills.

All persons in charge of a facility or responsible for emergency response for a facility have a personal responsibility to train facility personnel and maintain notification procedures to assure immediate notification is provided to the City of any suspected, confirmed or unconfirmed release of material, pollutants or waste creating a risk of discharge into the City storm drain system.

As soon as any person in charge of a facility or responsible for emergency response for a facility has knowledge of any suspected, confirmed or unconfirmed release of materials, pollutants or waste which may result in pollutants or non-stormwater discharge entering the City storm drain system, such person shall take all necessary steps to ensure the discovery, containment and clean up of such release and notify the City of the occurrence.

In the event of a release of hazardous materials, such person shall telephone 911 to report the release immediately. In the event of a release of non-hazardous materials, see Section 29-3(q), such person shall notify the City of Salinas, Maintenance Services~~public works department~~Department in person or by phone or facsimile no later than 5:00 p.m. of the next business day. Notifications in person and by phone shall be confirmed by written notice addressed and mailed, within three business days, to the Maintenance Services Director~~City Engineer~~, City of Salinas, 200 Lincoln Avenue~~426 Work Street~~, Salinas CA 93901, Attention: Spill Notification.

Notification shall identify the location of the discharge, the type, concentration and volume of waste, and corrective actions taken and/or anticipated. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the City, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties or other liabilities which may be imposed by this part or other applicable law.

A notice advising employees whom to call in the event of an accidental discharge or spill shall be posted on the user's bulletin board or other prominent place. Employers shall provide spill prevention and response training for all employees who may cause an accidental discharge or spill to occur. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-18. Authority to inspect.

(a) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever an authorized enforcement officer has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this chapter, the officer may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the officer by this chapter, provided that (i) if such building or premises be occupied, he or she shall first present proper credentials and request entry; and (ii) if such building or premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

Any such request for entry shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon ~~issuance of a search warrant~~authorization by a duly authorized court.

(b) 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 stormwater contamination, illicit discharges, discharge of non-storm-water to the stormwater system, or similar factors.

(c) Authority to Sample and Establish Sampling Devices. ~~With the consent of the owner or occupant or pursuant to a search warrant,~~ Any authorized enforcement officer may establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the officer may take any samples deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities on-site.

(d) Requirement to Test or Monitor. Any authorized enforcement officer may require that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to stormwater pollution or contamination, illicit discharges and/or discharges of non-stormwater to the stormwater system, undertake such monitoring activities and/or analyses and furnish such reports as the officer may specify. The burden, including costs, of these activities, analyses and reports shall bear a reasonable relationship to the need for the monitoring, analyses and reports and the benefits to be obtained. The recipient of such request shall undertake and provide the monitoring, analyses and reports required.

In the event the owner or operator of a facility subject to a monitoring and/or analyses order fails to conduct required monitoring and/or analyses and furnish the required reports in the form required, the authorized enforcement officer may ~~in addition to the other penalties noted in this chapter, cause such monitoring and/or analyses to be completed~~ and the cost of ~~which, therefor,~~ including the reasonable additional administrative costs incurred by the City shall be borne by the owner of the property and the cost thereof shall be invoiced to the owner of the property. Whenever the full amount of such costs has not been paid within ninety (90) days from the date of notice of such costs, the City may take whatever action is available to it in order to recover such costs. This obligation may constitute a lien or, in the alternative, a special assessment against the real property on which the violation occurred. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-19. Violations constituting misdemeanors.

~~Unless otherwise specified by ordinance, the~~ The violation of any provision of this chapter, or failure to comply with any of the mandatory requirements of this chapter shall constitute a misdemeanor; except that notwithstanding any other provisions of this chapter, any such violation constituting a misdemeanor under this chapter may, at the discretion of an authorized enforcement officer be ~~charged and prosecuted as an infraction~~ enforced pursuant to any available legal remedy including the City's Administrative Remedies Ordinance (Chapter 1, Article II of this Code). (Ord. No. 2350 (NCS), § 1.)

Sec. 29-20. Penalty for violation.

Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section 36901.

~~Upon conviction of an infraction, a person shall be subject to payment of a fine; not to exceed the limits set forth in California Government Code Section 36900. After a third conviction for a violation of the same provision subsequent violations within a twelve-month period may be charged as a misdemeanor.~~ (Ord. No. 2350 (NCS), § 1.)

Sec. 29-21. Continuing violation.

Unless otherwise provided, a person, firm, corporation or organization shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this chapter is committed, continued or permitted by the person, firm, corporation or organization and shall be punishable accordingly as herein provided. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-22. Violations; Abatement by the City.

(a) If any violation of this chapter has not been corrected pursuant to the requirements set forth by the City, the City 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 to enter upon the premises for the purposes set forth herein.

(c) Within thirty (30) days after abatement of the violation by the City, the City Engineer or an enforcement officer shall notify the property owner, as shown on the last equalized assessment roll, of the cost of abatement, which shall include all costs relating to the abatement and administrative costs incurred by the City. Such costs may become a lien or special assessment against the real property on which the violation occurred.

The owner may file a written protest objecting to the amount of the assessment with the City Clerk within thirty (30) days of the date of the notification of costs. The City Clerk shall set the matter for a public hearing by the City Council. The decision of the Council shall be final. Failure to timely protest the amount of the abatement as provided herein shall constitute a failure to exhaust administrative remedies and no further appeal rights shall be granted.

If such costs are not paid within ninety (90) days of the date of the Council's final determination of the matter, or if the determination of the City Council as set forth above has not been successfully challenged by a timely writ of mandate, the obligation may constitute a lien or, in the alternative, a special assessment against the property on which the violation occurred.

(c) The City Engineer or designated enforcement officer is authorized to require immediate abatement of any violation of this chapter that constitutes an immediate threat to the health, safety or welfare of the public. If any such violation is not abated immediately as directed by the City Engineer or designated an enforcement officer, the City of Salinas is authorized to enter onto the property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the City of Salinas shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the City from seeking other and further relief authorized under this Chapter.

(d) If any violation of this chapter constitutes a seasonal and recurrent nuisance, the City Engineer shall so declare. Thereafter such seasonal and recurrent nuisance shall be abated every year without the necessity of further learning. If the City prevails in any administrative or civil proceedings initiated under this chapter, the City shall be entitled to seek reimbursement for all costs incurred in connection with such proceeding. Such reimbursable costs may include, but are not limited to, the costs of investigation, administrative overhead, out-of-pocket expenses, costs of administrative hearings, costs of suit, and reasonable attorney fees.

Sec. 29-23. Concealment.

Causing, permitting, aiding, abetting or concealing a violation of any provision of this chapter shall constitute a violation of such provision. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-24. 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 waste or wastewater which causes pollution, or who violates any cease and desist order, prohibition, or effluent limitation, may also be in violation of the federal Clean Water Act and/or Porter-Cologne Act and may be subject to the sanctions of those acts including civil and criminal penalty. Any enforcement action authorized under this article should also include notice to the violator of such potential liability. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-25. Violations deemed a public nuisance; Recovery of costs.

In addition to the penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is deemed a threat to the public health, safety and welfare, and is declared and deemed to be a public nuisance, and may be summarily abated and/or restored by the authorized enforcement officer, and/or civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken by the City Attorney. Any costs or expenses incurred by the City in violating such nuisance shall be recoverable by the City as set forth in this Chapter.

Sec. 29-26. Recovery of Costs.

In addition to any fine or penalty imposed, whenever any discharger introduces or causes the introduction of non-stormwater or any pollutant in violation of this chapter and the discharge results in a violation of any State or Federal laws or regulations, in violation of the City's NPDES Permit, damages public property, or adversely affects the City's storm drainage system or receiving waters, the discharger shall be liable to the City for reasonable costs necessary to correct such discharge, detriment or adverse effect, including, but not limited to costs of investigation, inspection or re-inspection, and any other costs and expenses incurred by the City in association with the corrective action or the clean-up of the pollutant and its effects.

All costs incurred by the City shall be a personal obligation of the discharger and any owner of any property that is the source of any discharge, and may be recovered by the City by any available legal remedies. In addition to this personal obligation and all other remedies provided by law, the City may collect any judgment, fee, cost or charge, including any permit fees, fines, late charges or interest incurred by it in enforcing the provisions of this chapter.

~~The cost of such abatement and restoration shall be borne by the owner of the property and the cost thereof shall be invoiced to the owner of the property.~~

~~If any violation of this chapter constitutes a seasonal and recurrent nuisance, the City Engineer shall so declare. Thereafter such seasonal and recurrent nuisance shall be abated every year without the necessity of further learning. If the city prevails in any administrative or civil proceedings initiated under this chapter, the city shall be entitled to seek reimbursement for all costs incurred in connection with such proceeding. Such reimbursable costs may include, but are not limited to, the costs of investigation, administrative overhead, out of pocket expenses, costs of administrative hearings, costs of suit, and reasonable attorney fees. (Ord. No. 2350 (NCS), § 1.)~~

Sec. 29-27. Civil actions.

In addition to any other remedies provided in this chapter, any violation of this chapter may be enforced by civil action brought by the City. In any such action, the City may seek, and the court may grant, as appropriate, any or all of the following remedies:

- (a) A temporary and/or permanent injunction;
- (b) Assessment against the violator for the costs of any investigation, inspection, or monitoring survey, which led to the discovery of the violation, and for the reasonable costs incurred in preparing and prosecuting legal action as a result of violations of this Chapter.
- (c) Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation.
- (d) Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life.
- (e) Such other relief as the court may authorize. Assessments under this subsection shall be paid to the City to be used exclusively for costs associated with monitoring and establishing storm water discharge pollution control systems and/or implementing or enforcing the provisions of these standards. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-28. Administrative enforcement powers.

In addition to the other enforcement powers and remedies established in this chapter, the authorized enforcement officer has the authority to utilize the following administrative remedies.

- (a) Cease and Desist Orders. When the authorized enforcement officer finds that a discharge has taken place or is likely to take place in violation of this chapter, the officer 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 a time schedule for compliance, and/or (c) take appropriate remedial or preventive action to prevent the violation from recurring.
- (b) Notice to Clean. Whenever the authorized enforcement officer 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 land, or upon any parcel of land or grounds, which may result in an increase in pollutants entering the City storm drain system or a non-stormwater discharge to the City storm drain system, he or she may give formal written notice to remove such oil, earth, dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or other material in any manner that he or she may reasonably provide. The authorized enforcement officer shall specify in site notice the time allotted for compliance and the recipient of such notice shall undertake the activities necessary to abate such condition within the period of time specified. In the event the owner or operator of a facility fails to conduct the required activities as described in the notice, the authorized enforcement officer may cause such required activities as described in the notice and the cost thereof shall be invoiced to the owner of the property. (Ord. No. 2350 (NCS), § 1.)

(c) Referral. The City may also report violations to the Monterey County Water Resources Agency, State Regional Water Control Board, or California Department of Fish and Game for action as appropriate. Such actions may be taken for failure to respond appropriately to a cease and desist order or if evidence indicates that the violator acted willfully with intent to cause, allow to continue, or conceal discharge in violation of the ordinance.

Sec. 29-29. Authority to arrest or issue citations.

Duly authorized peace officers for the City shall have and are vested with the authority to arrest or cite and release any person who violates the provisions of this chapter, in the manner provided by California Penal Code Section 849.

It is the intent of the City Council that the immunities prescribed in Section 836.5 of the Penal Code which apply to public officers or employees in the discharge of their duties within the course and scope of their employment shall apply to all actions taken by such peace officers or other City employees in discharging their duties in accordance with this part. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-30. Appeal.

Any person, firm, corporation or organization required to perform monitoring, analyses, reporting, and/or corrective activities by the authorized enforcement officer who is aggrieved by the decision of the City Engineer or an authorized enforcement officer may appeal such decision to the City Manager within fifteen days following the effective date of the decision by furnishing written request for an appeal to the City Manager. Upon receipt of such request, the City Manager or his designee may request a report and recommendation from the City Engineer or authorized enforcement officer and shall set the matter for hearing at the earliest practical date. At such hearing, the ~~Engineer-City Manager or his designee shall hear any evidence presented by the appellant and the City Engineer or enforcement officer, may hear additional evidence,~~ and may reject, affirm or modify the authorized enforcement officer's decision. Such decision shall be the City's final administrative determination of the matter. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-31. Judicial review.

The provisions of Sections 1094.5 and 1094.6 of the California Code of Civil Procedure are applicable to judicial review of City decisions pursuant to this chapter. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-32. Remedies not exclusive.

Remedies under this article are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-33. Disclaimer of liability.

The degree of protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific, engineering and other relevant technical considerations. The standards set forth herein are minimum standards and this division

does not imply that compliance will ensure that there will be no unauthorized discharge of pollutants into the waters of the United States. This chapter shall not create liability on the part of the City or any officer or employee thereof for any damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. No. 2350 (NCS), § 1.)

Sec. 29-34. Coordination with hazardous materials inventory and response program.

The first revision of the business plan for any facility subject to the City's hazardous materials inventory and response program shall include a program for compliance with this chapter, including the prohibitions on non-stormwater discharges and illicit discharges, and the requirement to reduce stormwater pollutants to the maximum extent practicable. (Ord. No. 2350 (NCS), § 1.)

~~Sec. 29-33. Confidential information.~~

~~Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs, and from inspections shall be made available to the EPA, state agencies and other local governmental agencies without restrictions. Such information and data shall also be made available to the public or other nongovernmental agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. However, in no event shall stormwater constituents and characteristics be recognized as confidential information.~~

~~Information accepted by the city as confidential shall not be transmitted to any nongovernmental agency or to the general public by the city until or unless the request is received in writing and until ten days after notification of the request has been given to the user by the city. Furthermore, when requested by the person furnishing a report for uses related to this part, the National Pollutant Discharge Elimination System (NPDES) permit, state general industrial stormwater permit and/or state general construction activity water permit, the portions of a report which might disclose trade secrets or secret processes shall not be made available when requested by the public or nongovernmental agencies. However, such portions of such reports shall be made available, without reservation, to the EPA, state agencies or local governmental agencies upon the written request of such agency. (Ord. No. 2350 (NCS), § 1.)~~

~~Sec. 29-34. Special agreements.~~

~~Special agreements and arrangements between the council of the city and any persons or agencies may be established when, in the opinion of the city, unusual or extraordinary circumstances compel special terms and conditions. However, in no event shall any such agreement be interpreted so as to authorize the violation or waiver of applicable standards or requirements as delineated in the city's NPDES permit. (Ord. No. 2350 (NCS), § 1.)~~

Section 2. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Salinas City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, clause and phrase thereof not declared

invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 3. This ordinance shall take effect thirty (30) days from and after its adoption.

SECTION 4. The City Clerk of the City of Salinas is hereby directed to cause the following summary of this ordinance to be published by one (1) insertion in The Salinas Californian, a newspaper of general circulation printed, published, and circulated in the City of Salinas and hereby designated for that purpose by the Council of Salinas:

“Chapter 29 of the Salinas City Code is hereby amended to update and revise the requirements related to stormwater management and discharge control within the City of Salinas.”

This ordinance was introduced and read on the 19th day of June 2007, and passed and adopted on the 10th day of July 2007, by the following vote:

AYES: Councilmembers Barrera, Lutes, Sanchez, Villegas and Mayor Donohue

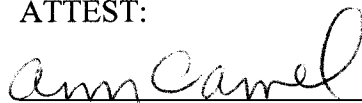
NOES: None

ABSTAIN: None

ABSENT: Councilmembers Barnes, and De La Rosa


Dennis Donohue, Mayor

ATTEST:


Ann Camel, City Clerk

This space is for the County Clerk's Filing Stamp

**PROOF OF
PUBLICATION**
(2015.5 C.C.P.)

STATE OF CALIFORNIA

County of Monterey

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of *The Salinas Californian*, a newspaper of general circulation, printed and published daily except Sunday in the City of Salinas, County of Monterey and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Monterey, State of California; that the notice, of which the annexed is a printed copy (set in type no smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

July 20, 2007

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Executed July 20, 2007

at Salinas, California.

Charlene Clark

Signature

ORDINANCE 2473

**City of Salinas
Ordinance 2473**

Summary of Salinas City Ordinance No. 2473 (NCS): Chapter 29 of the Salinas City Code is hereby amended to update and revised the requirements related to storm water management and discharge control within the City of Salinas. This Ordinance goes into effect 30 days after adoption. For additional detail concerning this amendment, contact the Development and Engineering Services Department at 758-7241. This Ordinance was introduced and read on the 19th day of June 2007, and passed and adopted on the 10th day of July 2007, by the following vote:
AYES: Councilmembers Barrera, Lutes, Sanchez, Villegas, and Mayor Donohue. NOES: None.
ABSENT: Councilmember Barnes and De La Rosa
July 20, 2007 (L9005)