

Chapter 8.56 - STORMWATER QUALITY MANAGEMENT

Sections:

FOOTNOTE(S):

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Editor's note— Ord. No. 548, § 1, adopted Sept. 9, 2014, has an effective date of 30 days after the date of its passage.

8.56.010 - Title.

This chapter shall be known as the "Stormwater Quality Management Ordinance" of the town of Paradise.

(Ord. No. 548, § 1, 9-9-2014)

8.56.020 - Purpose and intent.

The purpose of this chapter is to protect and promote the health, safety and general welfare of the citizens of the town and to protect and enhance the water quality, beneficial uses, habitats and ecosystems in receiving waters by reducing pollution and pollutant loads discharged in urban runoff from areas within the town's jurisdiction by the maximum extent practicable, and by prohibiting non-stormwater discharges to municipal storm drain systems. This chapter is intended to assist in protection and enhancement of watercourses, water bodies, and wetlands in a manner pursuant to and both compliant and consistent with the Federal Water Pollution Control Act (Clean Water Act, 33 U.S.C. § 1251 et seq.), Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.) and Phase II Small Municipal Separate Storm Sewer (MS4) permit, as such laws and permits are amended and/or renewed.

(Ord. No. 548, § 1, 9-9-2014)

8.56.030 - Definitions.

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

"Best management practices(s) (BMP(s))" means a schedule of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other pollution control practices to infiltrate or retain increased flows generated on developed lands in urban areas or to prevent the discharge of pollution directly or indirectly into stormwater, receiving waters, or stormwater conveyance systems.

BMPs include, but are not limited to: treatment practices and facilities; operating and facility management procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices, and procedures and such other provisions as the town determines appropriate for the control of pollutants.

BMPs shall be consistent with the California Stormwater Quality Association (CASQA) Best Management Practices Handbooks or equivalent.

"Town manager" means the Town Manager of the town of Paradise or his or her designee.

"Clean Water Act" means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

"Commercial activity" means any public or private activity involved in the storage, transportation, distribution, exchange or sale of goods and/or commodities or providing professional and/or non-professional services. "Commercial activity" includes all commercial land uses.

"Construction sites" are sites where activities, including, but not limited to, clearing and grubbing, grading, excavating, demolition, new construction, reconstruction, additions or remodeling of any structure or property are being performed.

"Contamination" is as defined in California Water Code Section 13050(k).

"Discharge" means any release, threatened release, spill, leak, pump, flow, escape, dumping, or disposal of any liquid, semi-solid or solid substance to the storm drain system.

"Discharger" means any person who discharges or causes to discharge, either directly or indirectly, stormwater or any other material into municipal storm drain systems or to natural surface waters.

"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 (49 CFR 105).

"Illicit discharge" or "illegal discharge" means any of the following:

- A. Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Section 8.56.070B of this chapter; or
- B. Any direct discharge to the storm drain system from an illicit connection; or
- C. Any discharge to a storm drain system or surface water that is prohibited under local, regional, state, or federal statutes, or which causes or contributes to a violation of any water quality standard or objective in the Phase II Small MS4 permit, including the introduction of pollution into the storm drain system.

"Illicit connection" means an illicit connection is defined as either of the following:

- A. Any drain or conveyance, either surface or subsurface, which allows or may allow 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 drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or
- B. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the town.

"Industrial activity" means activities subject to NPDES industrial permits as defined in 40 CFR 122.26(b) (14).

"Maximum extent practicable" is a standard for implementation of best management practices to reduce pollutants in stormwater. It is the maximum extent possible taking into account equitable consideration and competing facts, including, but not limited to: the seriousness of the problem, public health risk, environmental benefits, pollutant removal effectiveness, regulatory compliance, ability to implement, cost and technical feasibility.

"National Pollutant Discharge Elimination System (NPDES) stormwater discharge permits" means general, group, and individual stormwater discharge permits which regulate facilities defined in federal NPDES regulations pursuant to the Clean Water Act. The California Regional Water Quality Control Board, Central Valley Region (hereinafter, regional board) and the state water resources control board have adopted general stormwater discharge permits, including but not limited to the general construction activity and general industrial activity permits.

"Natural surface water" means creeks, natural ponds or lakes, wetlands, and shall include any waters of the United States contained within the jurisdictional boundaries of the town. "Natural surface water" does not mean any wet or dry detention or infiltration basin, constructed wetland, stormwater treatment facility, artificial lake or pond or other man-made body of water.

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

"Nuisance" means any "nuisance" established by California Water Code Section 13050(m) or the Paradise Municipal Code.

"Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: sediment discharged from lands lacking effective BMPs due to runoff from impermeable surfaces or runoff from unpaved surfaces impacted by vehicle use; paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind.

"Pollution" means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects the waters for beneficial uses or the facilities which serve these beneficial uses (California Water Code Section 13050(l)(1)).

"Porter-Cologne Act" means the Porter-Cologne Water Quality Control Act and as amended (California Water Code Section 13000 et seq.).

"Premises" means any building, lot, parcel of land, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

"Remediation" means the abatement or removal of pollution or contaminants from land or water (including sediments in waterways) for the general protection of human health and the environment.

"Storm drain system" means publicly-owned facilities operated by the town or Caltrans, by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures which are within the town and are not part of a publicly owned treatment works as defined at 40 CFR 403.3(q).

"Stormwater" means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

"Stormwater pollution prevention plan (SWPPP)" means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, storm drain systems, and/or receiving waters to the maximum extent practicable.

"Super-chlorinated water" means water with chlorine concentrations above four (4) mg/l, often associated with disinfection of new or repaired potable water lines and shock treatment of swimming pools.

"Waters of the state" means any surface water or groundwater (California Water Code Section 13050(e)), including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry stormwater at and during all times and seasons. This definition is broader than "Waters of the United States" as defined at 40 CFR 122.2.

Any terms defined in the Federal Clean Water Act, as amended, or defined in the regulations for the NPDES program issued by the Environmental Protection Agency, as amended, and which are not specifically defined above, shall have the same meaning as set forth in said act or regulation.

(Ord. No. 548, § 1, 9-9-2014)

8.56.040 - Applicability.

This chapter, including any amendments or revisions thereto, shall apply to all water entering the storm drain system generated on or flowing over any developed and undeveloped land lying within the town, unless explicitly exempted in writing by the town manager based on the provisions of this chapter.

(Ord. No. 548, § 1, 9-9-2014)

8.56.050 - Responsibility for administration.

The town manager or his or her designee shall administer, implement, and enforce the provisions of this chapter.

(Ord. No. 548, § 1, 9-9-2014)

8.56.060 - Regulatory consistency.

This chapter shall be construed to assure consistency with the requirements of the Clean Water Act and Porter-Cologne Act and any amendments thereto, or any applicable implementing regulations.

(Ord. No. 548, § 1, 9-9-2014)

8.56.070 - Prohibition of illegal discharges.

It shall be unlawful for any person or entity to discharge or cause to be discharged into the storm drain system or waters of the state any non-stormwater discharges, except as exempted below in this section, or any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. Wastes deposited in proper waste receptacles for the purposes of collection and disposal are exempted from this prohibition.

- A. Illegal discharges from industrial and/or commercial sources into the storm drain system or waters of the state include, but are not limited to, the following and are prohibited, unless the discharge is permitted under a separate NPDES permit other than the town of Paradise Small MS4 permit:
1. Water from the cleaning of gas stations, vehicle service garages, or other types of vehicle service facilities;
 2. Water, cleansers, or solvents from the cleaning of vehicles, machinery or equipment, and other such commercial and industrial activities;
 3. Water from the washing or rinsing of vehicles containing soap, detergents, solvents, or other cleaners;
 4. Water from the washing or rinsing of vehicles, with or without soap, from auto body repair shops;
 5. Water from the cleaning or rinsing of vehicle engine, undercarriage, or auto parts cleaning;
 6. Vehicle fluids;
 7. Mat wash and hood cleaning water from food service facilities;
 8. Food and kitchen cleaning water from food service facilities;
 9. Leakage from dumpsters or trash containers;
 10. Water from the cleaning or rinsing of garbage dumpster areas and areas where garbage is stored or contained;
 11. Water from pressure washing, steam cleaning, and hand scrubbing of sidewalks, gutters, plazas, alleyways, outdoor eating areas, steps, building exteriors, walls, driveways, and other outdoor surfaces;
 12. Deposition of sediment from landscaping activities, such as blowing, sweeping, or washing waste materials into the storm drain system;
 13. Wastewater or cleaning fluids from carpet cleaning;
 14. Swimming pool and spa water;
 15. Wash out from concrete trucks;
 16. Runoff from areas where hazardous substances, including diesel fuel, gasoline and motor oil care stored, except as allowed by Section 8.56.070B of this chapter.
 17. Super-chlorinated water normally associated with the disinfection of potable water systems and swimming pools;
 18. Construction debris, such as, but not limited to, paint, dirt, and wash water; or
 19. Sewage or other forms of pollutants from recreational activities including boating and camping, and from recreational vehicles and boats.

B. Exemptions to prohibited discharges.

1. Discharges from the following activities shall not be prohibited, as long as such activities are properly managed, and except as otherwise provided by this chapter:
 - a. Potable water line flushing or other potable water sources;
 - b. Landscape irrigation and lawn watering not containing pollutants such as sediment, pesticides, or fertilizers;
 - c. Pumped groundwater not containing pollutants;
 - d. Rising groundwater; diverted stream flows, springs and flows from riparian habitats and wetlands;
 - e. Groundwater infiltration not containing pollutants;
 - f. Foundation and footing drains and water from crawl space pumps not containing pollutants;
 - g. Air conditioning condensation;
 - h. Non-industrial roof drains not containing pollutants;
 - i. Flows from firefighting activities and flushing and testing of fire hydrants; and
 - j. Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the state of California under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the town for any discharge to the storm drain system.
2. With written concurrence of the regional board, the town may exempt in writing other non-stormwater discharges which are not a source of pollutants to the storm drain system or waters of the state.
3. If the regional board or the town manager determines based on substantial evidence that a discharge which is otherwise exempt from the prohibitions on discharges causes or significantly contributes to a violation of any receiving water limitation or result in the conveyance of significant quantities of pollutants to surface waters, or is otherwise a danger to public health or safety, the town manager may give written notice to the owner or operator of the facility that the discharge exception shall not apply.

(Ord. No. 548, § 1, 9-9-2014)

8.56.080 - Prohibition of illicit connections.

- A. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- B. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(Ord. No. 548, § 1, 9-9-2014)

8.56.090 - Discharges in violation of industrial or construction activity NPDES stormwater discharge permit.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the town manager prior to or as a condition of a subdivision map, site plan, building permit,

or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

(Ord. No. 548, § 1, 9-9-2014)

8.56.100 - Requirement to prevent, control, and reduce stormwater pollutants.

- A. Authorization to Adopt and Impose Best Management Practices. The town may adopt requirements identifying BMPs for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the state. Where BMP requirements are promulgated by the town or any federal, state of California, or regional agency for any activity, operation, or facility which would otherwise cause the discharge of pollutants to the storm drain system or water[s] of the U.S., every person undertaking such activity or operation, or owning or operating such facility shall comply with such requirements. The town manager will periodically report to the town council on the status of implementation of BMPs, the development of new and effectiveness of existing BMPs, and area-wide BMPs which may be included in BMP guidance documents promulgated by the town or other regional or state agencies.
- B. New Development and Redevelopment. The town may require any owner or person developing real property to identify appropriate BMPs to control the volume, rate, and potential pollutant load of stormwater runoff from new development and redevelopment projects as may be appropriate to minimize the generation, transport and discharge of pollutants. The owner and developer shall comply with the terms, provisions, and conditions of any land use entitlements and building permits which require such BMPs. These BMP requirements may include a combination of structural and non-structural BMPs, and shall include requirements to ensure the proper long-term operation and maintenance of these BMPs.
- C. Construction Sites. Temporary and permanent BMPs to reduce pollutants in any stormwater runoff activities shall be incorporated in any land use entitlement and grading, encroachment, construction or building-related permit (see PMC Title 15.02.300 () Section J104.2 amended). The owner and developer shall comply with the terms, provisions, and conditions of such land use entitlements, building, grading, encroachment, or demolition permits as required by the town.
- D. Responsibility to Implement Best Management Practices. Notwithstanding the presence or absence of requirements promulgated pursuant to subsections A, B and C above, any person or entity engaged in activities or operations, or owning facilities or property which will or may result in pollutants or non-stormwater discharging into stormwater, the storm drain system, or waters of the state shall implement, operate and maintain BMPs to the extent they are technologically achievable to prevent and reduce such pollutants to the maximum extent practicable. The owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or waters of the state. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner or operator's expense.

(Ord. No. 548, § 1, 9-9-2014)

8.56.110 - Requirement to eliminate illegal discharges.

Notwithstanding the requirements of Sections 8.56.150 (), 8.56.160 () and 8.56.170 (), the town manager may require by written notice that a person or entity responsible for an illegal discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges.

(Ord. No. 548, § 1, 9-9-2014)

8.56.120 - Requirement to eliminate or secure approval for illicit connections.

- A. The town manager may require by written notice that a person or entity responsible for an illicit connection to the storm drain system comply with the requirements of this chapter to eliminate or secure approval for the illicit connection by a specified date, regardless of whether the connection or discharges had been established or approved prior to the effective date of this chapter.
- B. If, subsequent to eliminating a connection found to be in violation of this chapter, the responsible person or entity can demonstrate that an illegal discharge will no longer occur, said person or entity may request town approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible party's expense.

(Ord. No. 548, § 1, 9-9-2014)

8.56.130 - Watercourse protection.

Every person or entity owning property through which a watercourse passes, or such owner'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, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. The owner or lessee shall not remove healthy bank vegetation beyond that actually necessary for maintenance, or remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. The property owner or such owner's lessee, shall be responsible for maintaining and stabilizing that portion of the watercourse that is within their property lines in order to protect against erosion and degradation of the watercourse originating or contributed from their property.

(Ord. No. 548, § 1, 9-9-2014)

8.56.140 - Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water[s] of the state from said facility, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. Said person shall also identify, implement, and keep records of BMPs utilized to prevent further spills, dumping, or material disposals that resulted in illegal discharges. In the event of such a release of a hazardous material, said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event of a release of non-hazardous materials, said person shall notify the town public works department in person or by phone or email no later than 5:00 p.m. of the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the town's public works department, within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(Ord. No. 548, § 1, 9-9-2014)

8.56.150 - Authority to inspect.

Whenever necessary to make an inspection to enforce any provision of this chapter, or whenever the town manager has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this chapter, the town manager may enter such premises at all reasonable times to inspect the same and to inspect and copy records related to stormwater compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the town is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry pursuant to California Code of Civil Procedure Section 1822.50—1822.60.

(Ord. No. 548, § 1, 9-9-2014)

8.56.160 - Authority to sample, establish sampling devices, and test.

During any inspection as provided herein, the town manager, or designee, may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities. Upon determination of a violation, the town manager may continue sampling and testing by the town, and seek reimbursement of costs per Section 8.56.210 () and of this chapter, or may request that the person or entity engaged in any activity and/or owning or operating any facility in violation, undertake at such person's or entity's expense such monitoring and analyses and furnish such reports to the town as deemed necessary to determine compliance with this chapter.

(Ord. No. 548, § 1, 9-9-2014)

8.56.170 - Authority to inspect property and request records.

Whenever the town manager has reasonable cause to believe that there exists on any premises any condition which constitutes a violation of this chapter, the town manager, or designee, is empowered to request owner or occupant provides records, such as but not limited to, site plans, connection agreements, operations and maintenance records, documentation of waste disposal, as necessary to determine stormwater compliance.

(Ord. No. 548, § 1, 9-9-2014)

8.56.180 - Enforcement and administration.

Any person violating a provision of this chapter shall be subject to administrative, civil, or criminal liability as provided by law, in this chapter, and in Chapter 1.09 () of this code. When relying on Chapter 1.09 () of this code, the town shall adhere to all procedures set forth therein, including, but not limited to, the procedures for notice, service requirements, hearings, appeals and issuance of citations and fines.

Any person violating a provision of this chapter shall, in addition to administrative civil penalties provided in Chapter 1.09 () of this code, be subject to nuisance abatement procedures as provided by law, in this chapter, and in Chapter 8.04 () of this code.

(Ord. No. 548, § 1, 9-9-2014)

8.56.190 - Primary authority.

The town manager is empowered to use any of the provisions of this chapter and the provisions found in Chapter 8.04 () of this code to correct violations of, and secure compliance with the provisions of this chapter.

(Ord. No. 548, § 1, 9-9-2014)

8.56.200 - Nuisance abatement.

Violation of any provision of this chapter is declared to be a nuisance. The town may, in addition to other authorized procedures set forth in this chapter, take action to abate any nuisance in accordance with the procedures found in Chapter 8.04 () of this code.

(Ord. No. 548, § 1, 9-9-2014)

8.56.210 - Civil actions.

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

- A. A temporary restraining order, preliminary and permanent injunction;
- B. Reimbursement of 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 action under this chapter;
- C. Costs incurred in removing, correcting, or terminating the adverse effect(s) resulting from the violation;
- D. Compensatory damages for loss or destruction of water quality, wildlife, fish and aquatic life. Costs and damages under this subsection shall be paid to the town and shall be used exclusively for costs associated with monitoring and establishing stormwater discharge pollution control systems and/or implementing or enforcing the provisions of this chapter.

(Ord. No. 548, § 1, 9-9-2014)

8.56.220 - Criminal actions.

Any person violating any of the provisions of this chapter shall be guilty of an infraction with fines pursuant to Government Code Section 36900. Any additional violation of this chapter within one year of the first violation shall be prosecuted by the town attorney as a misdemeanor with a fine not to exceed one thousand dollars (\$1,000.00) and/or six (6) months in the county jail; and provided, however, the town attorney shall have the discretion to reduce the misdemeanor to an infraction. Each day such violation is committed or permitted to continue constitutes a separate offense and is punishable as such.

(Ord. No. 548, § 1, 9-9-2014)

8.56.230 - Non-exclusive remedies.

Each and every remedy available for the enforcement of this chapter shall be non-exclusive and it is within the discretion of the town to seek cumulative remedies. Moreover, the remedies available to the town pursuant to this chapter shall not limit the right of the town to seek any other remedy that may be available at law and in equity.

(Ord. No. 548, § 1, 9-9-2014)