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URGENCY ORDINANCE AMENDING CHAPTER 8.80 OF THE SAN BERNARDINO MUNICIPAL CODE PERTAINING TO THE PROTECTION AND REGULATION OF THE CITY'S STORM WATER DRAINAGE SYSTEM AND DECLARING THE URGENCY THEREOF.

WHEREAS, an Areawide Urban Storm Water Run-Off Permit (NPDES Permit No. CAS618036, Order No. R8-2002-0012) adopted by the California Regional Water Quality Control Board Santa Ana Region pursuant to Section 402(p) of the Clean Water Act on April 26, 2002, requires the City of San Bernardino ("City") to regulate its urban storm water drainage system;

WHEREAS, Section VI "Legal Authority/Enforcement" of NPDES Permit No. CAS 618036, Order No. R8-2002-0012 requires that by March 1, 2004, each Permittee shall enact ordinances providing for civil or criminal penalties for violations of their storm drain ordinances.

WHEREAS, this Ordinance does not establish or increase any storm drainage fees but is intended to bring the City of San Bernardino into compliance with NPDES Permit No. CAS 618306, Order No. R8-2002-0012.

THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN BERNARDINO DO ORDAIN AS FOLLOWS:

SECTION 1: Chapter 8.80 of the San Bernardino Municipal Code is hereby amended to read as follows:

CHAPTER 8.80: STORM WATER DRAINAGE SYSTEM

Article 1. Authority, Purpose and Policy, Definitions

- § 8.80.101. Authority
- § 8.80.102. Purpose and Objectives.
- § 8.80.103. Definitions

Article 2. General Conditions and Prohibitions

- § 8.80.201. Administration
- § 8.80.202. Applicability
- § 8.80.203. Notice
- § 8.80.204. Connections
- § 8.80.205. Protection of the Storm Drainage System
- § 8.80.206. Prohibited Discharges
- § 8.80.207. Exceptions to the Prohibited Discharges
- § 8.80.208. Compliance with Best Management Practices (BMPs)
- § 8.80.209. Treatment of Storm Water Runoff
- § 8.80.210. Affirmative Defense
- § 8.80.211. Spill Containment
- § 8.80.212. Immediate Notification of Accidental Discharge
- § 8.80.213. Written Notification of Accidental Discharge
- § 8.80.214. Authority to Inspect

Article 3. Residential Requirements

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2 § 8.80.301. Prohibited Discharges

3 § 8.80.302. Responsibility for Illegal Discharge of Prohibited Substances

4 § 8.80.303. Maintenance of Private Residential Storm Drainage Systems

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7 § 8.80. 401. Non-Storm Water Discharges

8 § 8.80. 402. General Permit for Storm Water Discharges from Industrial Activities

9 § 8.80. 403. Conditional Category – Notice of Non-Applicability

10 § 8.80. 404. Best Management Practices (BMPs)

11

Article 5. Construction Requirements

12

13 § 8.80. 501. Storm Water Quality Management Plan (SWQMP)

14 § 8.80. 502. General Permit for Storm Water Discharges from Construction Activity

15 § 8.80. 503. Non-Storm Water Discharges

16 § 8.80. 504. Non-Storm Water Discharge Reporting Requirements

17 § 8.80. 505. Best Management Practices

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Article 6. Administrative Enforcement Remedies

19

20 § 8.80. 601. Notice of Correction

21 § 8.80. 602. Notice of Violation

22 § 8.80. 603. Administrative Orders

23 § 8.80. 604. Administrative Hearing

24 § 8.80. 605. Administrative Civil Penalties

25 § 8.80. 606. Compensation for Damages

26 § 8.80. 607. Appeals

27 § 8.80. 608. Violations Deemed a Public Nuisance

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Article 7. Judicial Enforcement Remedies

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30 § 8.80. 701. Legal Action

31 § 8.80. 702. Civil Penalties

32 § 8.80. 703. Criminal Prosecution

33 § 8.80. 704. Falsifying Information

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Article 8. General Clauses

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36 § 8.80. 801. Severability

37 § 8.80. 802. City’s Right of Revision

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1 **Article 1. Authority, Purpose, Policy and Definitions**

2 **§ 8.80.101. Authority**

3 This chapter is enacted pursuant to authority conferred by an Areawide Urban Storm Water Run-Off
4 Permit [NPDES Permit No. CAS618036, Order No. R8-2002-0012] issued by the California
Regional Water Quality Control Board Santa Ana Region pursuant to Section 402(p) of the Clean
Water Act.

5 **§ 8.80.102. Purpose and Objectives**

6 The purpose of this chapter is to ensure the health, safety and general welfare of the residents of the
7 City of San Bernardino by prescribing regulations to effectively prohibit non-storm water discharges
into the City’s storm water drainage system and to specifically achieve the following objectives:

- 8 (1) Control discharges from spills, dumping or disposal of materials other than storm water;
- 9 (2) Reduce the discharge of pollutants in all storm water discharges to the maximum extent
10 practicable;
- 11 (3) Protect and enhance the water quality of local, state and federal watercourses, water bodies,
ground water and wetlands in a manner pursuant to and consistent with the Clean Water Act;
- 12 (4) Establish penalties for violations of the provisions of this chapter;
- 13 (5) Provide for the equitable distribution of the cost of the storm water drainage system and
14 storm water pollution abatement programs, and all related services through the establishment of
fair and equitable fees and charges.

15 **§ 8.80.103. Definitions**

16 Whenever in this chapter, the following terms are used, they shall have the meaning respectively
17 ascribed to them in this chapter unless another meaning for the word is apparent from the context.
The definitions in this chapter are included for reference purposes and are not intended to narrow the
18 scope of the definitions set forth in Federal or State law or regulations. Words used in this chapter in
the singular may include the plural and the plural may include the singular. Use of masculine shall
19 also mean feminine and neuter.

- 20 (6) **Act or “the Act”**. The Federal Water Pollution Control Act, also known as the Clean Water
Act, as amended, 33 U.S.C. 1251, *et seq.*
 - 21 (7) **Adjustment**. A determination that the volumetric amount of storm water which enters the
22 storm water drainage system from a premise is deemed to be a defined amount substantially
different from the average storm water drainage.
 - 23 (8) **Area-Wide Urban Storm Water Runoff Permit**. The current, regional NPDES permit
24 issued by the California Regional Water Quality Control Board, Santa Ana Region, to the San
Bernardino County Flood Control District, San Bernardino County and sixteen incorporated
25 cities discharging storm water into the Upper Santa Ana River Basin for the regulation of storm
water discharges from municipal separate storm sewer systems.
 - 26 (9) **Average storm water drainage**. The average amount of storm water drainage which enters
27 the storm water drainage system from a premise, based on runoff factors established by the San
Bernardino County Flood Control District.
- 28

- 1 (10) **“BMP”**. Any Best Management Practice, Best Management Guideline, or Best Management
2 Requirement as adopted by any Federal, State, regional or local agency to prevent or reduce the
3 pollution of Waters of the United States. BMPs also include treatment requirements, operating
4 procedures, and practices to control: plant site runoff, spillage or leaks; sludge or waste storage
5 and disposal; or drainage from raw material or chemical storage.
- 6 (11) **City or “the City”**. Shall refer to the City of San Bernardino, California.
- 7 (12) **City Engineer**. The City Engineer for the City of San Bernardino, or the City Engineer’s
8 designee.
- 9 (13) **Construction Activity**. Any activity used in the process of developing, redeveloping,
10 enhancing, or maintaining land, including but not limited to: land disturbance, building
11 construction, paving and surfacing, storage and disposal of construction related materials.
- 12 (14) **Contamination**. As defined in the Porter-Cologne Water Quality Control Act, contamination
13 is “an impairment of the quality of waters of the state by waste to a degree which creates a
14 hazard to the public health through poisoning or through the spread of disease.
15 ‘Contamination’ includes any equivalent effect resulting from the disposal of waste whether or
16 not waters of the state are affected.”
- 17 (15) **Compliance Schedule**. The time period allowed by the City for a discharger to achieve
18 compliance with the City’s storm water regulations. The Compliance Schedule shall contain
19 specific dates by which adequate treatment facilities, devices, or other related equipment and/or
20 procedures must be installed or implemented.
- 21 (16) **Developed Parcel**. Any lot or parcel of land altered from its natural state by the construction,
22 creation, and addition of impervious area, except public streets or highways.
- 23 (17) **Developer**. A person, firm, corporation, partnership, or association who proposes to
24 develop, develops, or causes to be developed real property for himself or for others except that
25 employees and consultants of such persons or entities, acting in such capacity, are not
26 developers.
- 27 (18) **Dewatering**. The removal and disposal of surface water or groundwater for purposes of
-- preparing a site for construction.
- (19) **Discharge**. Any release, spill, leak, flow or escape of any liquid including sewage,
wastewater or storm water, semi-solid or solid substance onto the land or into the City’s storm
water drainage system.
- (20) **Discharger**. Any person, property owner or occupant of a unit, building, premise or lot in the
City who discharges or causes to be discharged any of the substances listed in Subsection 14
(above) directly or indirectly into the City’s storm water drainage system.
- (21) **EPA**. The Environmental Protection Agency of the United States of America.
- (22) **General Permit For Storm Water Discharges From Construction Activity**. A statewide
General NPDES Permit that regulates all storm water discharges associated with construction
projects that disturb one acre or more of land or which result in the disturbance of less than one
acre, but which are part of a larger common plan of development or sale.
- (23) **General Permit For Storm Water Discharges From Industrial Activities**. A statewide
General NPDES Permit that regulates storm water discharges associated with industrial
activities that are listed in 40 CFR Section 122.26 (b) (14).

- 1 (24) **Hearing Officer.** The City’s Engineer or his designee, who presides, at the administrative
hearings authorized by this chapter and issues final decisions on matters raised therein.
- 2 (25) **Illegal Discharge.** Any discharge (or seepage) into the City’s storm water drainage system
3 that is not composed entirely of storm water except for the authorized discharges listed in
4 Section 8.80.207 of this chapter. Illegal discharges include the improper disposal of wastes into
the storm water drainage system.
- 5 (26) **Illicit Connection.** An illicit connection is defined as either of the following:
- 6 a) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal
7 discharge to enter the storm water drainage system including but not limited to any
8 conveyance which allows non-storm water discharges including sewage, process
9 wastewater and wash water to enter the storm water drainage system and any connections
to the storm water 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
- 10 b) Any drain or conveyance connected to the storm water drainage system, that is not
11 permitted pursuant to a valid NPDES Permit or which has not been documented in plans,
maps or equivalent records approved by the City.
- 12 (22) **Maximum Extent Practicable (MEP).** Refers to the maximum level of pollutant reductions
13 or storm water runoff reductions that must be achieved by treatment, infiltration or a
14 combination of treatment, infiltration and Best Management Practices, taking into account
equitable considerations of synergistic, additive, and competing factors, including but not
15 limited to, gravity of the problem, fiscal and technical feasibility, public health risks, societal
concern, and social benefits, to effectively limit the discharge of pollutants or storm water
runoff into the City’s storm water drainage system.
- 16 (23) **National Pollutant Discharge Elimination System (NPDES).** The EPA’s national program
17 under the Federal Clean Water Act to eliminate discharges of pollution into waters of the
United States.
- 18 (24) **New Development.** Land disturbing activities; structural development, including construction
or installation of a building or structure, creation of impervious surfaces; and land subdivision.
- 19 (25) **NPDES Permit.** Any permit issued pursuant to the Federal Clean Water Act.
- 20 (26) **Non-Structural BMPS.** Any schedules of activities, prohibitions of practices, maintenance
21 procedures, managerial practices or operational practices that aim to prevent storm water
pollution by reducing the potential for contamination at the source of pollution.
- 22 (27) **Notice of Intent (NOI).** A form provided by the State Water Resources Control Board that is
23 required to be completed and submitted in order to obtain coverage under one of the State’s
NPDES General Storm Water Permits prior to the start of certain business activities or
24 construction activities.
- 25 (28) **Non-Storm Water.** Any water discharging to the City’s storm water drainage system that
does not originate from precipitation events.
- 26 (29) **Nuisance.** Any condition described by all of the following:
- 27 a) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the
-- free use of property, so as to interfere with the comfortable enjoyment of life or property.

- 1 b) Affects at the same time an entire community or neighborhood, or any considerable
2 number of persons, although the extent of the annoyance or damage inflicted upon
 individuals may be unequal.
- 3 c) Occurs during, or as a result of, the treatment or disposal of wastes.
- 4 (30) **Permit.** Any permit issued by the City.
- 5 (31) **Permittee**”. The San Bernardino County Flood Control District; San Bernardino County; and
6 each of the sixteen cities in San Bernardino County discharging storm water drainage into the
7 Upper Santa Ana River Basin and regulated by the Areawide Urban Storm Water Run-Off
 Permit.
- 8 (32) **Person.** Any individual, partnership, committee, entity, association, corporation, public agency,
9 and any other organization, or group of persons public or private; the masculine genders shall
 include the feminine, the singular shall include the plural where indicated by the context.
- 10 (33) **pH.** The measure of the hydrogen ion concentration of water and the standard by which the
 acidity or alkalinity of a water sample is determined.
- 11 (34) **Pollutant.** Shall mean, but not be limited to, any liquid, solid or semi-solid substances or
12 combination thereof, which causes a nuisance or contributes to a condition of contamination or
13 pollution of the City’s storm water runoff, storm water drainage system or the impairment or
 degradation of waters of the state, including but not limited to the following:
- 14 a) Floatable materials (such as floatable plastics or wood products, and metal shavings, or
 materials forming films, foam or scum);
- 15 b) Household waste (such as trash, cleaners, toxic or hazardous chemicals, yard wastes,
16 animal fecal materials, used oil, coolant, gasoline and other vehicle fluids);
- 17 c) Metals and non-metals, including compounds of metals and non-metals;
- 18 d) Petroleum hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents,
 coolants and grease);
- 19 e) Domestic sewage from sewer line overflows, septic tanks, porta-potties, boats and
20 recreational vehicles;
- 21 f) Animal wastes (such as wastes from confinement facilities, kennels, pens, stables, and
 show facilities)
- 22 g) Substances having a pH less than 6.5 or greater than 8.5, or unusual coloration, turbidity
23 or odor;
- 24 h) Materials causing an increase in biochemical oxygen demand, chemical oxygen demand or
 total organic carbon.
- 25 i) Materials containing base/neutral or acid extractable organic compounds;
- 26 j) Waste materials and wastewater generated on construction sites from construction
27 activities (such as painting and staining; use of sealants and glues; use of lime; use of
 wood preservatives and solvents; disturbance of asbestos fibers, paint flakes or stucco
 fragments; application of oils, lubricants, vehicle maintenance, construction equipment

1 washing, concrete pouring and cleanup; use of concrete detergents; steam cleaning or
2 sand blasting; use of chemical degreasing or diluting agents; and chlorinated water from
3 potable line flushing;

4 k) Those pollutants defined in Section 1362 (6) of the Federal Clean Water Act; and

5 l) Any other constituent or material, including but not limited to pesticides, herbicides,
6 fertilizers, eroded soils, sediment and particulate materials, in quantities that have been
7 determined by the State or EPA to adversely affect the beneficial uses of waters of the
8 state.

9 (35) **Redevelopment.** The creation or addition of impervious surfaces or the making of
10 improvements to an existing structure on an already developed site; replacement of impervious
11 surfaces that are not part of a routine maintenance activity; and land disturbing activities related
12 with structural or impervious surfaces.

13 (36) **Sewage.** The wastewater of the community derived from residential, agricultural, commercial,
14 or industrial sources, including domestic sewage, and industrial wastewater.

15 (37) **SIC (Standard Industrial Classification).** The Standard Industrial Classification is the
16 statistical classification standard underlying all establishment-based Federal economic statistics
17 classified by industry. The Standard is published in the SIC Manual, 1987, Office of
18 Management and Budget.

19 (38) **Storm Water.** Rain water, snow melt runoff, and associated surface runoff and drainage.

20 (39) **Storm Water Drainage System.** Shall mean all of the property involved in the operation of
21 the storm water drainage collection and disposal system for the City, including, but not limited
22 to, conduits, natural or artificial drains, channels and watercourses, together with
23 appurtenances, pumping stations and equipment which is tributary to the regional storm water
24 runoff system.

25 (40) **Storm Water Pollution Prevention Plan (SWPPP).** The plan as described in the General
26 Construction Activity Storm Water Permit as issued by the State Water Resources Control
27 Board on August 19, 1999 and as may be amended, or the General Industrial Activities Storm
28 Water Permit as issued on April 17, 1997 and as may be amended, which specifies BMPs that
29 will prevent pollutants from contacting storm water and all products of erosion from moving off
30 site into receiving waters.

31 (41) **Storm Water Quality Management Plan (SWQMP).** A plan required of new
32 development/redevelopment projects, outlining appropriate non-structural and structural BMPs,
33 including storm water infiltration and treatment devices that will be implemented and installed
34 to prevent pollutants from being discharged into the City's storm water drainage system, during
35 and after construction.

36 (42) **Structural BMPs.** Any structural facility designed and constructed to remove pollutants from
37 storm water runoff or prevent pollutants from contacting storm water. Examples are canopies,
38 structural enclosures, sediment basins, catch basin inlet filters, grassy swales, and sand and oil
39 interceptors.

40 (43) **Violation.** A breach of any provision of this chapter.

41 (44) **Waters of the State.** Any surface water or groundwater, including saline waters, within the
42 boundaries of the state.

1 **Article 2. General Conditions and Prohibitions**

2 **§ 8.80. 201. Administration**

3 The City Engineer shall administer, implement and enforce the provisions of this chapter. Any
4 powers granted to or duties imposed upon the City Engineer, may be delegated by the City Engineer
to persons authorized by the City Engineer and in the employ of the City of San Bernardino.

5 **§ 8.80. 202. Applicability**

6 This chapter shall apply to all dischargers, including all residents as well as commercial, industrial and
7 construction enterprises, to the City's storm water drainage system, and to dischargers outside the
City who, by agreement with the City, utilize the City's storm water drainage system.

8 **§ 8.80. 203. Notice**

9 Unless otherwise provided herein, any notice required by this chapter shall be in writing and served in
10 person, by first class, registered or certified mail. Notice shall be deemed to have been given at the
time of deposit, postage or prepaid, in a facility regularly serviced by the United States Postal Service.

11 **§ 8.80. 204. Connections**

12 The discharge or diversion of storm water or non-storm water is permissible when the connection to
the City's storm water drainage system is made in accordance with a valid construction permit,
13 approved construction plan, and, if applicable, an NPDES Storm Water permit and the discharge is
not prohibited under Section 8.80. 206. of this chapter.

14 It is prohibited to establish, use, maintain and/or continue any illicit connection to the City's storm
water drainage system. This prohibition is retroactive and applies to connections made in the past,
15 regardless of whether the connection was made under a permit or other authorization or whether the
connection was permissible under the law or practices applicable or prevailing at the time of the
16 connection.

17 Construction permits are required for the construction or modification of any storm drain or conveyor
of drainage waters and appurtenant items within:

- 18 (1) Dedicated easements, rights-of-way, or public place and/or facility.
19 (2) Private property so as it may directly or indirectly discharge into the City's storm water
20 drainage system. Indirect discharges include, but are not limited to, under sidewalk drains,
driveway approaches, and unrestricted sheet flow.
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22 **§ 8.80. 205. Protection of the Storm Water Drainage System**

23 Without the prior written approval of the City's Engineer, no person shall construct, modify or cause
to be constructed or modified any structure, facility or appurtenant items which may alter the normal
24 functioning of the City's storm water drainage system, including any action which may alter the
capacity, fall, or structural integrity of a storm drain, channel or related structures.

25 **§ 8.80. 206. Prohibited Discharges**

26 It is prohibited to:

- 27 (1) Discharge non-storm water directly or indirectly to the City's storm water drainage system, or
any street, lined or unlined drainage channel which leads to the City's storm drain or directly or
--

1 indirectly into any waters of the state unless such discharge is authorized by either a separate
2 NPDES Permit or as otherwise specified in §8.80.207 of this chapter. If such discharge is
permitted by a NPDES permit or is generally exempted, but causes the City to violate any
portion of its NPDES Permits for storm water discharges, such discharge is also prohibited;

- 3 (2) Discharge storm water into the City's storm water drainage system containing pollutants that
4 have not been reduced to the maximum extent practicable;
- 5 (3) Throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or
6 maintained, any refuse, garbage, sediment or other discarded or abandoned objects, articles, and
7 accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or
8 other drainage structures, business place, or upon any public or private lot of land in the City,
so that the same may be and/or may become a pollutant.
- 9 (4) Throw or deposit any refuse, garbage or any other pollutant into any fountain, pond, lake,
stream or any other body of water in a park or elsewhere within the City.
- 10 (5) Discharge any of the following types of waste into the City's storm water drainage system:
 - 11 a) Sewage;
 - 12 b) Surface cleaning wash water resulting from mopping, rinsing, pressure washing or steam
13 cleaning of gas stations, and vehicle service businesses or any other business;
 - 14 c) Discharges resulting from the cleaning, repair, or maintenance of any type of equipment,
15 machinery, or facility including motor vehicles, concrete mixing equipment, portable toilet
16 servicing, etc.;
 - 17 d) Wash water from mobile auto detailing and washing, steam and pressure cleaning, carpet
18 cleaning, drapery and furniture cleaning, etc.;
 - 19 e) Waste water from cleaning municipal, industrial, commercial, and residential areas
20 (including parking lots), streets, sidewalks, driveways, patios, plazas, work yards and
21 outdoor eating or drinking areas, containing chemicals or detergents and without prior
22 sweeping, etc.;
 - 23 f) Storm water runoff from material or waste storage areas containing chemicals, fuels,
grease, oil or other hazardous materials or contaminated equipment;
 - 24 g) Discharges from pool or fountain water containing chlorine, biocides, acids or other
25 chemicals; pool filter backwash containing debris and chlorine;
 - 26 h) Pet waste, yard waste, debris, sediment, etc.;
 - 27 i) Restaurant wastes such as grease, mop water, and wash water from cleaning dishes,
utensils, laundry, floors, floor mats, trash bins, grease containers, food waste, etc.;
 - 28 j) Chemicals or chemical waste;
 - 29 k) Medical wastes;
 - 30 l) Blow down or bleed water from cooling towers and boilers, regenerative brine waste from
water softeners or reverse osmosis treatment systems;
 - 31 m) Materials or chemical substances that cause damage to the City's storm water drainage
32 system;

- 1 n) Any other material that causes or contributes to a condition of contamination, nuisance or
2 pollution in the City's storm drainage system or causes a violation of any waste disposal
3 regulations, waste discharge requirements, water quality standards or objectives adopted
4 by the State Water Resources Control Board, Regional Water Quality Control Board,
EPA, San Bernardino County Fire Hazmat, San Bernardino County Flood Control
District or any other public agency with jurisdiction.

5 **§ 8.80. 207. Exceptions to the Prohibited Discharges**

6 The following discharges of non-storm water into the City's storm drainage system are generally
7 exempt from the Prohibited Discharges listed in Section 8.80.206 of this chapter. However,
8 Subsections 12-22, below, have been identified as potential significant sources of pollutants and
require coverage under the Regional Board's De Minimus permit as well as prior approval by the City
Engineer before discharge (see *note below):

9 Discharges covered by NPDES permits or written clearances issued by the Regional or State Board;

- 10 (1) Landscape irrigation, lawn watering, and irrigation water;
- 11 (2) Water from crawl space pumps;
- 12 (3) Air conditioning condensation;
- 13 (4) Non-commercial car washing;
- 14 (5) Rising ground waters and natural springs;
- 15 (6) Ground water infiltration as defined in 40 CFR 35.2005 (b) (20) and uncontaminated pumped
16 ground water;
- 17 (7) Water flows from riparian habitats and wetlands;
- 18 (8) Water flows generated from emergency response and/or fire fighting activities, however,
19 appropriate BMPs shall be implemented to the extent practicable; BMPs must be implemented
to reduce pollutants from non-emergency fire fighting flow;
- 20 (9) Waters not otherwise containing wastes as defined in California Water Code Section 13050 (d),
- 21 (10) Other types of discharges identified and recommended by the City and approved by the
Regional Water Quality Control Board.
- 22 (11) *Potable water line testing or flushing and other discharges from potable water sources;
- 23 (12) *Water from fire hydrant testing and flushing using appropriate BMPs;
- 24 (13) *Water from passive foundation drains or passive footing drains;
- 25 (14) *Dechlorinated swimming pool discharges;
- 26 (15) *Diverted stream flow;
- 27 (16) *Wastes associated with well installation, development, test pumping and purging;
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1 (17) *Aquifer testing wastes;

2 (18) *Discharges from hydrostatic testing of vessels, pipelines, tanks, etc.;

3 (19) *Discharges from the maintenance of potable water supply pipelines, tanks, reservoirs, etc.;

4 (20) *Discharges from the disinfection of potable water supply pipelines, tanks, reservoirs, etc.;

5 (21) *Discharges from potable water supply systems resulting from system failures, pressure releases, etc.;

6 *Note: The City of San Bernardino requires that a “Non-Storm Water Discharge Notification
7 Form” be submitted to the Development Services Department for approval of these
8 discharges, five days prior to any planned discharges or, as soon as possible, for any
unplanned discharges. The Notification Form is available from the Development Services
Department counter. Monitoring may also be required for these discharges.

9 The Regional Board may issue Waste Discharge Requirements for discharges exempted from NPDES
10 requirements, if identified to be a significant source of pollutants. The Executive Officer of the Board
11 may also add categories of non-storm water discharges that are not significant sources of pollutants
12 or remove categories of non-storm water discharges listed above based upon a finding that the
discharges are a significant source of pollutants. In this case, the list of exempted discharges, above,
would be adjusted accordingly.

13 **§ 8.80. 208. Compliance with Best Management Practices (BMPs)**

14 Any person undertaking any activity or operation in the City of San Bernardino that could potentially
15 cause or contribute to storm water pollution or a discharge of non-storm water shall comply with all
16 applicable Best Management Practices (BMPs) as listed in the California Storm Water Best
17 Management Practice Handbooks or the current, San Bernardino County Storm Water Program’s
“Report of Waste Discharge”, to reduce pollutants in storm water runoff and reduce non-storm water
discharges to the City’s storm water drainage system to the maximum extent practicable or to the
extent required by law.

18 **§ 8.80. 209. Treatment of Storm Water Runoff**

19 If a discharger has the potential to introduce pollutants into the City’s storm water drainage system or
20 is exceeding EPA Parameter Benchmark Values, the City may require the installation of appropriate
21 storm water treatment equipment or devices. These devices shall reduce pollutant constituents to the
degree of reduction attainable through the application of the best management practices to the
maximum extent practicable. Any required treatment equipment or devices shall be provided,
operated, and maintained at the expense of the discharger.

22 Detailed plans showing the treatment device and operating procedures shall be submitted to the City
23 for review, and shall be acceptable to the City before construction or installation of the equipment.
24 The review and approval of such plans and operating procedures will in no way relieve the discharger
from the responsibility of modifying the facility as necessary to treat storm water runoff or prevent the
introduction of storm water pollutants to comply with this chapter.

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1 **§ 8.80. 210. Affirmative Defense**

2 A discharger shall have an affirmative defense in any action brought against it alleging a violation of
3 Section 8.80.206 of this chapter where the discharger can demonstrate it did not know or have reason
4 to know that its discharge, alone or in conjunction with a discharge or discharges from other sources,
5 would cause violation of this chapter or the Areawide Urban Storm Water Runoff Permit.

6 **§ 8.80. 211. Spill Containment**

7 Persons storing chemicals or chemical waste outdoors shall be required to install spill containment
8 subject to requirements established by the City Engineer and Federal, State and County Standards.
9 Persons storing any other materials or equipment that are potential sources of storm water pollution
10 are also required to install spill containment.

11 No person shall operate a spill containment system that could allow incompatible materials and/or
12 wastes to mix, thereby creating hazardous or toxic substances in the event of failure of one or more
13 containers.

14 Spill containment systems shall consist of a system of dikes, walls, barriers, berms and/or other
15 devices designed to contain the spillage of the liquid contents of the containers stored in them and to
16 minimize the buildup of storm water from precipitation, and run-on from roof drainage and outside
17 areas. If the spill containment system does not have a roof which covers the entire contained area, the
18 spill containment system shall have the capacity to contain precipitation from at least a 24 hour, 25
19 year rainfall event plus ten (10) percent of the total volume of the material stored there or the volume
20 of the largest container, whichever is greater. Spill containment systems shall also be constructed of
21 impermeable and non-reactive materials to the materials and/or wastes being contained.

22 Spilled and/or leaked materials and/or wastes and any accumulated precipitation shall be removed
23 from the spill containment system in as timely a manner as is necessary to prevent the overflow of the
24 spill containment system. Unless otherwise approved by the City Engineer, all chemicals or wastes
25 discharged within the spill containment system shall be disposed of in accordance with all applicable
26 Federal, State, and local rules, regulations, and laws, and shall not be discharged into the City's
27 sanitary sewer system, storm water drainage system or onto the ground.

28 **§ 8.80. 212. Immediate Notification of Accidental Discharge**

29 Protection of the City's storm water drainage system from the accidental discharge of prohibited
30 materials or wastes is the responsibility of the person or persons in charge of such material. Detailed
31 plans showing facilities and operating procedures to provide this protection shall be submitted to the
32 City Engineer for review, and shall be approved by the City Engineer prior to any construction. All
33 new and existing dischargers shall complete such a plan. Review and approval of such plans and
34 operating procedures shall not relieve the discharger from the responsibility to modify his or her
35 facility as necessary to meet the requirements of this chapter.

36 A notice shall be permanently posted in a prominent place advising employees whom to contact in the
37 event of an accidental discharge. Employers shall ensure that all employees are advised of the
38 emergency notification procedures. In the event of an accidental discharge, it is the responsibility of
39 the discharger to immediately telephone and notify the proper authorities.

40 All discharges released into the City's storm water drainage system, including a street or gutter, shall
41 be immediately reported to the City's Development Services Department and Fire Department. All
42 discharges that pose a threat to human health or the environment shall be reported to the Executive
43 Officer of the California Regional Water Quality Control Board within 24 hours by telephone or e-
44 mail and followed with a written report of the spill event within 5 days. At minimum, all sewage spills
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1 over 1,000 gallons and all reportable quantities of hazardous materials or hazardous waste shall be
2 reported within 24 hours.

3 **§ 8.80. 213. Written Notification of Accidental Discharge**

4 Within five (5) working days following an accidental discharge into the City's storm water drainage
5 system, the person or persons in charge of the material and/or waste which was accidentally
6 discharged shall submit a written report to the City Engineer. The report shall describe in detail the
7 type and volume of the material and/or waste and the cause of the discharge. The report shall also
8 describe in detail all corrective actions taken and measures to be taken to prevent future occurrences.

9 Such notification of the accidental discharge shall not relieve the user of any fines or civil penalties
10 incurred as a result of the event or any other liability which may be imposed by this chapter or other
11 applicable laws.

12 **§ 8.80. 214. Authority to Inspect**

13 The City Engineer or his designated representative shall be authorized, at any reasonable time, to
14 enter the premises of any discharger to the City's storm water drainage system to determine
15 compliance with the provisions of this chapter, and to:

- 16 (1) Conduct inspection, monitoring, and/or other authorized duties to enforce the provisions of this
17 chapter;
- 18 (2) Review any records, reports, test results or other information required to enforce the provisions
19 of this chapter. Such review may include the necessity to photograph, videotape, or copy any
20 applicable information; and
- 21 (3) Inspect any chemicals, materials, wastes, storage areas, storage containers, and waste
22 generating processes, treatment facilities, and discharge locations. Such inspection may include
23 the necessity to photograph or videotape any applicable chemicals, materials, wastes, storage
24 areas, storage containers, waste generating processes, treatment facilities, and discharge
25 locations.

26 The City Engineer or his designated representative shall provide adequate identification when entering
27 the premises of any discharger. If such entry is refused or cannot be obtained, the City Engineer shall
28 have recourse to every remedy provided by law to secure lawful entry and inspection of the premises.

29 If the City Engineer has reasonable cause to believe that non-storm water discharge conditions on or
30 emanating from the premises are of a nature so as to require immediate inspection to safeguard public
31 health or safety, the City Engineer shall have the right to immediately enter and inspect said property
32 and may use any reasonable means required to effect such entry and make such inspection, regardless
33 if said property is occupied or unoccupied and regardless if formal permission to inspect said property
34 has been obtained.

35 Where a discharger has instituted security measures requiring proper identification and clearance
36 before entry onto the premises, the discharger shall make all necessary arrangements with its security
37 agents in order that, upon presentation of such identification, the City Engineer or his designated
38 representative(s) shall be permitted to enter the premises without delay, for the purpose of performing
39 their authorized duties. For facilities, which require special clearances to conduct inspections, it shall
40 be the responsibility of the discharger to obtain all necessary clearances on behalf of the City so that
41 the inspection is not impaired.

Article 3. Residential Requirements

§ 8.80. 301. Prohibited Discharges

In addition to the General Prohibitions in Section 8.80.206 of this chapter, it is prohibited to discharge any of the following to any street, gutter, alley, sidewalk, storm drain inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land in the City, so that the same may be and/or may become a pollutant:

- (1) Animal waste, soil, leaves, plant and tree cuttings, grass clippings, weeds, dead trees, fertilizer, soil amendments or mulch, and pesticides;
- (2) Concrete or cement waste, brick and tile work wastes, plaster and drywall tool cleanup water, waste paint or painting cleanup water, asphalt or asphalt cleanup solvents or slurry from saw cutting concrete or asphalt and other construction waste;
- (3) Domestic sewage including wastewater from sinks, washing machines, dishwashers, toilets, campers, motorhomes or trailers;
- (4) Chemicals, degreasers, bleach, steam cleaning or pressure washing wastewater;
- (5) Motor oil, antifreeze, gasoline, diesel, kerosene, solvents, battery acid, brake fluid, transmission fluid, power steering fluid, engine cleaning compounds, engine or parts cleaning washwater or rinsewater and any other vehicular fluids;
- (6) Water softener brine waste, or any other waste water from other household water treatment systems;
- (7) Waste water from draining swimming pools, ponds or fountains which contain chlorine biocides, acids or other chemicals, pool filter backwash containing debris and chlorine;
- (8) Discharges from acid cleaning of swimming pools, ponds or fountains or filter cleaning from the same.
- (9) Any other material that causes or contributes to a condition of contamination, nuisance or pollution in the City's storm drainage system or causes a violation of any waste disposal regulations, waste discharge requirements, water quality standards or objectives adopted by the State Water Resources Control Board or Regional Water Quality Control Board.

§ 8.80. 302. Responsibility for Illegal Discharge of Prohibited Substances

The property owner(s) of a lot or parcel from which an illegal discharge originates shall be ultimately responsible for all abatement and cleanup costs associated with the discharge, at his own expense, if the responsible party cannot be located. Likewise, if the tenant of a multi-family residential unit has discharged a prohibited material or waste into the City's storm drainage system or has caused the contamination of storm water runoff from the property by his activities and the City Engineer cannot determine the responsible party or residential unit responsible, the owner of the property from which the discharge originated, shall be responsible for the cleanup and abatement costs to mitigate the condition. Additionally, a property owner shall be responsible for all cleanup costs and damages to the City's storm drainage system from a contractor's activities, if the contractor was hired by the owner and cannot be located.

1 **§ 8.80. 303. Maintenance of Private Residential Storm Drainage Systems**

2 All private residential storm drainage inlets, underdrains and gutters shall be inspected annually and
3 cleaned prior to the beginning of the rainy season if there is evidence of one or more of the following
4 conditions:

- 5 (1) The sediment/debris storage volume is 25 percent or more full;
6 (2) There is evidence of illegal discharge;
7 (3) Accumulated sediment or debris impairs the hydraulic function of the facility.

8 Private streets shall also be swept and maintained as needed to prevent sediment, gardening waste,
9 trash, litter and other contaminants from entering the City’s storm drainage system.

10 **Article 4. Industrial and Commercial Requirements**

11 **§ 8.80 .401. Non-Storm Water Discharges**

12 All non-storm water discharges associated with industrial and commercial activities that discharge
13 into the City’s storm water drainage system are prohibited except as permitted by an individual user’s
14 NPDES Storm Water Permit or Section 8.80. 207 of this chapter.

15 **§ 8.80. 402. General Permit for Storm Water Discharges from Industrial Activities**

16 All businesses who own or operate facilities described in 40 CFR 122.26(b)(14)(i)-(xi) are required to
17 obtain coverage under the State’s General Permit for Discharges of Storm Water Associated with
18 Industrial Activities, at least fourteen (14) days prior to the startup of business activities. All listed
19 businesses are required to submit a completed Notice of Intent (NOI) form, site map and application
20 fee to the State Water Resources Control Board (SWRCB). The SWRCB also requires the listed
21 businesses to prepare a Storm Water Pollution Prevention Plan (SWPPP), retain a copy of the
22 SWPPP on site and comply with all the requirements of the general permit. Copies of the NOI form
23 are available from the City’s Development Services Department.

24 The City of San Bernardino requires that all businesses that have filed an NOI for coverage under the
25 State’s General Permit and have received a Waste Discharge Identification Number (WDID) from the
26 State Water Resources Control Board, either mail, FAX or hand deliver a copy of the WDID letter
27 from the State to the Development Services Department as proof of filing.

28 **§ 8.80. 403. Conditional Category – Notice of Non-Applicability**

29 Businesses who own or operate facilities described in 40 CFR 122.26(b)(14)(xi) may prepare a
30 “NOTICE OF NON-APPLICABILITY” in lieu of an NOI if they can certify on this form provided by
31 the State Water Resources Control Board that there is no manufacturing process, material, equipment
32 or product storage outside in an area that is exposed to storm water runoff. The “Notice of Non-
33 Applicability” must document all of the following:

- 34 (1) All prohibited non-storm water discharges have been eliminated or otherwise permitted;
35 (2) All significant materials related to industrial activity (including waste materials) are not exposed
36 to storm water or authorized non-storm water discharges;
37 (3) All industrial activities and industrial equipment are not exposed to storm water or authorized
38 non-storm water discharges;

- 1 (4) There is no exposure of storm water to significant materials associated with industrial activity
2 through other direct or indirect pathways such as from industrial activities that generate dust
and particulates.

3 Businesses in this category are required to submit the Notice of Non-Applicability to the local office
4 of the California Regional Water Quality Control Board, Santa Ana Region, and are required to
5 maintain the above documentation on-site at all times. They are also required to re-evaluate and
re-certify once a year that the conditions above are continuously met. Copies of the “Notice of Non-
Applicability” form are available from the City’s Development Services Department.

6 **§ 8.80. 404. Best Management Practices (BMPs)**

7 All businesses, regardless of permit status, shall implement all applicable BMPs, as listed in the
8 California Storm Water Best Management Practice Handbooks or the current, San Bernardino
9 County Storm Water Program’s Report of Waste Discharge, to reduce pollutants in storm water
10 runoff and reduce non-storm water discharges to the City’s storm water drainage system to the
11 maximum extent practicable. All structural controls shall also be maintained to effectively prevent
pollutants from contacting storm water or remove pollutants from storm water runoff to the
maximum extent practicable. Maintenance records for structural and treatment devices, including
waste hauling receipts shall be kept for a period of five (5) years and made available to the City’s
inspector, upon request.

12 If structural or treatment controls are not functioning as designed or are not effective in reducing
13 storm water pollutants or non-storm water discharges to the maximum extent practicable, the City
will require that the control device be repaired, rebuilt or replaced.

14 **Article 5. Construction Requirements**

15 **§ 8.80.501. Storm Water Quality Management Plan (SWQMP)**

16 Prior to the issuance of any grading or building permit, all qualifying land development/redevelopment
17 projects, shall submit and have approved a STORM WATER QUALITY MANAGEMENT PLAN
18 (SWQMP) to the City Engineer on a form provided by the City. The SWQMP shall identify all
BMPs that will be incorporated into the project to control storm water and non-storm water
19 pollutants during and after construction and shall be revised as necessary during the life of the project.
The SWQMP submittal applies to construction projects covered by the NPDES General
Construction Permit as well as construction projects less than one acre. Qualifying
development/redevelopment projects include:

- 20 (1) Home subdivisions of 10 units or more. This includes single family residences, multi-family
21 residences, condominiums, apartments, etc.;
- 22 (2) Commercial developments of 100,000 square feet or more. This includes non-residential
23 developments such as hospitals, educational institutions, recreational facilities, mini-malls,
hotels, office buildings, warehouses, and light industrial facilities;
- 24 (3) Vehicle maintenance shops (SIC codes 5013, 5014, 5541, 7532-7534, 7536-7539);
- 25 (4) Food Service businesses developing 5,000 square feet or more of land area;
- 26 (5) All hillside developments on 10,000 square feet or more, which are located on areas with
27 known erosive soil conditions or where the natural slope is twenty-five percent or more;
-

- 1 (6) Developments of 2,500 square feet of impervious surface or more adjacent to (within 200 feet)
2 or discharging directly into environmentally sensitive areas such as areas designated in the
Ocean Plan as areas of special biological significance or water bodies listed on the Clean Water
Act Section 303(d) list of impaired waters;
- 3 (7) Parking lots of 5,000 square feet or more exposed to storm water. Parking lot is defined as
4 land area or facility for the temporary storage of motor vehicles;
- 5 (8) All re-development projects adding 5,000 square feet or more of impervious surface on an
6 already developed site. This includes additional buildings and/or structures, extension of an
already existing building footprint and construction of parking lots, etc.

7 **§ 8.80.502. General Permit for Storm Water Discharges from Construction Activity**

8 Any developer/owner engaging in construction activities which disturb one acre or more of land shall
9 apply for coverage under the General Storm Water Permit for Construction Activity with the State
10 Water Resources Control Board (SWRCB). Any developer/owner engaging in construction activities
11 which disturb less than one acre but are part of a larger common plan of development or sale that is
12 greater than one acre must also apply for coverage under the General Storm Water Permit for
13 Construction Activity with the State Water Resources Control Board (SWRCB). "Construction
14 activity" includes, but is not limited to: clearing, grading, demolition, excavation, construction of new
15 structures, and reconstruction of existing facilities involving removal and replacement that results in
soil disturbance. The owner of the land where the construction activity is occurring is responsible for
obtaining coverage under the permit. Owners may obtain coverage under the General Permit by
completing a "Notice of Intent" form (NOI) and mailing the form along with a vicinity map and the
appropriate fee to the office of the California State Water Resources Control Board. The NOI form
and checklist of items to submit to the state is available from the State Water Resources Control
Board in Sacramento, California or from the City's Development Services Department. In addition,
the owner shall also prepare a Storm Water Pollution Prevention Plan (SWPPP) in accordance with
state requirements.

16 Prior to obtaining any City-issued grading and/or construction permits the developer/owner shall
17 provide evidence of compliance with the General Construction Permit by providing a copy of the
Waste Discharger's Identification Number (WDID) to the City's Development Services Department.

18 **§8.80. 503. Non-Storm Water Discharges**

19 Discharges of non-storm water from construction activities are generally prohibited except for those
20 discharges listed in Section 8.80.207 of this chapter or any discharges authorized by the City Engineer
or the Regional Water Quality Control Board (RWQCB). The City and the RWQCB will allow the
21 discharge of certain non-storm water discharges from construction sites provided that they are in
22 compliance with the discharge limitations specified in the current General Waste Discharge
Requirements for De Minimus Discharges issued by the Regional Water Quality Control Board, Santa
Ana Region.

23 The following discharges are authorized provided they are in compliance with the permit:

- 24 (1) Construction dewatering wastes;
- 25 (2) Wastes associated with well installation, development, test pumping and purging;
- 26 (3) Aquifer testing wastes;
- 27 (4) Dewatering wastes from subterranean seepage, except for discharges from utility company
vaults;
-

- 1 (5) Discharges resulting from hydrostatic testing of vessels, pipelines, tanks, etc.;
- 2 (6) Discharges resulting from the maintenance of potable water supply pipelines, tanks, reservoirs,
etc.;
- 3 (7) Discharges resulting from the disinfection of potable water supply pipelines, tanks, reservoirs,
4 etc.;
- 5 (8) Discharges from potable water supply systems resulting from system failures, pressure releases,
etc.;
- 6 (9) Discharges from fire hydrant testing or flushing;

7 **§8.80. 504. Non-Storm Water Discharge Reporting Requirements**

8 Authorized non-storm water discharges under Section 8.80.503 shall be reported to the City Engineer
9 at least five (5) days prior to a planned discharge. Unplanned discharges of non-storm water into the
10 City’s storm drainage system shall be reported as soon as possible and before any discharge is
11 initiated. The City’s Development Services Department shall provide a “Non-Storm Water Discharge
12 Notification Form” for any developer that is proposing to discharge any non-storm water from a
13 construction site. The Non-Storm Water Discharge Notification Form must be submitted to the
14 Development Services Department for these discharges, at least five days prior to any planned
15 discharge or as soon as possible for any unplanned discharge. Monitoring may also be required for
16 these discharges. If the City provided form is not utilized, a report shall be submitted prior to
17 discharge which includes the following information:

- 14 (1) Type of proposed discharge;
- 15 (2) Estimated average and maximum daily flow rate;
- 16 (3) Frequency and duration of discharge;
- 17 (4) A description of the proposed treatment system (if appropriate);
- 18 (5) A description of the path from the point of discharge to the nearest storm drain inlet.

19 All discharges shall be monitored daily for flow volume and shall be recorded in a daily log by the
20 person responsible for the discharge. Discharges shall also be sampled during the first thirty (30)
21 minutes of each discharge and weekly thereafter for continuous discharges for chlorine and total
22 suspended solids. Monitoring data for flow, chlorine and suspended solids and any other required
23 constituents shall be reported to the City’s Development Services Department on a weekly basis.

22 **§ 8.80. 505. Best Management Practices**

23 All construction projects which could potentially have an adverse impact on the City’s storm water
24 drainage system or waters of the state shall install and/or implement appropriate construction and
25 post-construction BMPs, as listed in their SWQMP or the “California Storm Water Best Management
26 Practice Handbook”, to reduce pollutants to the maximum extent practicable or to the extent required
27 by law.

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Article 6. Administrative Enforcement Remedies

§ 8.80. 601. Notice of Correction (NOC)

Whenever the City Engineer or his designee finds that any discharger has the potential to violate or has already violated any prohibition, limitation or requirement contained in this chapter, any NPDES storm water permit or the Basin Plan, the City may serve upon such person a written Notice of Correction stating the nature of the violation and the necessary actions that must be implemented to correct the situation. The NOC shall stipulate a time period by which the problem must be corrected and the penalties for non-compliance.

§ 8.80. 602. Notice of Violation

When the City Engineer or his authorized representative finds that any discharger has failed to comply with a Notice of Correction or has violated or continues to violate any prohibition, limitation or requirement contained in this chapter, any NPDES storm water permit or the Basin Plan, the City may serve upon such person a written Notice of Violation stating the nature of the violation and the penalties for non-compliance. At a minimum, the Notice of Violation shall require that the discharger submit to the City Engineer, within a time period specified in the notice, a plan indicating the cause of the violation and corrective actions which will be taken to prevent recurrence. A discharger shall be guilty of a separate offense for every day during any portion of which any violation of any provision of this chapter is committed, continued, or permitted by the discharger.

Pursuant to California Government Code Section 53069.4 and 36900.(b) the following administrative fines shall apply to the issuance of a Notice of Violation by the City Engineer or his authorized representative:

- (1) A First Notice of Violation shall be issued for a first violation of this chapter and shall be punishable by an administrative fine not exceeding one hundred dollars (\$100.00);
- (2) A Second Notice of Violation shall be issued for a second violation of this same ordinance within one year and shall be punishable by an administrative fine not exceeding two hundred dollars (\$200.00);
- (3) A Third Notice of Violation shall be issued for a third violation of this same ordinance within one year and shall be punishable by an administrative fine not exceeding five hundred dollars (\$500.00). Each additional violation of the same ordinance within one year shall also be punishable by an administrative fine of \$500.00.

§ 8.80. 603. Administrative Orders

The City Engineer may require compliance with any prohibition, limitation or requirement contained in this chapter, any NPDES storm water permit or the Basin Plan, by issuing an Administrative Order, enforceable in a court of law or by directly seeking court action. Administrative orders may include Compliance Orders, Stop Work Orders, Cease and Desist Orders, Termination of Service Orders and Immediate Termination of Service Orders.

- (1) Compliance Orders - The City Engineer or his designee may issue a Compliance Order to any discharger who fails to correct a violation of this chapter, any NPDES storm water permit or the Basin Plan. The Order shall be in writing, specify the violation(s) and require appropriate compliance measures within a specified time period. The Compliance Order may include the following terms and requirements:

- 1 a) Specific steps and time schedules for compliance as reasonably necessary to eliminate an
2 existing prohibited discharge or illegal connection or to prevent the imminent threat of a
3 prohibited discharge;
4
5 b) Specific requirements for containment, cleanup, removal, storage, installation of overhead
6 covering or proper disposal of any pollutant having the potential to contact storm water
7 runoff;
8
9 c) Installation of stormwater treatment devices, containment structures, wash racks and
10 addition and removal of stormwater drains;
11
12 d) Any other terms or requirements reasonably calculated to prevent imminent threat of or
13 continuing violations of this chapter, including, but not limited to requirements for
14 compliance with best management practices guidance documents promulgated by any
15 federal, state or regional agency.

16 The City Engineer or his designee may adopt a proposed compliance schedule submitted by the
17 user or may adopt a revised compliance schedule if in his judgement, the proposed compliance
18 schedule would allow the user to cause harm to the receiving waters and/or the City's storm
19 drainage system.

20 A Compliance Order shall require the discharger to pay a one thousand dollar (\$1000.00)
21 penalty fee to the City for the issuance thereof.

22 (2) Stop Work Order – The City Engineer or Building Official may serve a written Stop Work
23 Order on any person engaged in doing or causing to be done, new construction, tenant
24 improvements, alterations or additions, if:

- 25 a) No construction permit has been granted by the City;
26
27 b) Work has begun prior to the submittal of a written Storm Water Quality Management
28 Plan (SWQMP) and subsequent approval by the City Engineer or his designee; or,
29
30 c) Violations of this article are found at the site of the new construction, tenant
31 improvements, alterations or additions.

32 Any person served a Stop Work Order shall stop such work forthwith until written
33 authorization to continue is received from the City Engineer or Building Official. A Stop Work
34 Order shall require the discharger to pay a one thousand dollar (\$1000.00) penalty fee to the
35 City for the issuance thereof.

36 (3) Cease and Desist Order – When the City Engineer or his designee finds that any industrial
37 and/or commercial discharger has violated or threatens to violate any prohibition, limitation or
38 requirement contained in this chapter, any NPDES storm water permit or the Basin Plan, or
39 NPDES Storm Water Permit, the City may issue a Cease and Desist Order directing the
40 discharger to:

- 41 a) Immediately discontinue any illicit connection or prohibited discharge to the City's storm
42 water drainage system;
43
44 b) Immediately contain or divert any flow of water off the property, where the flow is
45 occurring in violation of any provision of this chapter;
46
47 c) Immediately discontinue any other violation of this chapter.

1 A Cease and Desist Order shall require the discharger to pay a one thousand dollar (\$1000.00)
2 penalty fee to the City for the issuance thereof.

3 (4) Termination of Service – When the City Engineer finds any industrial and/or commercial
4 discharger, who has a direct connection into the City’s storm water drainage system or has
5 violated an Administrative Order, the City Engineer may terminate storm drain service to the
6 discharger. The discharger shall be liable for all costs for termination of storm drain service
7 incurred by the City. This provision is in addition to any other statues, rules or regulations
authorizing termination of service for delinquency payment or for any other reasons. Storm
drain service shall be re-instituted by the City Engineer after the discharger has complied with
all the provisions of the Administrative Order. The discharger shall also be liable for all costs
for re-instituting storm drain service.

8 (5) Immediate Termination of Service – The City Engineer may immediately suspend storm drain
9 service and any non-storm water discharge permit when such suspension is necessary, in the
10 opinion of the City Engineer, to stop an actual or threatened discharge which presents or may
11 present an imminent or substantial endangerment to the health or welfare of persons or the
12 environment, or which significantly or could significantly cause pollution to the receiving
waters, ground and/or storm drainage system of the City. Any industrial and/or commercial
discharger notified that their storm drain service has been suspended shall immediately cease
and eliminate the discharge into the City storm water drainage system.

13 In the event of failure to comply voluntarily with the Termination of Service Order, the City
14 Engineer shall take appropriate steps, including immediate severance of all applicable storm
15 drain connections. All persons responsible for a discharge that may endanger the health or
16 welfare of the community or the environment shall be liable for all costs incurred by the City in
terminating storm drain service. Storm drain service shall be re-instituted by the City Engineer
after the actual or threatened discharge has been eliminated. A detailed written statement,
submitted by the industrial and/or commercial discharger, describing the cause of the harmful
contribution and the measures to prevent any future occurrence, shall be submitted to the City
Engineer within ten (10) working days of the date of storm drain service termination.

17 **§ 8.80. 604. Administrative Hearing**

18 Any discharger may request, or the City Engineer may order, an administrative hearing, at which time,
19 a discharger who causes or allows, or who has caused or allowed, an unauthorized discharge to enter
20 into the City’s storm water drainage system or who continues to allow a violation of this chapter to
21 exist, may show cause why a proposed enforcement action should not be taken against him. The City
Administrator, or the City Administrator’s designee, shall preside over the administrative hearing, at
which time each party, including the discharger and the City Engineer or his designee, shall have the
right to present evidence.

22 A Notice of Hearing shall be served on the discharger specifying the time and place of the hearing and
23 referencing the specific violation and/or violations of this chapter, the reasons why the action is to be
24 taken and the proposed enforcement action, directing the discharger to show cause before the
Hearing Officer why the proposed enforcement action should not be taken. The Notice of Hearing
shall be served personally or by registered or certified mail, return receipt requested at least ten (10)
25 working days prior to the hearing. Service of the Notice of Hearing may be made on any agent or
officer of the discharger.

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1 **§ 8.80. 605. Administrative Civil Penalties**

2 Pursuant to California Government Code §54739 and §54740.5, the City Engineer may issue an
3 administrative complaint to any person who violates this chapter, any prohibition or limitation thereof
4 or any compliance order, cease and desist order, stop work order or injunction. The administrative
5 complaint shall allege the act or failure to act that constitutes the violation, the proposed civil penalty,
6 and the authority under which it is imposed.

7 The Administrative Complaint, served on the alleged violator by personal delivery or by certified mail,
8 shall inform the person served that a hearing before the City Administrator or the City Administrator's
9 designee shall be conducted within sixty (60) days of the service of the complaint. The right to a
10 hearing may be waived by the person who has been issued the administrative complaint, in which case
11 the City shall not conduct a hearing. A person dissatisfied with the decision of the City Administrator
12 may appeal to the Mayor and Common Council of the City of San Bernardino within thirty (30) days
13 of notice of the City Administrator's decision.

14 If after the hearing, or appeal, if any, it is found that the person has violated reporting or discharge
15 requirements, the City Administrator or Mayor and Common Council may assess a civil penalty
16 against that person. In determining the amount of the civil penalty, the City Administrator or Mayor
17 and Common Council may take into consideration all relevant circumstances, including, but not
18 limited to, the extent of harm caused by the violation, the economic benefit derived through any
19 noncompliance, the nature and persistence of the violation, the length of time over which the violation
20 occurs and corrective action, if any, attempted or taken by the discharger.

21 Civil penalties may be assessed as follows:

- 22 a) In an amount which shall not exceed three thousand dollars (\$3,000) for each day for
23 failing or refusing to timely comply with any compliance order established by the City;
- 24 b) In an amount which shall not exceed five thousand dollars (\$5,000) per violation for each
25 day of discharge in violation of any discharge limitation, areawide urban runoff permit
26 condition, or requirement issued, reissued or adopted by the City;
- 27 c) In an amount which shall not exceed ten dollars (\$10) per gallon for discharges in
28 violation of any stop work order, cease and desist order or other orders, or prohibition
29 issued, reissued, or adopted by the City.
- 30 d) The amount of any civil penalties imposed under this section which have remained
31 delinquent for a period of 60 days shall constitute a lien against the real property of the
32 discharger from which the discharge originated resulting in the imposition of the civil
33 penalty. The lien provided herein shall have no force and effect until recorded with the
34 county recorder and when recorded shall have the force and effect and priority of a
35 judgement lien and continue for 10 years from the time of recording unless sooner
36 released, and shall be renewable in accordance with the provisions of Sections 683.110 to
37 683.220, inclusive, of the California Code of Civil Procedure.

38 All monies collected under this section shall be deposited in a special account of the City and shall be
39 made available for the monitoring, treatment, and control of discharges into the City's storm drainage
40 system or for other mitigation measures.

41 Unless appealed, an order imposing administrative civil penalties shall become effective and final upon
42 issuance thereof, and payment shall become due within thirty (30) days of issuance of an invoice by
43 the City of San Bernardino. Copies of these orders shall be served by personal service or by registered
44 mail upon the party served with the administrative complaint and upon other persons who appeared at
45 the hearing and requested a copy.

1 The City may, at its option, elect to petition the superior court to confirm any order establishing civil
2 penalties and enter judgement in conformity therewith in accordance with the provisions of Sections
3 1285 to 1287.6, inclusive, of the California Code of Civil Procedure.

4 **§ 8.80. 606. Compensation for Damages**

5 Any person who damages monitoring equipment, has the potential to affect or affects human health or
6 the environment, discharges pollutants into the City's storm drainage system which causes or has the
7 potential to cause increased maintenance of the system, non-routine inspection or sampling of the
8 system, system blockages or other damage or interference in the City's storm water drainage system,
9 or causes any other damages, including the imposition of fines or penalties on the City by Federal,
10 State or local regulatory agencies, shall be liable to the City for all damages and additional costs,
11 including fines and penalties. An administrative fee, which shall be fixed by the City Administrator
12 based on the City's current overhead cost allocation percentage, shall be added to these charges and
13 shall be payable to the City within thirty (30) calendar days of invoicing.

14 **§ 8.80. 607. Appeals**

15 Any decision of the City Engineer may be appealed. An appeal must be initiated within ten (10)
16 working days after receipt of the notice of any decision or action by filing, with the City Engineer, a
17 letter of appeal briefly stating therein the basis for such appeal. The hearing on appeal shall be held
18 on a date no more than fifteen (15) working days after receipt of the letter of appeal. The appellant
19 shall be given at least five (5) working days notice of the time and place of the hearing. The City
20 Administrator, or the City Administrator's designee, shall provide the appellant and any other
21 interested party the reasonable opportunity to be heard and in order to show cause why the
22 determination of City Engineer should not be upheld. Within forty-five (45) working days of the
23 hearing, the City Administrator, or the City Administrator's designee, shall make a written decision
24 regarding the appeal. The decision of the City Administrator, or the City Administrator's designee,
25 shall be final. The imposition of fines or penalties shall be stayed during the appeal period.

26 **§ 8.80. 608. Violations Deemed a Public Nuisance**

27 In addition to the penalties established by this Chapter, any threat to public health, safety or welfare
28 shall be declared and deemed a public nuisance. Such public nuisance may be summarily abated
29 and/or remedied by the City Engineer, and/or civil action to abate, enjoin or otherwise compel the
30 cessation of such nuisance may be taken by the City Attorney.

31 The cost of such abatement, remediation and/or restoration shall be borne by the owner, lessee or
32 tenant of the property causing the violation. The cost thereof shall be a lien upon and against the
33 property and such lien shall continue in existence until the same shall be paid.

34 **Article 7. Judicial Enforcement Remedies**

35 **§ 8.80. 701. Legal Action**

36 The City Attorney may commence an action for appropriate legal, equitable or injunctive relief in the
37 Municipal or Superior Court of the County against any person who has violated or continues to
38 violate any provision of this chapter, the Basin Plan, federal or state discharge standards or permit
39 conditions, or who violates the requirements of any Administrative Order.

40 In addition to the penalties provided in this chapter, the City Engineer may recover all reasonable
41 attorney fees, court costs, court reporter's fees, expenses of litigation by appropriate suit of law
42 against the person(s) found to have violated any provision of this chapter or the orders, rules,
43 regulations and permits issued thereunder and other expenses associated with enforcement activities,

1 including sampling and monitoring expenses, and the cost of any actual damages incurred by the City
of San Bernardino.

2 **§ 8.80. 702. Civil Penalties**

3 Persons who continue to violate any provision of this chapter shall be liable to the City for a
4 maximum civil penalty of twenty five thousand dollars (\$25,000) but not less than three thousand
dollars (\$3,000.00) per violation per day. In the case of a monthly or other long-term average
5 discharge limit, penalties shall accrue for each day during the period of the violation.

6 In determining the amount of civil liability, the Court shall take into account all relevant
circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude
7 and duration of the violation, any economic benefit gained through the discharger's violation,
corrective actions by the discharger, the compliance history of the discharger, and any factor as justice
8 requires.

9 Filing a suit for civil penalties shall not be a bar against, or a prerequisite for taking any other action
against a discharger. The City may institute further legal action to collect such penalties in the event
10 that the violator of this chapter fails or refuses to pay said penalty within thirty (30) days from the
date that it has been assessed.

11 **§ 8.80. 703. Criminal Prosecution**

12 Any person who willfully or negligently violates any provision of this chapter or permit conditions, or
who violates any Administrative Order or any other provision of this chapter is guilty of a
13 misdemeanor, which, upon conviction, is punishable by a fine of not less than three thousand dollars
(\$3,000.00) and/or by imprisonment for a period of not more than six (6) months. Each such person
14 shall be deemed guilty of a separate offense for every day during any portion of which any violation of
any provision of this chapter is committed, continued or permitted by such discharger, and shall be
15 punishable therefore as provided by this section.

16 **§ 8.80. 704. Falsifying Information**

17 Any person who knowingly makes any false statements, representations, or certifications in any
application, record, report, plan, or other documentation filed, or required to be maintained, pursuant
18 to this chapter, storm water permit, or order issued hereunder, or who falsifies, tampers with, or
knowingly renders inaccurate any monitoring device or method required under this ordinance is guilty
19 of a misdemeanor, which, upon conviction is punishable by a fine of not less than three thousand
dollars (\$3,000.00) per day of violation and/or by imprisonment for a period of not more than six (6)
20 months.

21 **Article 8. General Clauses**

22 **§ 8.80. 801. Severability**

23 If any provisions, paragraph, word, section or article of this Chapter is invalidated by any court of
24 competent jurisdiction, the remaining provisions, paragraph, words, sections, and other chapters, shall
not be affected and shall continue in full force and effect.

25 **§ 8.80. 802. City's Right of Revision**

26 The Mayor and Common Council may establish by ordinance and/or resolution more stringent
27 limitations and requirements related to discharges into the City's storm water drainage system, if
deemed necessary.

1 **SECTION 2:** Statement of Urgency.

2 NPDES Permit No. CAS618036, Order No. R8-2002-0012, issued by the California Regional Water
3 Quality Control Board, Santa Ana Region, requires that the City of San Bernardino enact ordinances
4 by March 1, 2004, providing for civil or criminal penalties for violations of the City's storm drain
5 ordinances. Adoption of this Urgency Ordinance will fullfill this legal requirement.

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1 **URGENCY ORDINANCE AMENDING CHAPTER 8.80 OF THE SAN BERNARDINO**
2 **MUNICIPAL CODE PERTAINING TO THE PROTECTION AND REGULATION OF THE CITY'S**
3 **STORM WATER DRAINAGE SYSTEM AND DECLARING THE URGENCY THEREOF.**

3 I HEREBY CERTIFY that the foregoing Ordinance was duly adopted by the Mayor and
4 Common Council of the City of San Bernardino at a _____ meeting thereof, held on the ____
5 day of _____, 2004, by the following vote, to wit:

6 Council Members:	AYES	NAYS	ABSTAIN	ABSENT
7 ESTRADA	_____	_____	_____	_____
8 LONGVILLE	_____	_____	_____	_____
9 MC GINNIS	_____	_____	_____	_____
10 DERRY	_____	_____	_____	_____
11 KELLEY	_____	_____	_____	_____
12 JOHNSON	_____	_____	_____	_____
13 MC CAMMACK	_____	_____	_____	_____

13 _____ City Clerk

14 The foregoing Ordinance is hereby approved this _____ day of _____, 2004.

16 _____ Judith Valles, Mayor
17 City of San Bernardino

18 Approved as to
19 form and legal content:
20 JAMES F. PENMAN,
21 City Attorney

21 By: _____

23 ***Note: This urgency ordinance is effective as of March 1, 2004. Copies***
24 ***of the signature page are on file in the City Clerk's Office.***

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