

CHAPTER 15.14 - STORMWATER AND URBAN RUNOFF POLLUTION CONTROL

Sec. 15.14.010. - Title.

This chapter shall be known as the "City of Barstow Storm Water Management and Discharge Control Ordinance."

(Ord. No. 951-2017, § 2, 3-6-2017)

Sec. 15.14.020. - Findings.

- (a) The Federal Clean Water Act (33 USC 1251 et seq.) provides for the regulation and reduction of pollutants discharged into the waters of the United States by extending National Pollutant Discharge Elimination System (hereinafter "NPDES") requirements to storm water and urban runoff discharge into municipal storm drain systems.
- (b) Storm water and urban runoff flows from individual properties onto streets, then through storm drains passing through the City of Barstow (hereinafter "city").
- (c) The city is a co-permittee under the "Waste Discharge Requirements for Small Municipal Separate Storm Sewer System (MS4) Discharges within the Mohave River Watershed (Order No. 2013-0001 DWQ), NPDES Permit No. CAS000004, effective July 1, 2013, issued by the California Regional Water Quality Control Board and any successor permit to that permit (the "Municipal NPDES Permit"), and, as a co-permittee under the Municipal NPDES Permit, the city is required to implement and enforce the requirements contained in the Municipal NPDES Permit, to control discharges to and from those portions of the MS4 over which it has jurisdiction, and to hold dischargers to the MS4 accountable for their contributions of pollutants and flows.
- (d) Section E.6.a(ii)(a) of the Municipal NPDES Permit requires the city to prohibit, for the portion of the MS4 for which it is an owner or operator, non-storm water discharges into the MS4, except where such discharges are identified and in compliance with Section B.3 of the Municipal NPDES Permit.
- (e) In order to control, in a cost effective manner, the quantity and quality of storm water and urban runoff to the maximum extent practicable, the adoption of reasonable regulations, as set forth herein, is essential.

(Ord. No. 951-2017, § 2, 3-6-2017)

Sec. 15.14.030. - Purpose.

- (a) The purpose of this chapter is to ensure the future health, safety and general welfare of the citizens of the city and the water quality of the receiving waters and surrounding areas by:

- (1) Reducing pollutants in storm water discharges to the maximum extent practicable;
 - (2) Regulating illicit connections and illicit discharges and thereby reducing the level of contamination of storm water and dry weather runoff into the MS4; and
 - (3) Regulating non-storm water discharges to the MS4.
- (b) The intent of this chapter is to protect and enhance the quality of watercourses, water bodies, and wetlands within the city in a manner consistent with the Federal Clean Water Act, the California Porter-Cologne Water Quality Control Act and the Municipal NPDES Permit.
 - (c) This chapter is also intended to provide the city with the legal authority necessary to control discharges to and from those portions of the MS4 over which it has jurisdiction as required by the Municipal NPDES Permit, and thereby fully and timely comply with the terms of the Municipal NPDES Permit.
 - (d) This chapter also sets forth requirements for the construction and operation of certain "commercial development," "new development" and "redevelopment" and other projects (as further defined herein) which are intended to ensure compliance with the storm water mitigation measures prescribed in the current version of the Municipal NPDES Permit, a copy of which is on file in the office of the city clerk.
 - (e) This chapter authorizes the authorized enforcement officer to define and adopt applicable best management practices (BMPs) and other storm water pollution control measures, to grant emergency self-waivers from Municipal NPDES Permit requirements, as provided herein in order to conduct repairs of essential public service systems and infrastructure in emergency situations, to cite infractions and to impose fines pursuant to this chapter. This chapter also authorizes the authorized enforcement officer to carry out inspections, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with the provisions of this chapter and the Municipal NPDES Permit. Except as otherwise provided herein, the authorized enforcement officer shall administer, implement and enforce the provisions of this chapter.

(Ord. No. 951-2017, § 2, 3-6-2017)

Sec. 15.14.040. - Definitions.

Except as specifically provided herein, any term used in this chapter shall be defined as that term is defined in the current Municipal NPDES Permit, or if it is not specifically defined in the Municipal NPDES Permit, then as such term is defined in the Federal Clean Water Act, as amended, and/or the regulations promulgated thereunder. The following words and phrases shall have the following meanings when used in this chapter:

Area susceptible to runoff. Any surface directly exposed to precipitation or in the path of runoff caused by precipitation which path leads off the parcel on which the surface is located.

Authorized enforcement officer. The city manager, his/her designee, or any staff empowered by the Municipal NPDES Permit to enforce this chapter.

Best management practices (BMPs). Practices or physical devices or systems designed to prevent or reduce pollutant loading from storm water or non-storm water discharges to receiving waters, or designed to reduce the volume of storm water or non-storm water discharged to the receiving water. Examples of BMPs may include public education and outreach, proper planning of development projects, proper cleaning of catch basin inlets, and proper sludge- or waste-handling and disposal, or treatment requirements, operating procedures, and practices to control site run-off spillage or leaks, sludge or waste disposal, or drainage from raw material storage, among others.

Bioretention. A LID BMP that reduces storm water runoff by intercepting rainfall on vegetative canopy or groundcover, and through evapotranspiration and infiltration.

Construction. Any project, including projects requiring coverage under the construction general permit (CGP), that involves soil disturbing activities including, but not limited to, clearing, grading, paving, disturbances to ground such as stockpiling, and excavation.

Construction general permit. The NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ (NPDES No. CAS000002), adopted September 2, 2009, revised by Order No. 2010-0014-DWG and Order No. 2012-0006-DWQ, and any successor permit to that permit.

Control. To minimize, reduce, eliminate, or prohibit by technological, legal, contractual or other means, the discharge of pollutants from an activity or activities.

Development. Any construction, rehabilitation, redevelopment or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development); industrial, commercial, retail and other nonresidential projects, including public agency projects; or mass grading for future construction. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

Discharge. When used without qualification, means the discharge of a pollutant.

Discharger. Any responsible party or site owner or operator within the permittees' jurisdiction whose site discharges storm water runoff, or a non-storm water discharge.

Discharge of a pollutant. Any addition of any pollutant or combination of pollutants to waters of the United States from any point source or, any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. The term discharge of a pollutant includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man;

discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately-owned treatment works.

Discretionary project. Shall be defined in the same manner as in Cal. Code of Regulations Title 14, § 15357 of the Guidelines for Implementation of the California Environmental Quality Act, as amended, and means a project which requires the exercise of judgment or deliberation when the city decides to approve or disapprove a particular activity, as distinguished from situations where the city merely has to determine.

Disturbed area. An area that is altered as a result of clearing, grading, and/or excavating, unless solely for the purposes of landscape maintenance or fire prevention.

Enforcement response plan. Describes enforcement measures to employ any combination of actions to escalate responses where necessary to correct persistent non-compliance, repeat or escalating violations, or incidents of major environmental harm.

Environmentally sensitive area (ESA). An area in which plant or animal life or its habitats is either rare or especially valuable because of its special nature or role in an ecosystem, and which would be easily disturbed or degraded by human activities and developments (Cal. Public Resources Code §30107.5). Areas subject to storm water mitigation requirements are areas designated as a significant natural area by the California Department of Fish and Game's Significant Natural Areas Program, provided that area has been field verified by the Department of Fish and Game; an area listed in the basin plan as supporting the rare, threatened, or endangered species (RARE) beneficial use; and an area identified by the city as environmentally sensitive.

Hillside. Property located in an area with known erosive soil conditions, where the development contemplates grading on any natural slope that is 25 percent or greater and where grading contemplates cut or fill slopes.

Illicit connection. Any man-made conveyance that is connected to the MS4 without a permit, excluding roof drains and other similar type connections. Examples include channels, pipelines, conduits, inlets, or outlets that are connected directly to the MS4.

Illicit discharge. Any discharge to the MS4 that is prohibited under local, state or federal statutes, ordinances, codes or regulations. This includes all non-storm water discharges, except authorized non-storm water discharges; conditionally exempt non-storm water discharges; and non-storm water discharges resulting from natural flows specifically identified in Section B. of the Municipal NPDES Permit.

Industrial development. Development or redevelopment of property to be used for industrial purposes, such as factories, manufacturing buildings, and research and development parks.

Infiltration. The downward entry of water into the surface of the soil.

Inspection. Entering and conducting an on-site review of a facility and its operations, at reasonable times, to determine compliance with specific municipal or other legal requirements. The steps involved in performing an inspection, include, but are not limited to:

- (1) Pre-inspection documentation research;
- (2) Request for entry;
- (3) Interview of property owner, resident and/or occupant(s);
- (4) Property walk-through;
- (5) Visual observation of the condition of property;
- (6) Examination and copying of records as required;
- (7) Sample collection (if necessary or required);
- (8) Exit discussion (to discuss preliminary evaluation) as appropriate; and
- (9) Report preparation, and if appropriate, recommendations for coming into compliance.

Low impact development (LID). Building or landscape features designed to retain or filter storm water runoff.

Material. Any substance including, but not limited to garbage and debris; lawn clippings, leaves, and other vegetation; biological and fecal waste; sediment and sludge; oil and grease; gasoline; paints, solvents, cleaners, and any fluid or solid containing chemicals.

Municipal NPDES Permit. Waste discharge requirements for small municipal separate storm sewer system (MS4) Discharges within the Mohave River Watershed (Order No. 2013-0001 DWQ), NPDES Permit No. CAS000004, effective July 1, 2013, issued by the California Regional Water Quality Control Board, and any successor permit to that permit.

MS4 (Municipal separate storm sewer system). A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

- (1) Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;
- (2) Designed or used for collecting or conveying storm water;
- (3) Which is not a combined sewer; and
- (4)

Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

New development. Land-disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision. To qualify as new development, the development must occur on an open (pervious) lot that has not formerly been developed.

Non-storm water discharge. Any discharge to the MS4 or from the MS4 into a receiving water that is not composed entirely of storm water.

NPDES permit. NPDES is an acronym for National Pollutant Discharge Elimination System. NPDES is the national program for administering and regulating Sections 307, 318, 402, and 405 of the Clean Water Act (CWA). In California, the State Water Resources Control Board (SWRCB) has issued a General Permit for stormwater discharges.

Parking lot. Land area or a facility for the parking or storage of motor vehicles used for businesses, commerce, industry or personal use.

Pollutant. Those pollutants defined in Section 502(6) of the Federal Clean Water Act (33 USC 1362(6)), or incorporated into California Water Code § 13373. Examples of pollutants include, but are not limited to the following:

- (1) Commercial and industrial waste (such as fuels, solvents, detergents, plastic pellets, hazardous substances, fertilizers, pesticides, slag, ash, and sludge);
- (2) Metals (such as cadmium, lead, zinc, copper, silver, nickel, chromium; and non-metals such as phosphorus and arsenic);
- (3) Petroleum hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants and grease);
- (4) Excessive eroded soils, sediment and particulate materials in amounts which may adversely affect the beneficial use of the receiving waters, flora or fauna of the state;
- (5) Animal wastes (such as discharge from confinement facilities, kennels, pens, recreational facilities, stables, and show facilities);
- (6) Substances having characteristics such as pH less than six or greater than nine, or unusual coloration or turbidity, or excessive levels of fecal coliform, or fecal streptococcus, or enterococcus;
- (7) The term pollutant shall not include uncontaminated storm water, potable water or reclaimed water generated by a lawfully permitted water treatment facility. The term pollutant also shall not include any substance identified in this definition, if through compliance with the BMPs available, the discharge of such substance has been reduced or eliminated to the maximum

extent practicable. In an enforcement action, the burden shall be on the person who is the subject of such action to establish the reduction or elimination of the discharge to the maximum extent practicable through compliance with the BMPs available.

Project. All development, redevelopment, and land-disturbing activities. The term project is not limited to project as defined under the California Environmental Quality Act under California Public Resources Code Section 21065.

Rainfall harvest and use. A LID BMP system designed to capture runoff, typically from a roof but can also include runoff capture from elsewhere within the site, and to provide for temporary storage until the harvested water can be used for irrigation or non-potable uses. The harvested water may also be used for potable water uses if the system includes disinfection treatment and is approved for such use by the local building department.

Redevelopment. Land-disturbing activity that results in the creation, addition or replacement of exterior impervious surface area on a site on which some past development has occurred. Redevelopment does not include trenching, excavation and resurfacing associated with LUPs; pavement grinding and resurfacing of existing roadways; construction of new sidewalks, pedestrian ramps, or bike lanes on existing roadways; or routine replacement of damaged pavement such as pothole repair or replacement of short, noncontiguous sections of roadway. Redevelopment includes, but is not limited to the following activities that meet the minimum standards set forth in this definition:

- (1) The expansion of a building footprint;
- (2) Addition or replacement of a structure;
- (3) Replacement of impervious surface that is not part of a routine maintenance activity; and
- (4) Land-disturbing activities related to structural or impervious surfaces.

Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety.

Regional board. The California Regional Water Quality Control Board—Lahontan Region.

Routine maintenance. Includes, but is not limited to, projects conducted to:

- (1) Maintain the original line and grade, hydraulic capacity, and original purpose of facility;
- (2) Perform as needed restoration work to preserve the original design grade, integrity and hydraulic capacity of flood control facilities;
- (3) Carry out road shoulder work, regrading dirt or gravel roadways and shoulders and performing ditch cleanouts;
- (4)

Update existing lines and facilities, including the replacement of existing lines with new materials or pipes, to comply with applicable codes, standards and regulations regardless of such projects result in increased capacity;

- (5) Repair leaks;
- (6) Conduct landscaping activities without changing existing or natural grades; and
- (7) Conduct brush cleaning and grubbing for fire prevention.

Routine maintenance does not include construction of new lines or facilities resulting from compliance with applicable codes, standards, and regulations. New lines are those that are not associated with existing facilities and are not part of a project to update or replace existing lines.

Runoff. Any runoff, including storm water and dry weather flows from a drainage area that reaches a receiving water body or subsurface. During dry weather it is typically comprised of base flow either contaminated with pollutants or uncontaminated, and nuisance flows.

Site. The land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

Source control BMP. Any schedule of activities, prohibition of practices, maintenance procedures, managerial practices or operational practices that aim to prevent storm water pollution by reducing the potential for contamination at the source of pollution.

Storm water runoff. That part of precipitation (rainfall or snow melt) which travels via flow across a surface to the MS4 or receiving waters from impervious, semi-pervious or pervious surfaces.

Structural BMP. Any structural facility designed and constructed to mitigate the adverse impacts of storm water and urban runoff pollution (e.g. canopy, structural enclosure). Structural BMPs may include both treatment control BMPs and source control BMPs.

Treatment. Any method, technique, or process designed to remove pollutants and/or solids from polluted storm water runoff, wastewater, or effluent.

Treatment control BMP. Any engineered system designed to remove pollutants.

Verbal warnings. Verbal warnings are primarily consultative in nature. At a minimum, verbal warnings shall specify the nature of the violation and required corrective action.

Written notices. Written notices shall include nature of the violation and the required corrective action, with deadlines for taking such action.

(Ord. No. 951-2017, § 2, 3-6-2017)

This chapter shall be construed to assure consistency with the requirements of the Federal Clean Water Act and acts amendatory thereof or supplementary thereto, applicable implementing regulations, and the Municipal NPDES Permit, and any amendment, revision or reissuance thereof.

(Ord. No. 951-2017, § 2, 3-6-2017)

Sec. 15.14.060. - Prohibited activities.

- (a) *Illicit discharges and connections.* No person shall commence, establish, use, maintain, or continue any illicit connections to the Municipal Separate Storm Sewer System (MS4) or any illicit discharges to the MS4. This prohibition against illicit connections applies to the use, maintenance, or continuation of any illicit connection, whether that connection was established prior to, or after the effective date of this chapter.
- (b) *Littering.* Littering on public property is prohibited.
- (c) *Non-storm water discharges.* All non-storm water discharges into the MS4 are prohibited unless those flows are:
 - (1) Compliant with a separate NPDES Permit;
 - (2) Pursuant to a discharge exemption by the regional board, the regional board's executive officer, or the State Water Resources Control Board;
 - (3) Associated with emergency firefighting activities (i.e., flows necessary for the protection of life or property);
 - (4) Conditionally exempt non-storm water discharges as defined in accordance with the Municipal NPDES Permit; or
 - (5) Discharges through the MS4 of material other than storm water to waters of the U.S. shall be effectively prohibited, except as allowed under this provision or as otherwise authorized by a separate NPDES permit. The following non-storm water discharges are not prohibited provided any pollutant discharges are identified and appropriate control measures to minimize the impacts of such discharges, are developed and implemented under the permittee's storm water program. This provision does not obviate the need to obtain any other appropriate permits for such discharges.
 - a. Water line flushing;
 - b. Individual residential car washing;
 - c. Diverted stream flows;
 - d. Rising ground waters;
 - e. Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers;

- f. Uncontaminated pumped ground water;
- g. Discharges from potable water sources;
- h. Foundation drains;
- i. Air conditioning condensation;
- j. Springs;
- k. Water from crawl space pumps;
- l. Footing drains;
- m. Flows from riparian habitats and wetlands;
- n. Dechlorinated swimming pool discharges; and
- o. Incidental runoff from landscaped areas (as defined and in accordance with Section B.4 of this Order).

Discharges or flows from fire-fighting activities are excluded from the effective prohibition against non-storm water and need only be addressed where they are identified as significant sources of pollutants to waters of the U.S.

If city appointed authorized enforcement officer or a regional water board executive officer determines that any individual or class of non-storm water discharge(s) listed above may be a significant source of pollutants to waters of the U.S. or physically interconnected MS4, or poses a threat to water quality standards (beneficial uses), the city or regional water board executive officer may require and enforce an immediate stop of activity, monitor, report, and/or require the implementation of BMPs on the discharge.

- (d) *Discharges in violation of the Municipal NPDES Permit.* Any discharge that would result in or contribute to a violation of the Municipal NPDES Permit, either separately or in combination 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 harmless the city from all losses, liabilities, claims, or causes of actions in any administrative or judicial action relating to such discharge.

(Ord. No. 951-2017, § 2, 3-6-2017)

Sec. 15.14.070. - Exempted discharges, conditionally exempted discharges or designated discharges.

Discharges from those activities specifically identified in or pursuant to Section B.3 of the Municipal NPDES Permit as being exempted discharges, conditionally exempted discharges, or designated discharges shall not be considered a violation of this chapter, provided that any such discharges are consistent with the Municipal NPDES Permit and:

- (a)

Applicable BMPs developed pursuant to the Municipal NPDES Permit are implemented to minimize any adverse impacts from such identified sources;

- (b) The discharger meets all notification, reporting and recordkeeping requirements; and
- (c) The discharger has conducted all applicable monitoring requirements.

(Ord. No. 951-2017, § 2, 3-6-2017)

Sec. 15.14.080. - Requirements for existing properties.

Owners and occupants of property and owners of businesses within the city shall comply with 40 CFR 131.12 including an anti-degradation policy consistent with the federal policy. The State Water Board established California's anti-degradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal anti-degradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Water Board's Water Quality Control Plans (Basin Plans) implement, and incorporate by reference, both the State and federal anti-degradation policies.

May include, but not limited to:

- (a) *Storage of materials, machinery, and equipment.* Machinery or equipment that is to be repaired or maintained in areas susceptible to or exposed to storm water shall be placed in a manner so that leaks, spills and other maintenance-related pollutants are not discharged to the MS4.
- (b) *Removal and disposal of debris from industrial/commercial motor vehicle parking lots.* Industrial/commercial motor vehicle parking lots with more than 25 parking spaces that are located in areas potentially exposed to storm water shall be swept regularly, or other equally effective measures shall be utilized to remove oil, chemicals, debris, or other pollutionnable materials from such parking lots.
- (c) *Best-management practices.* BMPs shall be used in areas exposed to storm water for the removal and lawful disposal of all fuels, chemicals, fuel and chemical wastes, animal wastes, garbage, batteries, or other materials which have potential adverse impacts on water quality.
- (d) *Septic waste.* No person shall leave, deposit, discharge, dump, or otherwise expose any chemical or septic waste in an area where a discharge to city streets or the MS4 may or does occur.
- (e) *Use of water.* Runoff of water used for irrigation purposes shall be minimized to the maximum extent practicable. Runoff of water from the permitted washing down of paved impervious areas shall be minimized to the maximum extent practicable, and diverted so that flow is directed to landscaped areas for infiltration where possible.
- (f)

Food and liquid wastes. Food and liquid wastes generated by nonresidential food service and food distribution sources shall be properly disposed of and in a manner so such wastes are not discharged to the MS4.

- (g) *Maintenance of structural BMPs.* Structural BMPs required by the city or any state or federal agency shall be properly operated and maintained, as specified by an approved storm water mitigation plan, or otherwise determined by the authorized enforcement officer. Records and documentation of such maintenance shall be provided to the public works director upon request.

(Ord. No. 951-2017, § 2, 3-6-2017)

Sec. 15.14.090. - Requirements for industrial/commercial and construction activities.

- (a) Each industrial discharger, discharger associated with construction activity, or other discharger described in any general NPDES permit addressing such discharges, as may be issued by the U.S. Environmental Protection Agency, the State Water Resources Control Board, or the regional board, shall comply with all requirements of such permit and the provisions of this chapter. Each discharger identified in an individual NPDES permit shall comply with and undertake all activities required by such permit. Proof of compliance with any such NPDES permit may be required in a form acceptable to the authorized enforcement officer, or designated representative, prior to the issuance of any grading, building or occupancy permits, or any other type of permit or license issued by the city.
- (b) Non-storm water discharges to the MS4 from industrial, commercial, or construction activities in violation of any applicable NPDES permit or the provisions of this chapter are prohibited.
- (c) Industrial and commercial dischargers and dischargers associated with construction activities shall implement effective BMPs, including source control BMPs, in accordance with the California Storm Water Quality Association (CASQA) Best Management Practice Handbooks or equivalent, as required by Section E.6.a(ii)(e) of the Municipal NPDES Permit unless a particular pollutant generating activity does not occur on a facility's site.

(Ord. No. 951-2017, § 2, 3-6-2017)

Sec. 15.14.100. - Planning and land development program requirements for new development and redevelopment—Low impact development.

- (a) *Objective.* The provisions of this section establish requirements for construction activities and facility operations of development and redevelopment projects to comply with the current Municipal NPDES Permit, to lessen the water quality impacts of development by using smart growth practices, and to integrate low impact development (LID) practices and standards for

storm water pollution mitigation through means of infiltration, evapotranspiration, biofiltration, and rainfall harvest and use. LID shall be inclusive of new development and/or redevelopment requirements.

- (b) *Scope.* This section contains requirements for storm water pollution control measures in development and redevelopment projects and authorizes the city to further define and adopt storm water pollution control measures, and to develop LID principles and requirements, including but not limited to the objectives and specifications for integration of LID strategies, grant alternative compliance measures from the LID requirements for projects that demonstrate technical infeasibility to retain the hydraulic sizing design criteria on-site or where an opportunity exists for regional groundwater replenishment as defined in the Municipal NPDES Permit, and collect funds for projects that are granted alternative compliance measures. Except as otherwise provided herein, the city shall administer, implement and enforce the provisions of this section.
- (c) *Applicability.* This section applies to the following new development and redevelopment projects that are subject to city conditioning and approval for the design and implementation of post-construction controls and other BMPs to mitigate storm water pollution, prior to completion of the project(s), as follows:
 - (1) *Site design measures.* Implementation of site design measures for all projects that create and/or replace (including projects with no net increase in impervious footprint) between 2,500 square feet and 5,000 square feet of impervious surface, including detached single family homes that create and/or replace 2,500 square feet or more of impervious surface and are not part of a larger plan of development. Site design measures as specified in this section are not applicable to linear underground/overhead projects (LUPs).
 - (2) *Regulated projects.* All projects that create and/or replace 5,000 square feet or more of impervious surface (regulated projects) shall require to implement measures for site design, source control, runoff reduction, storm water treatment and baseline hydromodification management.
 - (3) *Priority site-specific projects.* Projects selected based on site activities and operations, location, or hydrologic conditions where pollutants of concern are increased, and/or project requires alternative post-construction treatment strategies.
 - (4) *Source control measures.* Regulated projects with pollutant-generating activities and sources shall be required to implement standard permanent and/or operation source control measures as applicable to meet requirements on the water quality management plan (WQMP).
 - (5) *Low impact development (LID) design standards.* Regulated projects shall implement LID standards designed to reduce runoff, treat storm water, and provide baseline hydromodification management to the extent feasible, to meet the numeric sizing criteria for storm water retention and treatment.

- A. Numeric sizing criteria includes site assessment, and drainage management areas (DMAs) to manage runoff from each DMA using site design measures, source controls and/or storm water treatment and baseline hydromodification measures, as defined in Municipal NPDES Permit.
1. Volumetric criteria:
 - a. The maximized capture storm water volume for the tributary area, on the basis of historical rainfall records, determined using the formula and volume capture coefficients in urban runoff quality management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87 (1998) pages 175-178 (that is, approximately the 85th percentile 24-hour storm runoff event); or
 - b. The volume of annual runoff required to achieve 80 percent or more capture, determined in accordance with the methodology in Section 5 of the CASQA's Stormwater Best Management Practice Handbook, New Development and Redevelopment (2003), using the San Bernardino County 85th percentile precipitation isohyetal map.
 2. Flow-based criteria:
 - a. The flow of runoff produced from a rain event equal to at least 0.2 inches per hour intensity; or
 - b. The flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity as determined from local rainfall records.
- B. After implementation of site design measures, the facilities must be demonstrated to be at least as effective as a bioretention system with the following design parameters:
1. Maximum surface loading rate of five inches per hour, based on the flow rates calculated. A sizing factor of four percent of tributary impervious area may be used.
 2. Minimum surface reservoir volume equal to surface area times a depth of six inches.
 3. Minimum planting medium depth of 18 inches. The planting medium must sustain a minimum infiltration rate of five inches per hour throughout the life of the project and must maximize runoff retention and pollutant removal. A mixture of sand (60 percent—70 percent) meeting the specifications of American Society for Testing and Materials (ASTM) C33 and compost (30 percent—40 percent) may be used.
 4. Subsurface drainage/storage (gravel) layer with an area equal to the surface area and having a minimum depth of 12 inches.
 5. Underdrain with discharge elevation at top of gravel layer.
 6. No compaction of soils beneath the facility, or ripping/loosening of soils if compacted.
 7. No liners or other barriers interfering with infiltration.

8. Appropriate plant palette for the specified soil mix and maximum available water use.
- (6) *Hydromodification measures.* Hydromodification management projects are regulated projects that create and/or replace one acre or more of impervious surface. A project that does not increase impervious surface area over the pre-project condition is not a hydromodification management project.
- A. Post-project runoff shall not exceed estimated pre-project flow rate for the 10-year, 24-hour storm in the following geomorphic provinces.
- (7) *Operation and maintenance (O & M) of storm water control measures.* All regulated projects shall implement an operations and maintenance verification program of signed legal statement accepting responsibility for the O & M of structural control measure(s) until such responsibility is legally transferred to another entity.
- (d) *Issuance of discretionary permits.* No discretionary permit may be issued for any new development or redevelopment project identified in this section until the authorized enforcement officer confirms the project plans comply with the applicable requirements of this section.
- (e) *Issuance of certificates of occupancy.* As a condition for issuing a certificate of occupancy for new development or redevelopment projects identified in this chapter, the authorized enforcement officer shall require property owners or their representative(s) to build all the storm water pollution control BMPs and structural or treatment control BMPs that are shown on the approved project plans and consistent with the storm water mitigation plan and to submit a signed certification statement stating that the site and all structural or treatment control BMPs will be maintained in compliance with the Municipal NPDES Permit, the storm water mitigation plan, and other applicable regulatory requirements.
- (1) If no grading permit has been issued or no construction has begun on a project within a period of 180 days of approval of LID/WQMP plan(s), the LID/WQMP plan(s) for that project shall expire. The authorized enforcement officer may extend the time by written extension for action by the applicant for a period not to exceed 180 days upon written request by the applicant showing that circumstances beyond the control of the applicant prevented the construction from commencing. In order to renew the LID plan(s), the applicant shall resubmit all necessary forms and other data and pay any applicable plan check fees.
- (f) *Transfer of properties subject to requirement for maintenance of structural and treatment control BMPs.*
- (1) The transfer or lease of a property subject to a requirement for maintenance of structural and treatment control BMPs shall include conditions requiring the transferee and its successors and assigns to either:
- A. Assume responsibility for maintenance of any existing structural or treatment control BMP; or

B. To replace an existing structural or treatment control BMP with new control measures or BMPs meeting the current standards of the city and the Municipal NPDES Permit. Such requirement shall be included in any sale or lease agreement or deed for such property. The condition of transfer shall include a provision that the successor property owner or lessee conduct maintenance inspections of all structural or treatment control BMPs at least once a year and retain proof of inspection.

(2) For residential properties where the structural or treatment control BMPs are located within a common area which will be maintained by the community association, appropriate arrangements shall be made with the association regarding the responsibility for maintenance.

(3) If structural or treatment control BMPs are located within an area proposed for dedication to a public agency, they will be the responsibility of the developer until the dedication is accepted.

(g) *CEQA*. Provisions of this section shall be complementary to, and shall not replace, any applicable requirements for storm water mitigation required under the California Environmental Quality Act, Pub. Res. Code §§ 21000 et seq.

(Ord. No. 951-2017, § 2, 3-6-2017)

Sec. 15.14.110. - Scope of inspections.

(a) *Entry to inspect*. The authorized enforcement officer or designated representative may enter property to investigate the source of any discharge to any public street, inlet, gutter, storm drain or any other part of the MS4 located within the jurisdiction of the city.

(b) *Compliance assessments*. The authorized enforcement officer may inspect property for the purpose of verifying compliance with this chapter, including but not limited to:

(1) Identifying products produced, processes conducted, chemicals used and materials stored on or contained within the property;

(2) Identifying point(s) of discharge of all wastewater, process water systems and pollutants;

(3) Investigating the natural slope at the location, including drainage patterns and manmade conveyance systems;

(4) Establishing the location of all points of discharge from the property, whether by surface runoff or through a storm drain system;

(5) Locating any illicit connection or the source of prohibited discharge;

(6) Evaluating compliance with any permit issued relating to a discharge to the storm water drainage system.

(c)

Portable equipment. For purposes of verifying compliance with this chapter, the authorized enforcement officer may inspect any vehicle, truck, trailer, tank truck or other mobile equipment.

- (d) *Records review.* The authorized enforcement officer may inspect all records of the owner or occupant of property relating to chemicals or processes presently or previously occurring on-site, including material and/or chemical inventories, facilities maps or schematics and diagrams, material safety data sheets, hazardous waste manifests, business plans, pollution prevention plans, state general permits, storm water pollution prevention plans, monitoring program plans and any other record(s) relating to illicit connections, prohibited discharges, or any other source of contribution or potential contribution of pollutants to the storm water drainage system.
- (e) *Sample and test.* The authorized enforcement officer may inspect, sample and test any area runoff, soils area (including groundwater testing), process discharge, materials within any waste storage area (including any container contents), and/or treatment system discharge for the purpose of determining the potential for contribution of pollutants to the storm water drainage system. The authorized enforcement officer may investigate the integrity of all storm drain and sanitary sewer systems, any legal nonconforming connection or other pipelines on the property using appropriate tests, including but not limited to smoke and dye tests or video surveys. The authorized enforcement officer may take photographs or video tape, make measurements or drawings, and create any other record reasonably necessary to document conditions on the property.
- (f) *Monitoring.* The authorized enforcement officer may erect and maintain monitoring devices for the purpose of measuring or sampling any discharge or potential source of discharge to the storm water drainage system.
- (g) *Test results.* The owner or occupant of property subject to inspection shall, on submission of a written request, receive copies of all monitoring and test results conducted by the authorized enforcement officer.

(Ord. No. 951-2017, § 2, 3-6-2017)

Sec. 15.14.120. - Fees.

Fees for plan reviews, inspections, violations, corrections, and tasks associated with this chapter will be established in the City of Barstow's Master Fee Schedule.

(Ord. No. 951-2017, § 2, 3-6-2017)

Sec. 15.14.130. - Enforcement.

- (a) *Violations deemed a public nuisance.*

(1)

Any condition caused or permitted to exist in violation of any of the following is hereby determined to be a threat to the public health, safety and welfare, is declared and deemed a public nuisance, and may be abated or restored by any authorized enforcement officer, and a civil or criminal action to abate, enjoin or otherwise compel the cessation of such nuisance may be brought by the city attorney:

- (i) Any of the provisions of this chapter; or
 - (ii) Any failure to comply with any applicable requirement of the planning and land development program or the Municipal NPDES Permit; or
 - (iii) Any false certification or verification, or any failure to comply with a certification or verification provided by a project applicant or the applicant's successor in interest; or
 - (iv) Any failure to properly operate and maintain any structural or treatment control BMP on a property in accordance with an approved storm water mitigation plan, the planning and land development program, or the Municipal NPDES Permit.
- (2) 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, as provided by law or ordinance for the recovery of nuisance abatement costs.
- (b) *Concealment.* Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall constitute a violation of such provision.
- (c) *Civil actions.* In addition to any other remedies provided in this section, any violation of this section may be enforced by civil action brought by the city. In any such action, the city may seek, as appropriate, any or all of the following remedies:
 - (1) A temporary and/or permanent injunction.
 - (2) Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this division.
 - (3) Costs incurred in removing, correcting, or terminating the adverse effects resulting from violation.
 - (4) Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life.
- (d) *Administrative enforcement powers.* In addition to the other enforcement powers and remedies established by this chapter, any authorized enforcement officer has the authority to utilize the following administrative remedies:
 - (1) Cease and desist orders. When an 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:
 - (i) Comply with the requirement to cleanup and abate the discharge(s);

- (ii) Comply with a time schedule for compliance within 72 hours of discharge, spill, or pollutant release, and where high risk spill shall be cleaned up as soon as possible; and
 - (iii) Comply with abatement within 30 days of notification, for uncontrolled sources of pollutants that could pose an environmental threat; and
 - (iv) Take appropriate remedial or preventive action to prevent the violation from recurring.
- (2) Notice to clean. Whenever an authorized enforcement officer finds any oil, earth, debris, 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 pollutants entering the MS4 or a non-storm water discharge to the MS4, he or she may give notice to the owner or occupant of the adjacent property to remove such oil, earth, debris, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or other material, in any manner that he or she may reasonably provide. The recipient of such notice shall undertake the activities as described in the notice.
- (e) *Penalties.* Violation of this chapter shall be an infraction punishable as provided in section 1.01.150 of this Code. Each day that a violation continues shall constitute a separate offense. Costs endured by the city for cleanup, restoration, maintenance, or protection shall be billed to the responsible party in addition to the violation fees of section 1.01.150.
- (f) *Permit revocation.* To the extent the city makes a provision of this chapter or any identified BMP a condition of approval to the issuance of a permit or license, any person in violation of such condition is subject to the permit revocation procedures set forth in this code.
- (g) *Burden of proof.* In an enforcement action, the burden of proof shall be on the person who is the subject of such action to establish that the reduction or elimination of the discharge to the maximum extent practicable has been accomplished through compliance with the best management practices available, including applicable monitoring, notifications and reporting requirements.
- (h) *Remedies.* Remedies under this chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.
- (i) *Reporting.* An enforcement response plan shall obtain records and documentation of the following occurrences as described in the Municipal NPDES Permit:
 - (1) Verbal warnings, and
 - (2) Written notices, and
 - (3) Escalated enforcement measures.
 - a. Citations (with fines);
 - b. Stop work orders;

- c. Explanation of withholding of plan approvals or other authorizations; and
- d. Additional measures, that may include written notices to appropriate regional water board, or authorities of interest, where NPDES compliance(s) is mandated.

(Ord. No. 951-2017, § 2, 3-6-2017)