

## **Title 14**

### **WATERCOURSES**

#### **Chapters:**

- 14.04 General Provisions**
- 14.06 Definitions**
- 14.08 Permits Required**
- 14.10 Appeal**
- 14.14 Enforcement**
- 14.16 Storm Drain Fee**
- 14.18 Floodplain Regulations**
- 14.20 Storm Water Management and Discharge Control**



**Chapter 14.04****GENERAL PROVISIONS**

## Sections:

14.04.010 Purpose and intent of provisions –  
More stringent regulations to control.

**14.04.010 Purpose and intent of provisions –  
More stringent regulations to  
control.**

It is the purpose of the City Council in establishing the regulations codified in this title to protect persons and property against water damage and flood hazards as specified in Chapter 14.18 CVMC. It is the intent of the Council to afford greater protection for said persons and property from damage resulting from the obstruction or diversion of drainage ways and watercourses. This title is also intended to protect persons and property from damage resulting from the construction of inadequate or improper facilities for the conveyance of surface runoff and storm waters to the City's receiving waters.

It is the further purpose of the City Council in establishing the regulations codified in this title to protect and promote the health, safety, and general welfare of the citizens of the City by prohibiting and preventing the discharge of non-storm water to the storm water conveyance system and by reducing pollutants in storm water discharges to the maximum extent practicable in order to achieve applicable water quality objectives for surface waters in San Diego County. It is the intent of the Council to protect and enhance the water quality of our watercourses, water bodies, and wetlands in a manner pursuant to and consistent with state and federal law.

In case of conflict between the regulations imposed by this title and any other provision of law or of this code, the more stringent regulation shall apply. (Ord. 3098, 2007; Ord. 2597 § 1, 1994; Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.100).

**Chapter 14.06****DEFINITIONS**

## Sections:

14.06.010 Definitions generally.

14.06.020 Director.

14.06.030 *Repealed.*

**14.06.010 Definitions generally.**

Whenever the following words are used in this title, they shall have the meaning ascribed to them in this chapter or Chapter 14.20 CVMC. (Ord. 2597 § 2, 1994; Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.101).

**14.06.020 Director.**

“Director” means the Director of Public Works of the City. (Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.101(B)).

**14.06.030 Watercourse.**

*Repealed by Ord. 2597 § 3, 1994.* (Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.101(A)).

## Chapter 14.08

### PERMITS REQUIRED

#### Sections:

- 14.08.010 Acts requiring permits designated.
- 14.08.020 Emergency work – Permit required when.
- 14.08.030 Issuance conditions – Liability.
- 14.08.040 Application for permit – Required when – Contents to include plans and specifications.
- 14.08.050 Fees – Payment generally.
- 14.08.090 Requirements for other permits preserved.
- 14.08.100 Issuance conditions – Authority of director.
- 14.08.110 Period of validity – Extension of time – Renewal and reapplication.
- 14.08.120 Work to be completed when – Extension of time – Approval and inspection of work.
- 14.08.130 Changes in work – Authorization required.
- 14.08.140 Nontransferability.
- 14.08.150 Bond – Required when – Amount.
- 14.08.160 Bond – Instrument of credit or deposit accepted in lieu of when.
- 14.08.170 Bond or instrument of credit – Conditions required.
- 14.08.180 Bond or instrument of credit – Scope of obligation.
- 14.08.190 Bond or instrument of credit – Term of effectiveness.
- 14.08.200 Bond or instrument of credit – Effect of failure to complete work or comply with conditions.
- 14.08.210 Bond or instrument of credit – Effect of partial acceptance of work.

#### **14.08.010 Acts requiring permits designated.**

No person shall do or commit, or cause to be done or committed, any of the following described acts without first obtaining a written permit from the Director:

- A. Impair or impede the flow of water running in a watercourse;
- B. Deposit any material of any kind in a watercourse so as to obstruct it, or to impair or impede the flow of water therein;
- C. Alter the surface of land, by construction, excavation, embankment or otherwise, so as to reduce the capacity of a watercourse;

D. Construct, alter, repair or remove any flood control or storm water drainage structure, facility or channel of or in a watercourse;

E. Construct or place any structure in, upon or across a watercourse;

F. Plant any vegetation, other than grasses or annual crops, within a watercourse or on the banks thereof;

G. Commit any act on or in any easement dedicated, granted or reserved for flood control or drainage purposes that will impair the use of such easement for such purposes. (Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.102).

#### **14.08.020 Emergency work – Permit required when.**

CVMC 14.08.010 does not prohibit any person from performing emergency maintenance or work within, upon, over, under or through any watercourse, when such work is necessary and proper for the preservation of life or property and when an urgent necessity therefor has arisen; provided, that the person performing such emergency work applies for a written permit for such work within five calendar days after the commencement thereof, and complies with all the terms and conditions of the permit so issued. In any action at law or in equity between the City and the person doing the emergency work, the latter shall have the burden of proving that an emergency existed if such question be in issue. (Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.103).

#### **14.08.030 Issuance conditions – Liability.**

Watercourse permits required by this title shall be issued by the Director, subject to such conditions as may be imposed pursuant to this title or as may be required by law. Neither the issuance of a permit, nor compliance with the conditions thereof or with the provisions of this title, shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property, nor impose any liability on the City, its officers or employees for damage to persons or property. (Ord. 2597 § 4, 1994; Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.104).

#### **14.08.040 Application for permit – Required when – Contents to include plans and specifications.**

A separate application for a permit shall be made for each act listed in CVMC 14.08.010; except, that only one application need be made for two or more such acts which are done on the same

parcel or lot and which are part of a unified plan of development or improvement. Plans and specifications shall be submitted with each such application, unless waived by the director for small and unimportant work. Such plans and specifications shall be prepared or approved and signed by a registered civil engineer, and shall show the following:

A. The place where such construction, reconstruction, repair or alteration is to take place;

B. The type of construction proposed to be used in such construction, reconstruction, repair or alteration, or the type of obstruction or fill proposed to be used, together with materials to be used shown on the accompanying diagram of the proposed work, and such other information as the department of public works may require to carry out the purposes of this title. (Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.105).

#### **14.08.050 Fees – Payment generally.**

There shall be the fees set forth in the master fee schedule as presently designated, or as may be in the future amended, for permits authorized by this division. (Ord. 2466 § 9, 1991; Ord. 1809 § 1, 1978; Ord. 1032 § 1, 1967; prior code § 26.106).

#### **14.08.090 Requirements for other permits preserved.**

A permit issued pursuant to this title does not relieve the permittee of the responsibility for securing the required permits for work to be done which is regulated by any other provision of this code, and city ordinance or state law. (Ord. 2597 § 5, 1994; Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.107).

#### **14.08.100 Issuance conditions – Authority of director.**

After the applicant has paid the required fees and complied with all conditions precedent, the director shall issue the permit, unless it appears to him that the work proposed would significantly restrict the carrying capacity of a watercourse or would create an unreasonable hazard of flood or inundation to persons or property; provided, however, that the director shall issue the permit subject to conditions which shall be specifically set forth in the permit, if the director determines that by doing so there would be created no such restriction of carrying capacity or unreasonable hazard. (Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.108).

#### **14.08.110 Period of validity – Extension of time – Renewal and reapplication.**

The permittee shall begin the work authorized by the permit within 60 days from the date of issuance, unless a different date for commencement of work is set forth in the permit. Should the work not be commenced as specified herein, then the permit shall become void; provided, however, that if prior to or within 30 days after the date established for commencement of work the permittee makes written request to the director for an extension of time, setting forth the reasons for the required extension, the director may grant additional time if in his opinion such an extension is warranted. A permit which has become void by reason of noncommencement of work, and the fact that no extension for commencement has been granted, may be renewed at the discretion of the director and upon payment of a renewal fee; if the director does not consent to such renewal, a permit may be granted only upon the following of the procedures herein established for an original application. (Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.109).

#### **14.08.120 Work to be completed when – Extension of time – Approval and inspection of work.**

The permittee shall complete the work authorized by the permit within 180 calendar days, unless some other time is specified in the permit; provided, that if he is unable to do so he may make written request to the director for an extension of time to complete the work at any time prior to the date specified for completion, which request the director shall grant if in his opinion such extension is warranted and would not create an unreasonable hazard of flood or inundation to persons or property. The permittee shall notify the director in writing of completion of the work authorized, and no work shall be deemed to have been completed until approved in writing by the director following such written notification. The director may cause inspections of the work to be made periodically during the course thereof and may make a final inspection following the completion of work; the permittee shall cooperate with the director in making such inspections. (Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.110).

#### **14.08.130 Changes in work – Authorization required.**

No changes may be made in the location, dimensions, materials or character of the work authorized in a permit, except upon written authorization of

the director. (Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.111).

**14.08.140 Nontransferability.**

A permit issued pursuant to this title is not transferable from person to person, or from property to property, for any reason or in any manner whatsoever. (Ord. 2597 § 6, 1994; Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.112).

**14.08.150 Bond – Required when – Amount.**

A permit shall not be issued where the value of the work is estimated by the director to be \$100,000 or more, unless the permittee first posts with the director a bond executed by the permittee and a corporate surety authorized to do business in this state as a surety. The bond shall be in a form approved by the city attorney and in an amount of 30 percent of the estimated cost of the work authorized by the permit, except that the director may waive all or part of the amount to the extent that he determines that the hazard or danger created by the work does not justify the full amount. The bond shall include penalty provisions for failure to complete the work on schedule. (Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.113(A)).

**14.08.160 Bond – Instrument of credit or deposit accepted in lieu of when.**

In lieu of a surety bond, the applicant may file with the city a cash bond or an instrument of credit approved by the city attorney in an amount equal to that which would be required for the surety bond. (Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.113(B)).

**14.08.170 Bond or instrument of credit – Conditions required.**

Every bond and instrument of credit shall include, and every cash deposit shall be made on, the conditions that the permittee shall:

- A. Comply with all applicable laws, ordinances and provisions of this code;
- B. Comply with all the terms and conditions of the permit, to the satisfaction of the director; and
- C. Complete all work contemplated under the permit within the time limit therein specified, or if no time limit is therein specified, then within the time limit specified in this title. (Ord. 2597 § 7, 1994; Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.113(C)).

**14.08.180 Bond or instrument of credit – Scope of obligation.**

Each bond, instrument of credit and cash deposit shall be made on and subject to the condition that no change, extension of time, alteration or addition to the terms of the permit or to the work contemplated thereunder, or the plans and specifications submitted in connection with the same, shall in any wise affect the obligation of the surety on said bond, instrument of credit or cash deposit and, further, that the surety waives notice of any such change, extension of time, alteration or addition. (Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.113(D)).

**14.08.190 Bond or instrument of credit – Term of effectiveness.**

Each bond and instrument of credit shall remain in effect until the completion of the work to the satisfaction of the director. (Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.113(E)).

**14.08.200 Bond or instrument of credit – Effect of failure to complete work or comply with conditions.**

In the event of failure to complete the work, or failure to comply with all terms and conditions of the permit, the director may order such work as in his opinion is necessary to eliminate any dangerous conditions and to leave the site in a safe condition, or may order that the work authorized by the permit be completed to a safe condition, to his satisfaction. The permittee, and the surety on the bond or the person issuing the instrument of credit or making the cash deposit, shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by the city in causing any and all such work to be done. In case of a cash deposit, any unused portion thereof shall be refunded to the person posting the same, following completion of the work. (Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.113(F)).

**14.08.210 Bond or instrument of credit – Effect of partial acceptance of work.**

If the permit so provides, there may be a partial acceptance of the work by the director from time to time, and a concomitant partial release of the security. (Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.113(G)).

**Chapter 14.10****APPEAL**

## Sections:

- 14.10.010 Procedure for filing.  
 14.10.020 Findings necessary for granting appeal.

**14.10.010 Procedure for filing.**

Any person aggrieved by the refusal of the director to grant a watercourse permit pursuant to Chapter 14.08 CVMC or by the imposition of a condition on such permit may appeal to the City Council. The appeal shall be filed in duplicate, one copy with the Director and one copy with the City Clerk. The City Clerk shall then set the appeal for public hearing in the manner provided in this code relating to appeals on zoning matters as contained in CVMC Title 19. (Ord. 2597 § 8, 1994; Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.114).

**14.10.020 Findings necessary for granting appeal.**

The City Council shall grant the permit or modify or delete the condition, as sought for by said appeal, only if it finds all of the following to be true:

A. That the applicant would suffer substantial injury or detriment by the refusal to grant the permit or modify or delete the conditions;

B. That no other method of obtaining the desired results is more reasonable or less likely to be dangerous than that proposed by the applicant; and

C. That the granting of the permit or the modifying or deleting of conditions would not be materially detrimental to the public interest, safety, health and welfare; would not significantly restrict the carrying capacity of a watercourse; and would not create an unreasonable hazard of flood or inundation to persons or property.

The permit shall also be granted, or the condition complained of deleted or modified, if the requirements of subsections (A), (B) and (C) of this section can be satisfied by the imposition of reasonable conditions. (Ord. 2466 § 9, 1991; Ord. 1032 § 1, 1967; prior code § 26.115).

**Chapter 14.14****ENFORCEMENT**

## Sections:

- 14.14.010 Certain acts deemed nuisances.

**14.14.010 Certain acts deemed nuisances.**

A violation of any provision of CVMC 14.08.010 or the failure of the owner of property over which there exists a watercourse to keep and maintain the portion of said watercourse located on his property free of obstructions to the free flow of drainage water is hereby declared to constitute and be a public nuisance; provided, however, that existing drainage facilities constructed prior to February 17, 1967, which have not decreased the capacity of the natural watercourse, shall not be construed as a nuisance for purposes of this title. (Ord. 2597 § 9, 1994; Ord. 2466 § 9, 1991; Ord. 2199 § 1, 1987; Ord. 1032 § 1, 1967; prior code § 26.116).

**Chapter 14.16****STORM DRAIN FEE**

## Sections:

- 14.16.010 Purpose.  
 14.16.020 Storm drain fee established – Payment required – Real property defined.

**14.16.010 Purpose.**

The purpose of this chapter is to establish a storm drain fee applicable to all parcels of real property within the City limits connected to the wastewater system, or the water system of the Otay Municipal Water District or the Sweetwater Authority. It is necessary to require system users to pay for the services of cleaning storm drain inlets, underground drainage systems, lined and unlined storm drainage channels or ditches, and planning costs associated with compliance with the conditions imposed upon the City by the “early permit” issued to the City by the Regional Water Quality Control Board on July 16, 1990, to establish a local-level National Pollutant Discharge Elimination System (NPDES), all in accordance with the federal Clean Water Act. (Ord. 2463 § 2, 1991).

**14.16.020 Storm drain fee established – Payment required – Real property defined.**

A. In addition to other fees, assessments or charges provided by the City code or otherwise, the owner or occupant of any parcel of real property, which parcel is connected to the wastewater system of the City and to a water system maintained by the Sweetwater Authority, the Otay Municipal Water District, or the California American Water Company, shall pay the required storm drain fee(s).

B. For the purposes of this section, real property shall be deemed to be used for domestic purposes when such property is used solely for single-family residences, or the furnishing of lodging by the operations of hotels, auto courts, apartment houses, bungalow courts, housing units, rooming houses, motels, trailer parks, or the rental of property for lodging purposes.

C. All storm drain fees imposed under this chapter shall be computed, collected, and subject to the same penalties and requirements as set forth in CVMC 13.14.110 and 13.14.150 relating to sewer service charges. All proceeds of the storm drain fee shall be deposited in the storm drain revenue fund. (Ord. 2506 § 1, 1992; Ord. 2463 § 2, 1991).

**Chapter 14.18****FLOODPLAIN REGULATIONS\***

## Sections:

- 14.18.010 Purpose and intent.  
 14.18.020 Lands to which this chapter applies.  
 14.18.030 Basis for establishing the areas of special flood hazards.  
 14.18.040 Methods of reducing flood losses.  
 14.18.050 Compliance.  
 14.18.060 Abrogation and greater restrictions.  
 14.18.070 Interpretation.  
 14.18.080 Warning and disclaimer of liability.  
 14.18.090 Severability.  
 14.18.100 Definitions.  
 14.18.110 Floodplain development – Permits required.  
 14.18.120 Application requirements.  
 14.18.130 Standards for building construction in SFHA.  
 14.18.140 Standards for utilities.  
 14.18.150 Standards for residential structures.  
 14.18.160 Standards for nonresidential structures.  
 14.18.170 Standards for garages and accessory structures.  
 14.18.180 Standards for recreational vehicles.  
 14.18.190 Standards for manufactured homes.  
 14.18.200 Standards for repair, reconstruction or improvement of streets, utilities, and pads in manufactured home parks.  
 14.18.210 Standards for floodways.  
 14.18.220 Standards for subdivisions and large developments.  
 14.18.230 Duties of City Engineer as Floodplain Administrator.  
 14.18.240 Duties of the Building Official.  
 14.18.250 Duties of the Planning Director.  
 14.18.260 Alteration or relocation of watercourses.  
 14.18.270 Floodplain variances.  
 14.18.280 Findings necessary for variances.  
 14.18.290 Appeals.  
 14.18.300 Chapter supersedes any conflicting statutes.

\* Prior legislation: Ords. 1842, 2039, 2100, 2170, 2197, 2248, 2386, 2506, 2790 and 2889.

**14.18.010 Purpose and intent.**

A. The flood areas of the City of Chula Vista could be subject to periodic inundation that could result in loss of life and property, health and safety

hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. These flood losses could be caused by land uses that are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contribute to flood losses.

B. In order to participate in the Federal Flood Insurance Program (National Flood Disaster Protection Act of 1973), the City must adopt regulations controlling the development of property within identified floodplains pursuant to the direction of said Act. The Building Official and City Engineer are therefore assigned certain added responsibilities, and they are authorized and directed to enforce all the provisions of this chapter.

C. It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
6. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
7. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
8. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 3097, 2007).

**14.18.020 Lands to which this chapter applies.**

The provisions of this chapter shall apply to all areas of special flood hazards (SFHAs) within the jurisdiction of the City of Chula Vista. (Ord. 3097, 2007).

**14.18.030 Basis for establishing the areas of special flood hazards.**

A. The areas of special flood hazards identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated June 19, 1997, and accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), dated June 19, 1997, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be part of this title.

B. This Flood Insurance Study and attendant mapping define the minimum area of applicability of this chapter and may be supplemented by studies of other areas which are recommended to the City Council by the City Engineer. The study and Flood Insurance Rate Maps are on file at the City Public Services Building at 276 Fourth Avenue. (Ord. 3097, 2007).

**14.18.040 Methods of reducing flood losses.**

In order to accomplish its purposes, this chapter includes methods and provisions to:

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Control filling, grading, dredging, and other development which may increase flood damage; and
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 3097, 2007).

**14.18.050 Compliance.**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the term of this chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing in this chapter shall prevent the City from taking such lawful action as is necessary to prevent or remedy any violation. (Ord. 3097, 2007).

**14.18.060 Abrogation and greater restrictions.**

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 3097, 2007).

**14.18.070 Interpretation.**

In the interpretation and application of this chapter, all provisions shall be considered as minimum requirements, liberally construed in favor of the governing body, and deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 3097, 2007).

**14.18.080 Warning and disclaimer of liability.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of the SFHAs or uses permitted within such SFHAs will be free from flooding or flood damages. This chapter shall not create liability on the part of the City, or any of its elected or appointed officials, officers or employees, the state of California, the Federal Insurance Administration, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made pursuant to this chapter. (Ord. 3097, 2007).

**14.18.090 Severability.**

This chapter and the various parts thereof are hereby declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid. (Ord. 3097, 2007).

**14.18.100 Definitions.**

Unless specifically defined in this section, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage so as to give this chapter its most reasonable application.

A. "Accessory structure, low-cost and small" means a structure that is solely for the parking of

no more than two cars; or limited storage (small, low cost sheds).

B. "Appeal" means a request for a review of the Floodplain Administrator's or Building Official's interpretation of any provision of this chapter.

C. "Base flood" means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the 100-year flood).

D. "Base flood elevation (BFE)" means the water surface level of a watercourse or waterbody referenced to an established datum, that corresponds to a flood event that has a one percent chance of being equaled or exceeded in any given year.

E. "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

F. "Development" means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

G. "Elevation certificate" means a document of the National Flood Insurance Program (NFIP) used to provide elevation information necessary to ensure compliance with community floodplain management ordinances to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment or Revision (LOMA or LOMR-F).

H. "Encroachment" means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain that may impede or alter the flow capacity of a floodplain.

I. "Flood" means a temporary rise in a stream's flow or stage that results in water overflowing its banks and inundating areas adjacent to the channel, or an unusual and rapid accumulation of runoff or surface waters from any source.

J. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

K. "Flood Boundary and Floodway Map (FBFM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

L. "Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Admin-

istration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

M. "Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

N. "Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source. See "Flood."

O. "Floodplain Administrator" means the City Engineer.

P. "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Q. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. See "Regulatory floodway."

R. "Grading" means any excavating or filling or combination thereof and shall include the land in its excavated or filled conditions.

S. "Historic resource" means any structure, site, building, object, or natural feature that is:

1. Listed or determined to be an eligible resource for listing in the National Register of Historic Places (a listing maintained by the Department of the Interior);

2. Listed in or determined to be an eligible resource for listing in the California Register of Historical Resources;

3. Listed in or determined to be an eligible resource for listing in the Chula Vista register of historic sites; and

4. Any historic resource that the City determines to be historically significant; provided, that the determination of historical significance is supported by substantial evidence in light of the whole record.

For the purposes of this definition, "eligible resource" means a historic resource that is not listed on the National Register, the California Register, or the Chula Vista register of historic sites and/or is not included in the local historic resources

inventory, but appears to meet one or more of the criteria for designation.

T. "Land development permit" means as defined in Chapter 15.04 CVMC.

U. "Letter of Map Revision (LOMR)" is a letter issued by FEMA stating that a particular structure or parcel of land is removed from the 100-year floodplain, generally due to grading or construction of flood control projects. A developer or government agency constructing an eligible project within the 100-year floodplain (as shown on the most recent Flood Insurance Rate Map or subsequent LOMRs) is required to apply for a LOMR.

V. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

W. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. For flood management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

X. "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Y. "Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Z. "New construction," for floodplain management purposes, means structures for which the start of construction commenced on or after November 14, 1978, and includes any subsequent improvements to such structures.

AA. "Obstruction" includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or

other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

AB. "One-hundred (100) year flood" means the condition of flooding having a one percent chance of annual occurrence. See "Base flood."

AC. "Recreational vehicle" means a vehicle that is:

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

AD. "Regulatory flood elevation" means the water surface elevation of the 100-year flood.

AE. "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. The designated regulatory floodways are the channels of the Sweetwater River and Telegraph Canyon Creek shown on the current Flood Boundary and Floodway Map, and the Otay River and Poggi Canyon Creek as shown on the county of San Diego floodway map.

AF. "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

AG. "Special flood hazard area (SFHA)" means an area in the floodplain subject to a one percent or greater chance of flooding in any given year. It is shown on a Flood Hazard Boundary Map (FHBM) or FIRM as Zone A, AO, A1 – A30, AE, A99, AH.

AH. "Start of construction," except as defined under the Coastal Barrier Resources Act (Public Law 97-348), is the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. This does not include land preparation, street construction, excavation, the erection of temporary forms or installation on the property of accessory structures.

AI. "Structure" means a walled and roofed structure, including a gas or liquid storage tank that is principally above the ground, including, but

without limitation to, buildings, factories, sheds, cabins, mobile homes and other similar uses.

AJ. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

AK. "Substantial improvement" means any reconstruction, rehabilitation, addition or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred substantial damage, regardless of the actual repair work performed. However, the term does not include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of a historic resource; provided, that the alteration would not preclude the structure's continued designation as a historic resource.

For the purposes of this chapter, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration effects the external dimensions of the structure. The term does not, however, include any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations, or structures listed in national or state registers of historic places.

AL. "Variance" means a grant of relief from the requirements of this chapter that permits construction in a manner that would otherwise be prohibited by this chapter.

AM. "Violation" means the failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation certificate other certifications or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

AN. "Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. "Watercourse" includes specifically designated areas in which substantial flood damage may occur.

AO. "Zone" means an area delineated on the Flood Insurance Rate Maps and Flood Hazard Boundary Maps with respect to its potential flood hazard. See "Special flood hazard area." (Ord. 3097, 2007).

**14.18.110 Floodplain development – Permits required.**

No person, including property owners, contractors, private engineers or others, shall erect, construct, enlarge, or improve any building or structure, or begin development within a SFHA, including the placement of manufactured homes, without first obtaining a building permit, land development permit, or any other permit required pursuant to Chapters 15.04 and 15.08 CVMC for each such action. (Ord. 3097, 2007).

**14.18.120 Application requirements.**

A. Each application for a building permit, land development permit, or any other permit required pursuant to Chapters 15.04 and 15.08 CVMC in a SFHA shall include:

1. Necessary plans and specifications for the proposed construction showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities;

2. Elevations (in relation to sea level) of the lowest floor (including basement) or in the case of floodproofed nonresidential structures the elevation to which it has been floodproofed. Certification, submitted by a licensed civil engineer, structural engineer, or architect, that the plans and specifications for any proposed building or structure comply with the floodproofing requirements of the National Flood Insurance Program as revised;

3. Evidence that electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and

4. Any other information as reasonably may be required by the Building Official and the City Engineer.

B. In the coastal zone, development in SFHAs shall also be required to obtain a coastal development permit consistent with the applicable provisions of the certified Local Coastal Program. (Ord. 3097, 2007).

**14.18.130 Standards for building construction in SFHA.**

A. A Conditional Letter of Map Revision (CLOMR) shall be obtained prior to the construction of a proposed flood control project based on design plans approved by the City. Construction of the proposed flood control project and land preparation as specified in the start of construction definition will be allowed after the CLOMR is approved by FEMA.

B. All LOMRs for flood control projects shall be approved by FEMA prior to the issuance of building permits. Building permits shall not be issued based on CLMORs.

C. The following requirements pertain to construction in areas that have not been removed from the SFHA by an approved LOMR:

1. All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy;

2. All new construction and substantial improvements shall be constructed:

a. With flood-resistant materials as specified in FEMA Technical Bulletin TB 2-93, and utility equipment resistant to flood damage;

b. Using methods and practices that minimize flood damage;

c. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and

d. Within Zones AH or AO, so that there are adequate drainage paths around the structures on slopes to guide floodwaters around and away from the structures.

3. All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a registered civil or structural engineer or architect or must meet or exceed the following minimum criteria:

a. For non-engineered openings:

i. Have a minimum of two openings on different sides having a total net area of not less

than one square inch for every square foot of enclosed area subject to flooding;

ii. The bottom of all openings shall be no higher than one foot above grade;

iii. Openings may be equipped with screens, louvers, valves or other coverings or devices; provided, that they permit the automatic entry and exit of floodwater; and

iv. Buildings with more than one enclosed area must have openings on exterior walls for each area to allow floodwater to directly enter. (Ord. 3097, 2007).

#### **14.18.140 Standards for utilities.**

A. The design of all new and replacement water supply and sanitary sewage systems shall be certified by a registered professional in the respective field of expertise. All new and replacement water supply and sanitary sewage systems shall be designed and constructed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

B. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. 3097, 2007).

#### **14.18.150 Standards for residential structures.**

For all new construction and substantial improvements of residential structures, the lowest floor elevation (to include basement) of new residential structures shall be elevated to a minimum of one foot above the regulatory flood elevation; except that in Zone AO, the lowest floor (including basement) shall be as high as the depth number in feet above the highest adjacent grade or two feet if no depth number is specified. (Ord. 3097, 2007).

#### **14.18.160 Standards for nonresidential structures.**

A. All new construction and substantial improvements of nonresidential structures shall meet the following standards:

1. The lowest floor elevation (to include basement) of nonresidential structures shall be elevated or floodproofed to a minimum of one foot above the regulatory flood elevation; except that in Zone AO, the lowest floor (including basement) shall be as high as the depth number in feet above the highest adjacent grade, or two feet if no depth number is specified. In the alternative, attendant utility and sanitary facilities shall be completely floodproofed to or above that level so that any space below that level is watertight with walls sub-

stantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

2. Construction materials and utility equipment shall be resistant to floodwater damage;

3. Construction methods and practices shall minimize flood damage; and

4. The design of all new construction and substantial improvements of nonresidential structures shall be certified by a registered professional engineer and surveyor and shall be designed or anchored to prevent the flotation, collapse or lateral movement of the structure or portions of the structure due to flooding.

B. Any nonresidential structure proposed to be floodproofed in accordance with this chapter shall be certified by a licensed civil engineer, structural engineer or architect, subsequent to construction of the proposed building or structure but prior to final approval for use or occupancy thereof and the elevation to which such floodproofing is effective shall be specified. (Ord. 3097, 2007).

#### **14.18.170 Standards for garages and accessory structures.**

A. Attached Garages.

1. All garages attached to a residential structure and constructed with the garage floor slab below the BFE shall be designed to allow for the automatic entry and exit of floodwaters. Areas of the garage below the BFE shall be constructed with flood-resistant materials as specified in FEMA Technical Bulletin TB 2-93.

B. Detached Garages and Accessory Structures.

1. An accessory structure used solely for parking (two-car detached garages or smaller) or limited storage (small, low-cost sheds) may be constructed such that its floor is below the BFE, provided the structure meets the following standards:

a. The accessory structure shall be used only for parking or limited storage;

b. The portions of the accessory structure located below the BFE shall be built using flood-resistance materials;

c. The accessory structure shall be adequately anchored to prevent flotation, collapse and lateral movement;

d. Any mechanical and utility equipment in the accessory structure shall be elevated or floodproofed to or above the BFE;

e. The accessory structure must comply with floodplain encroachment provisions in CVMC 14.18.210;

f. The accessory structure shall be designed to allow for the automatic entry and exit of floodwaters; and

g. The below-grade parking areas shall comply with the requirements in FEMA Technical Bulletin TB-6. (Ord. 3097, 2007).

**14.18.180 Standards for recreational vehicles.**

All recreational vehicles placed in Zones A1 – 30, AH, and AE shall either:

A. Be on the site for fewer than 180 consecutive days; or

B. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

C. Have a permit required in CVMC 14.18.110 and meet the elevation and anchoring requirements for manufactured homes in CVMC 14.18.190. (Ord. 3097, 2007).

**14.18.190 Standards for manufactured homes.**

A. All manufactured homes that are placed on or substantially improved within a special flood hazard area and which are:

1. Outside of a manufactured home park or subdivision; or

2. In a new manufactured home park or subdivision; or

3. In an expansion to an existing manufactured home park or subdivision; or

4. In an existing manufactured home park or subdivision within which a manufactured home has incurred “substantial damage” as the result of a flood shall be certified by a registered professional engineer and surveyor and shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

B. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within a special flood hazard area and not subject to the provisions of subsection A of this section shall be certified by a registered professional engineer and surveyor and shall be securely fastened to an adequately anchored foundation system to resist flotation col-

lapse and lateral movement and shall be elevated so that either:

1. The lowest floor of the manufactured home is at least one foot above the base flood elevation; or

2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade. (Ord. 3097, 2007).

**14.18.200 Standards for repair, reconstruction or improvement of streets, utilities, and pads in manufactured home parks.**

The following standards apply within Zones A1 – 30 for new manufactured home parks and manufactured home subdivisions, expansions to existing manufactured home parks and manufactured home subdivisions, and existing manufactured home parks and manufactured home subdivisions. All repair, reconstruction or improvement of the streets, utilities and pads which equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced shall comply with the following standards:

A. Stands or lots shall be elevated on compacted till or on pilings so that the lowest floor of the manufactured home will be at least one foot above the base flood level;

B. Surface drainage and access for a hauler shall be adequate; and

C. In the instance of elevation on pilings, lots shall be large enough to permit steps, piling foundations shall be placed in stable soil no more than 10 feet apart, and reinforcement shall be provided for pilings more than six feet above the ground level. (Ord. 3097, 2007).

**14.18.210 Standards for floodways.**

Because floodways are an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, and have erosion potential, the following standards apply:

A. Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within Zones A1 – 30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than one foot at any point within the City;

B. Within an adopted regulatory floodway, encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge; and

C. All new construction, substantial improvement, and other proposed development in a floodway shall comply with all other applicable provisions of this chapter. (Ord. 3097, 2007).

#### **14.18.220 Standards for subdivisions and large developments.**

A. All proposals for subdivisions and other new development incorporating more than five acres or 50 lots, whichever is lesser, shall show on tentative parcel maps, tentative subdivision maps or site plans, and regulatory flood elevation data for any included area designated Zone A, Zone A1 – 30 or Zone AO.

B. All preliminary subdivision proposals shall identify the special flood hazard area and the elevation of the base flood.

C. All subdivision plans shall provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the lowest floor and pad elevations shall be certified by a registered professional engineer or surveyor.

D. All subdivision proposals shall be consistent with the need to minimize flood damage.

E. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

F. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards. (Ord. 3097, 2007).

#### **14.18.230 Duties of City Engineer as Floodplain Administrator.**

A. The City Engineer shall act as the Floodplain Administrator and shall administer, implement, and enforce the standards and regulations of this chapter by granting or denying land development permits or other permits in accordance with the terms of this chapter.

B. The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Prior to issuance, review all building permits, land development permits, or any other per-

mits required pursuant to Chapters 15.04 and 15.08 CVMC to assure that:

a. All proposed developments are consistent with the need to minimize flood damage;

b. Adequate drainage is provided so as to reduce exposure to flood hazards;

c. All public utilities and facilities are located so as to minimize or eliminate flood damage;

d. The natural landscape of all designated floodways and major watercourses is substantially preserved;

e. An evacuation plan indicating alternate vehicular access and escape routes is filed with appropriate disaster preparedness authorities for manufactured home parks and manufactured home subdivisions located within Zone A, Zones A1 – 30 and Zone AO;

f. Any encroachments, including fill, new construction, substantial improvements, and other developments within the designated regulatory floodways that would result in any increase in flood levels during the occurrence of a 100-year flood discharge are prohibited; and

g. In the coastal zone, all subdivision and land development permit applications comply with the provisions of the certified Local Coastal Program and the standards of subsections (B)(1)(a) through (f) of this section.

2. Prior to issuance, review all land development permits, or other permits to determine if the site of the proposed development is reasonably safe from flooding, that all applicable requirements of the National Flood Insurance Program have been met, and that all necessary permits have been obtained as required by federal or state law. Any permits required by federal or state law shall be obtained by the applicant prior to issuance of any permit by the City.

3. Submit or assure that the permit applicant submits technical or scientific data to FEMA for a LOMR, within six months of information becoming available or project completion, whichever comes first, so that, upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

4. Notify FEMA in writing whenever the City boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new City limits.

5. Make interpretations as to the exact location of the boundaries of the SFHAs where there appears to be a conflict between a mapped bound-

ary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in CVMC 14.18.290.

6. Take action to remedy violations of this chapter.

7. Complete and submit biennial reports to FEMA.

8. Work with appropriate state and federal agencies in complying with the National Flood Insurance Program in accordance with the National Flood Disaster Protection Act of 1973. (Ord. 3097, 2007).

#### **14.18.240 Duties of the Building Official.**

The duties and responsibilities of the Building Official shall include, but not be limited to, obtaining, reviewing, and reasonably utilizing any base flood elevation and floodway data available from a federal, state or other source, and assuring that all new construction, substantial improvements, placement of manufactured homes and prefabricated buildings, or other development in the SFHA meets all applicable standards in this chapter. (Ord. 3097, 2007).

#### **14.18.250 Duties of the Planning Director.**

The duties and responsibilities of the Planning Director shall include, but not be limited to, assuring that the General Plan is consistent with floodplain management objectives in this chapter. (Ord. 3097, 2007).

#### **14.18.260 Alteration or relocation of watercourses.**

The Floodplain Administrator shall review all plans for alteration or relocation of any watercourse within the City to assure that the flood-carrying capacity of such watercourse is maintained. Prior to any alteration or relocation of a watercourse, or in riverine situations, the Floodplain Administrator shall notify affected communities and the state coordinating office of FEMA. The Floodplain Administrator shall submit copies of such notifications to the administrator of the Federal Insurance Administration. The Floodplain Administrator shall assure that in the coastal zone, any subdivision that involves the alteration or relocation of a stream shall also conform to the applicable provisions of the certified Local Coastal Program. (Ord. 3097, 2007).

#### **14.18.270 Floodplain variances.**

A. The variance criteria set forth in this section are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. Mere economic or financial hardship alone, inconvenience, aesthetic considerations, or physical handicaps cannot, as a rule, qualify as exceptional hardships. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

B. It is the duty of the City of Chula Vista to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in this chapter are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate:

1. A property owner and/or developer may apply for a floodplain variance upon payment of a fee as designated in the Master Fee Schedule. The Floodplain Administrator shall review all applications for variances. In evaluating applications for variances, he shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and the:

a. Danger that materials may be swept onto other lands to the injury of others;

b. Danger to life and property due to flooding or erosion damage;

c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;

d. Importance of the services provided by the proposed facility to the community;

e. Necessity to the facility of a waterfront location, where applicable;

f. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

g. Compatibility of the proposed use with existing and anticipated development;

h. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. Safety of access to the property in time of flood for ordinary and emergency vehicles;

j. Expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the proposed site; and

k. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

2. Variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

3. Variances may be issued for the repair or rehabilitation of historic resources as defined in this chapter, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic resource and the variance is the minimum necessary to preserve the historic character and design of the structure.

4. The Floodplain Administrator may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. (Ord. 3097, 2007).

#### **14.18.280 Findings necessary for variances.**

A. In granting a variance, the Floodplain Administrator shall make the following findings:

1. That the proposed development is not located in any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result;

2. That the variance is the minimum necessary, considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this chapter;

3. That failure to grant the variance would result in exceptional hardship to the applicant;

4. That granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, conflict with existing local laws or ordinances or create a nuisance; and

5. That granting of a variance will not cause fraud or victimization. For example, buildings that are permitted to be constructed below the base flood elevation are subject during their life (estimated at 50 to 100 years) to increased risk of flood damage, while future owners of the property and the community are subject to the costs, inconvenience and danger associated with the increased flooding potential.

B. The Floodplain Administrator shall include the following in a written notice for any variance granted and shall record, or cause to be recorded, the notice in the Office of the County Recorder so that the notice appears in the chain of title of the affected parcel of land.

1. That the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for every \$100.00 of insurance coverage; and

2. That such construction below the base flood level increases risks to life and property.

C. The Floodplain Administrator shall maintain a record of all variance actions, including justification for the issuance of any variance. This record will be included in a biennial report submitted to FEMA. (Ord. 3097, 2007).

#### **14.18.290 Appeals.**

The Board of Appeals and Advisors shall hear appeals from the decision of the Floodplain Administrator regarding variances. The decision of the Board of Appeals and Advisors is final. (Ord. 3097, 2007).

#### **14.18.300 Chapter supersedes any conflicting statutes.**

A. This chapter shall take precedence over conflicting ordinances or parts of ordinances with respect to floodplain administration. The City Council may, from time to time, amend the ordinance codified in this chapter to reflect any and all changes in the National Flood Insurance Program Regulations.

B. In the coastal zone, where conflicts arise between this chapter and the certified Local Coastal Program, the latter shall prevail. (Ord. 3097, 2007).

## Chapter 14.20

### STORM WATER MANAGEMENT AND DISCHARGE CONTROL

#### Sections:

- 14.20.010 Purpose and intent.
- 14.20.020 Scope.
- 14.20.030 Definitions.
- 14.20.040 Administration.
- 14.20.100 Discharge of non-storm water prohibited.
- 14.20.110 Exemptions to discharge prohibition.
- 14.20.120 Reduction of pollutants contacting or entering storm water required.
- 14.20.125 Additional planning, design, construction, and post-construction requirements for all land development and redevelopment projects.
- 14.20.130 Containment, cleanup, and notification of spills.
- 14.20.140 Watercourse protection.
- 14.20.150 Development in or adjacent to watercourse restricted – Land development, building, or watercourse permit required.
- 14.20.160 Illegal connection prohibited.
- 14.20.170 Proof of compliance required.
- 14.20.200 Inspection and sampling – General.
- 14.20.210 Inspection procedures – Additional requirements.
- 14.20.220 Authority to sample and establish sampling devices.
- 14.20.230 Testing, monitoring or mitigation required – When.
- 14.20.300 Concealment.
- 14.20.310 Administrative enforcement powers.
- 14.20.320 Administrative notice, hearing, and appeal procedures.
- 14.20.330 Judicial enforcement.
- 14.20.340 Violations deemed a public nuisance.
- 14.20.350 Remedies not exclusive.
- 14.20.360 Civil penalties to be deposited in the storm drain revenue fund.

#### **14.20.010 Purpose and intent.**

The purpose of this chapter is to promote the health, safety, and general welfare of the citizens of the City of Chula Vista by:

A. Prohibiting non-storm water discharges to the storm water conveyance system.

B. Preventing discharges to the storm water conveyance system from spills, dumping or disposal of materials other than storm water.

C. Reducing pollutants in storm water discharges, including those pollutants taken up by storm water as it flows over urban areas (“urban runoff”), to the maximum extent practicable.

D. Reducing pollutants in storm water discharges in order to achieve applicable water quality objectives for surface waters in San Diego County.

The intent of this chapter is to protect and enhance the water quality of our watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Clean Water Act (33 USCA Section 1251, et seq.) and its implementing regulations, the Porter-Cologne Water Quality Control Act (California Water Code Section 13020, et seq.) and its implementing regulations, and the San Diego Regional Water Quality Control Board (NPDES Permit No. CA 0108758) and any subsequent amendments thereto. (Ord. 2854 § 1, 2002; Ord. 2597 § 11, 1994).

#### **14.20.020 Scope.**

This chapter shall be interpreted in accordance with the definitions set forth herein and the provisions of this chapter shall apply to the direct or indirect discharge of pollutants into the City’s storm water conveyance system.

Further, this chapter shall be interpreted in accordance with the requirements of the federal Clean Water Act and acts amendatory thereof or supplementary thereto; applicable implementing regulations; NPDES Permit No. CAS 0108758 and any amendment, revision, or reissuance thereof; and the purposes and intent of this chapter.

This chapter, among other things, provides for the prohibition of non-storm water discharges to the storm water conveyance system, the prohibition of illegal connections to the storm water conveyance system, the requirement that all persons reduce the volume and character of pollutants related to urban activity entering the storm water conveyance system to the maximum extent practicable, and the establishment of enforcement mechanisms for violation of this chapter, including civil and criminal fines and penalties. (Ord. 2854 § 2, 2002; Ord. 2597 § 11, 1994).

#### **14.20.030 Definitions.**

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

A. “Basin plan” shall mean the “Comprehensive Water Quality Control Plan for the San Diego Basin” adopted by the Regional Water Quality Control Board, San Diego Region (September

1994), and approved by the State Water Resources Control Board, together with subsequent amendments.

B. “Best management practices (BMPs)” shall mean schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce, to the maximum extent practicable, the discharge of pollutants directly or indirectly to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

C. “Building permit” shall mean a permit issued by the Building Official pursuant to Chapter 15.20 CVMC.

D. “California ocean plan” shall mean the “California Ocean Plan: Water Quality Control Plan for Ocean Waters of California” adopted by the State Water Resources Control Board in July, 1997, and any subsequent amendments.

E. “Clean Water Act” shall mean the federal Water Pollution Control Act enacted by Public Law 92-500, as amended by Public Laws 95-217, 95-576, 96-483, and 95-117 (33 USCA Section 1251, et seq.), and any subsequent amendments.

F. “County Health Officer” shall mean the Health Officer of the County of San Diego Department of Public Health or designee.

G. “Development” shall mean:

1. The placement or erection of any solid material or structure on land, in water, or under water;
2. The discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste;
3. The grading, removing, dredging, mining, or extraction of any materials;
4. A change in the density or intensity of the use of land, including, but not limited to, a subdivision pursuant to the Subdivision Map Act (Government Code Section 66410, et seq.) and any other division of land, except where the division of land is brought about in connection with the purchase of such land by a public agency for public recreational use;
5. A change in the intensity of the use of water, or of access thereto;
6. The construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal entity; and

7. The removal or harvesting of major vegetation other than for agricultural purposes.

As used in this definition, “structure” includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line. (Source: Government Code Section 65927).

H. “Employee training program” shall mean a documented employee training program for all persons responsible for implementing a storm water pollution prevention plan. The employee training program shall include, but is not limited to, the following topics:

1. Laws, regulations, and local ordinances associated with storm water pollution prevention, and an overview of the potential impacts of polluted storm water on the receiving waters of the San Diego region;
2. Proper handling of all materials and wastes to prevent spillage;
3. Mitigation of spills including spill response, containment and cleanup procedures;
4. Visual monitoring of all effluent streams to ensure that no illegal discharges enter the storm water conveyance system;
5. Discussion of the differences between the storm water conveyance system and the sanitary sewer system;
6. Identification of all on-site connections to the storm water conveyance system;
7. Preventive maintenance and good housekeeping procedures;
8. Material management practices employed by the facility to reduce or eliminate pollutant contact with storm water discharge.

I. “Enclosed bays and estuaries plan” means the “California Enclosed Bays and Estuaries Plan: Water Quality Control Plan for Enclosed Bays and Estuaries of California,” adopted by the State Water Resources Control Board April 1991, and all subsequent amendments.

J. “Enforcement agency” shall mean the City of Chula Vista or its authorized agents charged with ensuring compliance with this chapter.

K. “Enforcement official” shall mean the Director of Public Works or his or her designee.

L. “Hazardous materials” shall mean any substance or mixture of substances which is toxic, corrosive, flammable, an irritant, a strong sensitizer, or generates pressure through decomposition, heat or other means, if such a substance or mixture of substances may cause substantial injury, serious illness or harm to humans, domestic livestock, or wildlife.

M. "Illegal connection" shall mean any physical connection to the storm water conveyance system which has not been permitted by the City of Chula Vista or the San Diego Regional Water Quality Control Board, or which drains illegal discharges either directly or indirectly into the storm water conveyance system.

N. "Illegal discharge" shall mean any discharge to the storm water conveyance system that is not composed entirely of storm water, or is expressly prohibited by federal, state, or local regulations, laws, codes, or ordinances, NPDES Permit No. CAS 0108758, or degrades the quality of receiving waters in violation of any plan water quality objective.

O. "Inland surface water plan" means the "California Inland Surface Waters Plan: Water Quality Control Plan for Inland Surface Waters of California" adopted by the State Water Resources Control Board on April 1991, and all amendments thereto.

P. "Land development permit" shall mean a permit issued by the Director of Public Works pursuant to Chapter 15.04 CVMC.

Q. "Maximum extent practicable (MEP)" shall mean the technology-based standard established by Congress in Clean Water Act Section 402(p)(3)(B)(iii) that municipal dischargers of storm water discharges must meet. MEP generally emphasizes pollution prevention and source control BMPs primarily in combination with treatment methods serving as a backup.

R. "National Pollution Discharge Elimination System (NPDES) permit" shall mean a permit issued by the Regional Water Quality Control Board or the State Water Resources Control Board, pursuant to Chapter 5.5, Division 7 of the California Water Code, to control discharges from point sources to waters of the United States, including, but not limited to:

1. California Regional Water Quality Control Board, San Diego Region, (NPDES No. CAS 0108758), NPDES municipal permit – Waste discharge requirements for storm water and urban runoff from the County of San Diego, the incorporated cities of San Diego County, and the San Diego Unified Port District;

2. NPDES general permit for storm water discharges associated with industrial activities;

3. NPDES general permit for storm water discharges associated with construction activity; and

4. California Regional Water Quality Control Board, San Diego Region, general dewatering permits.

S. "NPDES general permit" shall mean a permit issued by the State Water Resources Control Board, including, but not limited to:

1. NPDES general permit for storm water discharges associated with industrial activities; and

2. NPDES general permit for storm water discharges associated with construction activity.

T. "Non-storm water" shall mean any water conveyed to the storm water conveyance system that is not entirely composed of storm water (also see definition of "storm water").

U. "Parking lot" shall mean an open area, other than a street or other public way, used for the parking of motorized vehicles, whether for a fee or free, to accommodate clients or customers, or to accommodate residents of multifamily dwellings (i.e., apartments, condominiums, townhomes, mobile-homes, dormitories, group quarters, etc.).

V. "Person" shall mean any individual, organization, business trust, company, partnership, entity, firm, association, corporation, or public agency, including the state of California and the United States of America.

W. "Plan water quality objective" means any or all applicable requirements of the basin plan, the enclosed bays and estuaries plan, the inland surface water plan, and the California ocean plan.

X. "Pollutant" may include, but is not limited to, solid waste, sewage, garbage, medical waste, wrecked or discarded equipment, radioactive materials, dredged soil, rock, sand, sediment, industrial waste, and any organic or inorganic contaminant whose presence degrades the quality of the receiving waters in violation of basin plan or California ocean plan standards. "Pollutant" includes, but is not limited to, fecal coliform, fecal streptococcus, enterococcus, volatile organic carbon (VOC), surfactants, oil and grease, petroleum hydrocarbons, total organic carbon (TOC), lead, copper, chromium, cadmium, silver, nickel, zinc, cyanides, phenols, and biocides.

A "pollutant" also includes any substance defined as a pollutant under 40 CFR Section 122.2 and any contaminant which degrades the quality of the receiving waters in violation of basin plan or California ocean plan standards by altering any of the following parameters: pH, total suspended and settleable solids, biochemical oxygen demand (BOD), chemical oxygen demand (COD), nutrients, and temperature.

Y. "Premises" shall mean any building, lot, parcel, real estate, land, or portion of land, whether improved or unimproved.

Z. "Receiving waters" shall mean surface bodies of water, as described in NPDES Permit No. CAS 0108758, which serve as discharge points for the storm water conveyance system, including creeks, rivers, reservoirs, lakes, lagoons, estuaries, harbors, bays, and the Pacific Ocean.

AA. "Significant quantities" shall mean the volume, concentrations, or mass of a pollutant in a discharge that can cause or threaten to cause pollution, contamination, or nuisance; or adversely impact human health or the environment; or cause or contribute to a violation of any water quality standards applicable to the receiving water.

BB. "Storm water" shall mean urban runoff and snow melt runoff consisting of only those discharges which originate from precipitation events. Storm water is that portion of precipitation that flows across a surface to the storm water conveyance system or receiving waters.

For the purposes of this chapter, storm water runoff and drainage from areas that are in a natural state, have not been significantly disturbed or altered, either directly or indirectly, as a result of human activity, and the character and type of pollutants naturally appearing in the runoff that have not been significantly altered, either directly or indirectly, as a result of human activity, shall be considered "unpolluted" and shall satisfy the definition of "storm water" in this chapter.

CC. "Storm water conveyance system" means those municipal, private and/or natural facilities within the City of Chula Vista by which storm water may be conveyed to waters of the United States, including any roads with drainage systems, municipal streets, catch basins, and watercourses.

DD. "Storm water pollution prevention plan" shall mean a document which describes the on-site program activities to utilize BMPs to eliminate or reduce pollutant discharges to the storm water conveyance system to the maximum extent practicable.

A storm water pollution prevention plan prepared and implemented pursuant to any NPDES permit shall meet the definition of a "storm water pollution prevention plan" for the purposes of this chapter.

EE. "Watercourse" shall mean any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, arroyo or wash in which waters flow in a definite direction or course, either continuously or intermittently, and which has a definite channel and a bed or banks. A "channel" is not limited to land covered by minimal or ordinary flow but also includes

land covered during times of high water. "Watercourse" does not include any surface drainage prior to its collection in a stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, arroyo or wash.

FF. "Watercourse permit" shall mean a permit issued by the Director of Public Works pursuant to Chapter 14.08 CVMC.

GG. "Wetlands" shall mean areas that are inundated or saturated by surface or ground waters at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. "Wetlands" generally includes swamps, marshes, bogs, and similar areas. (Ord. 2854 § 3, 2002; Ord. 2790, 1999; Ord. 2597 § 11, 1994).

#### **14.20.040 Administration.**

The enforcement official shall administer, implement, and enforce the provisions of this chapter. Any powers granted to, or duties imposed upon, the enforcement official may be delegated by the enforcement official to persons in the employ of the City, or pursuant to contract.

When deemed necessary by the enforcement official, the enforcement official shall prepare and present to the City Council for approval regulations and programs consistent with the general policies established herein by the City Council. The enforcement official shall enforce Council-approved regulations necessary to the administration of this chapter, and may recommend that the Council amend such regulations and programs from time to time, as conditions require. (Ord. 2854 § 4, 2002; Ord. 2597 § 11, 1994).

#### **14.20.100 Discharge of non-storm water prohibited.**

A. It is unlawful for any person to discharge non-storm water into the storm water conveyance system, except as provided in CVMC 14.20.110.

B. It is unlawful for any person to cause either individually or jointly any discharge into or from the storm water conveyance system that results in or contributes to a violation of any NPDES permit. Liability for any damage, abatement costs, or fines against the permit holder caused by such discharge shall be the responsibility of the person(s) causing or responsible for the discharge. (Ord. 2854 § 5, 2002; Ord. 2597 § 11, 1994).

#### **14.20.110 Exemptions to discharge prohibition.**

The following discharges are exempt from the prohibition set forth in CVMC 14.20.100; provided, that they do not cause or significantly contribute to violations of the water quality standards set forth in any plan water quality objective or convey significant quantities of pollutants to receiving waters, or are a danger to public health and safety:

A. Any discharge or connection regulated under an NPDES permit issued to the discharger and administered by the state of California pursuant to Chapter 5.5, Division 7 of the California Water Code; provided, that the discharger is in compliance with all requirements of the permit and other applicable laws, and regulations, and programs.

B. Discharges from the following activities will not be considered a source of pollutants to waters of the United States:

1. Diverted stream flows;
2. Rising ground water;
3. Uncontaminated ground water infiltration (as defined in 40 CFR 35.2005(20)) to MS4s;
4. Uncontaminated pumped ground water;
5. Foundation drains;
6. Springs;
7. Water from crawl space pumps;
8. Footing drains;
9. Air conditioning condensation;
10. Flows from riparian habitats and wetlands;
11. Water line flushing;
12. Landscape irrigation;
13. Discharges from potable water sources not subject to NPDES Permit No. CAG679001, other than water main breaks;
14. Irrigation water;
15. Lawn watering;
16. Individual residential car washing; and
17. Dechlorinated swimming pool discharges.

C. Any discharge which the enforcement agency, the County Health Officer, the Regional Water Quality Control Board and/or the U.S. Environmental Protection Agency determines in writing is necessary for the protection of the public health and safety. (Ord. 3103 § 1, 2008; Ord. 2854 § 6, 2002; Ord. 2597 § 11, 1994).

#### **14.20.120 Reduction of pollutants contacting or entering storm water required.**

Any person engaged in activities which may result in pollutants entering the storm water con-

veyance system shall, to the maximum extent practical, undertake all measures to reduce the risk of illegal discharges. The following requirements shall apply:

A. Best Management Practices Implementation. It is unlawful for any person not to comply with BMPs and pollution control requirements established by the city or other responsible agency to eliminate or reduce pollutants entering the City's storm water conveyance system. BMPs shall be complied with throughout the life of the activity.

B. Storm Water Pollution Prevention Plan. When the enforcement official determines that a business or business-related activity causes or may cause an illegal discharge to the storm water conveyance system, then the enforcement official may require the business to develop and implement a storm water pollution prevention plan (SWPPP). Businesses which may be required to prepare and implement a SWPPP include, but are not limited to, those which perform maintenance, storage, manufacturing, assembly, equipment operations, vehicle loading, and/or cleanup activities partially or wholly out of doors.

C. Coordination with Hazardous Materials Response Plans and Inventory. Any activity subject to the hazardous materials inventory and response program, pursuant to Chapter 6.95 of the California Health and Safety Code, shall include provisions for compliance with this chapter in its hazardous materials response plan, including prohibitions of unlawful non-storm water discharges and illegal discharges, and provisions requiring the use of BMPs to reduce the discharge of pollutants in storm water.

D. Impervious Surfaces. Persons owning or operating a parking lot or an impervious surface (including, but not limited to, service station pavements or paved private streets and roads) used for automobile-related or similar purposes shall clean those surfaces as frequently and as thoroughly as is necessary, in accordance with BMPs, to prevent the discharge of pollutants to the City's storm water conveyance system. Sweepings or cleaning residue from parking lots or impervious surfaces shall not be swept or otherwise made or allowed to go into any storm water conveyance, gutter, or roadway, but must be disposed of in accordance with regional solid waste procedures and practices.

E. Compliance with NPDES Permit for Storm Water Discharges. Each discharger subject to any NPDES permit for storm water discharges shall comply with all requirements of such permit. (Ord. 2854 § 7, 2002; Ord. 2597 § 11, 1994).

**14.20.125 Additional planning, design, construction, and post-construction requirements for all land development and redevelopment projects.**

The City of Chula Vista Development Storm Water Manual is a part of this chapter and is incorporated by reference as though set forth in full in this chapter. No land owner or development project proponent in the City of Chula Vista shall receive any City permit or approval for land development activity or significant redevelopment activity unless the project meets or will meet the requirements of this chapter and the Development Storm Water Manual.

A. The Development Storm Water Manual includes, among other requirements, the following requirements:

1. Phased grading during construction (limitation of grading to a maximum disturbed area before either temporary or permanent erosion controls are implemented).

2. Compliance with low impact development (LID) principles.

3. Compliance with interim hydromodification criteria and hydrograph modification management plan (HMP) requirements.

4. Compliance with post-construction best management practices self inspections, maintenance, record keeping, and maintenance certification.

B. The City of Chula Vista generally accepts standards established in the most up-to-date editions of the following documents for best management practices; however, the City Engineer will make the final determination to approve or disapprove any proposed BMPs:

1. Stormwater Best Management Practices Handbooks developed by the California Stormwater Quality Association;

2. CALTRANS Treatment BMP Technology Report;

3. County of San Diego Low Impact Development Handbook.

Long-term maintenance obligations of all proposed best management practices must be approved in an agreement that runs with the land in perpetuity prior to the issuance of a grading or other construction permit. (Ord. 3103 § 2, 2008).

**14.20.130 Containment, cleanup, and notification of spills.**

It is unlawful for any person owning or occupying any premises who has knowledge of any

release of significant quantities of materials, pollutants, or waste which may result in pollutants or non-storm water discharges entering the City's storm water conveyance system to not immediately take all reasonable action to contain, minimize, and clean up such release. Such person shall notify the City of Chula Vista of the occurrence and/or the County of San Diego Department of Health Services/Environmental Health Services Hazardous Materials Management Division, and any other appropriate agency of the occurrence as soon as possible, but no later than 24 hours from the time of the incident's occurrence. (Ord. 2597 § 11, 1994).

**14.20.140 Watercourse protection.**

In addition to the prohibitions relating to watercourses and the requirements for watercourse permits set forth in Chapter 14.08 CVMC, it is unlawful for any person owning and/or occupying property through which a watercourse passes to fail or refuse to:

A. Keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles which would pollute, contaminate, or significantly retard the flow of water through the watercourse.

B. 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.

C. Keep and maintain healthy bank vegetation in such a manner as to minimize the vulnerability of the watercourse to erosion. (Ord. 2597 § 11, 1994).

**14.20.150 Development in or adjacent to watercourse restricted – Land development, building, or watercourse permit required.**

No person shall carry out development within 30 feet of the centerline of any watercourse or within 20 feet of the edge of any watercourse, whichever is the greater distance from the top of the creek bank, unless a land development, building, or watercourse permit has first been obtained. The City officer issuing said permit is hereby granted the authority to establish controls on the volume and rate of storm water runoff from such new development as may be reasonable and appropriate to minimize the discharge and transport of pollutants to the maximum extent practicable in the granting or conditioning the granting of such permit. (Ord. 2597 § 11, 1994).

**14.20.160 Illegal connection prohibited.**

It is unlawful for any person to establish, use, or maintain any illegal connection to the storm water conveyance system, regardless of whether such connection was made under a permit or other authorization or whether permissible under the law or practices applicable or prevailing at the time of the connection, except as authorized in CVMC 14.20.110(A). (Ord. 2854 § 8, 2002).

**14.20.170 Proof of compliance required.**

Proof of compliance with this chapter may be required in a form acceptable to the City prior to or as a condition of a subdivision map, site plan, development improvement plan, building permit, grading permit or any other permit or activity which may affect the storm water conveyance system and/or the waters entering it. Proof of compliance shall be furnished upon request of the enforcement official. (Ord. 2854 § 9, 2002).

**14.20.200 Inspection and sampling – General.**

A. After obtaining legal entry to any premises in accordance with CVMC 1.16.010 or by consent, the representative of the enforcement agency shall have the right to:

1. Carry out any inspection and sampling activities on the premises as may be necessary to enforce the provisions and requirements of this chapter. Upon request, split samples shall be given to the owner and/or occupant of the premises.

2. Inspect any vehicle on the premises reasonably suspected of causing, contributing to, or being used to transport an illegal discharge to the storm water conveyance system.

3. Conduct tests, analyses and evaluations to determine if a discharge of storm water is an illegal discharge or to determine if the requirements of this chapter have been met.

4. Photograph any effluent stream, material or waste, material or waste container, container label, vehicle, waste treatment process, waste disposal site, or condition contributing to storm water pollution and constituting a violation of this chapter found during an inspection.

5. Inspect and copy pertinent records relating to the facility's operations, including inventories, chemical usage, materials, sources, hazardous

---

*This page left intentionally blank.*

materials manifests and disposal records, treatment and operations log books, and materials invoices.

6. Review and obtain a copy of the storm water pollution prevention plan prepared by the owner and/or occupant or facility operator, if such a plan is required.

7. Require the owner and/or occupant or facility operator to retain evidence, as instructed by the inspector, for a period not to exceed 30 days.

8. Review and obtain copies of all storm water monitoring data compiled by the owner and/or occupant or facility operator, if such monitoring is required.

9. Review and obtain copies of all records related to handling of pollutants and hazardous materials.

B. The enforcement official may conduct routine or area inspections, which shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this chapter, including, but not limited to, random sampling or sampling in areas with evidence of storm water contamination, illegal discharges, discharge of non-storm water to the storm water conveyance system, or similar factors.

C. All enforcement officials shall have adequate identification. Enforcement officials and other authorized personnel shall identify themselves when entering any property for inspection purposes or when inspecting the work of any contractor. (Ord. 2854 § 10, 2002; Ord. 2597 § 11, 1994).

#### **14.20.210 Inspection procedures – Additional requirements.**

During the inspection, the enforcement official shall comply with all reasonable security, safety, and sanitation measures. In addition, the enforcement official shall comply with reasonable precautionary measures specified by the owner and/or occupant or facility operator.

At the conclusion of the inspection, and prior to leaving the site, the enforcement official shall make every reasonable effort to review with the owner and/or occupant or the facility operator each of the violations noted by the enforcement official and any corrective actions that may be necessary. A report listing any violation found by the enforcement official during the inspection shall be kept on file by the enforcement agency. A copy of the report shall be provided to the owner and/or occupant or facility operator, or left at the premises if no person is available. If corrective action is required, then the occupant, facility owner, and/or facility

operator shall implement a plan of corrective action based upon a written plan of correction, submitted to the enforcement agency, which states the corrective actions to be taken and the expected dates of completion. Failure to implement a plan of correction constitutes a violation of this chapter. (Ord. 2597 § 11, 1994).

#### **14.20.220 Authority to sample and establish sampling devices.**

With the consent of the property owner or occupant or pursuant to an inspection warrant, the enforcement official is authorized to establish on any property that discharges directly or indirectly to the municipal storm water conveyance system such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the official may take samples of materials, wastes, and/or effluent as deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities on-site. (Ord. 2854 § 11, 2002; Ord. 2597 § 11, 1994).

#### **14.20.230 Testing, monitoring or mitigation required – When.**

A. The enforcement official may require that any person engaged in any activity and/or owning or operating any facility which causes or may contribute to storm water pollution or contamination, illegal discharges, and/or discharge of non-storm water to the storm water conveyance system perform monitoring, including physical and chemical monitoring and/or analyses, and furnish reports as the enforcement official may specify, if:

1. The person, or facility owner or operator, fails to eliminate illegal discharges within a specified time after receiving a written notice to do so by the enforcement official; or

2. The enforcement official has documented repeated violations of this chapter by the person or facility owner, or operator, which have caused or contributed to storm water pollution.

It is unlawful for such person or facility owner or operator to fail or refuse to undertake and provide the monitoring, analyses, and/or reports specified. Specific monitoring criteria shall bear a relationship to the types of pollutants which may be generated by the person's activities or the facility's operations. If the enforcement agency has evidence that a pollutant is originating from a specific premises, then the enforcement agency may require monitoring for that pollutant regardless of whether said pollutant may be generated by routine activities or operations. The person or facility

owner or operator shall be responsible for all costs of these activities, analyses and reports.

B. Any persons required to monitor, pursuant to subsection (A) of this section, shall implement a storm water monitoring program including, but not limited to, the following:

1. Routine visual monitoring for dry weather flows;

2. Routine visual monitoring for spills which may pollute storm water runoff;

3. A monitoring log including monitoring date, potential pollution sources, as noted in subsections (B)(1) and (2) of this section, and a description of the mitigation measures taken to eliminate any potential pollution sources.

C. If testing, monitoring or mitigation required pursuant to this chapter is deemed no longer necessary by the enforcement official, then any or all of the requirements contained in subsections (A) and (B) of this section may be discontinued.

D. A storm water monitoring program prepared and implemented pursuant to any state-issued NPDES general permit shall be deemed to meet the requirements of a monitoring program for the purposes of this chapter. All monitoring data and analytical evaluation/assessment reports required by such a permit shall be submitted to the city at the same time the data and reports are submitted to the Regional Water Quality Control Board. (Ord. 2854 § 12, 2002; Ord. 2597 § 11, 1994).

#### **14.20.300 Concealment.**

Causing, permitting, aiding, abetting or concealing a violation of any provision of this chapter is unlawful and shall constitute a separate violation of this chapter. (Ord. 2597 § 11, 1994).

#### **14.20.310 Administrative enforcement powers.**

The enforcement agency and enforcement official can exercise any enforcement powers as provided in CVMC Title 1. In addition to the general enforcement powers provided in CVMC Title 1, the enforcement agency and enforcement official have the authority to utilize the following administrative remedies as may be necessary to enforce this chapter:

A. Cease and Desist Orders. When the enforcement official finds that an illegal discharge has or is likely to occur or an illegal connection is in place, the enforcement official may issue an order to cease and desist such discharge, practice, or operation likely to cause such discharge and direct that those persons not complying shall:

1. Comply with the applicable provisions and policies of this chapter;

2. Comply with a time schedule for compliance, which may consist of a duty to cease and desist immediately; and

3. Take appropriate remedial or preventive action to prevent the violation from recurring.

B. Notice to Clean and Abate. Whenever the enforcement official finds any oil, earth, dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or any other material of any kind in or upon the sidewalk abutting or adjoining any parcel of land, or upon any parcel of land or grounds, which may result in an increase in pollutants entering the city's storm water conveyance system or a non-storm water discharge to the city's storm water conveyance system, the enforcement official may issue orders and give written notice to remove same in any reasonable manner. The recipient of such notice shall undertake the activities as described in the notice.

C. Storm Water Pollution Prevention Plan. The enforcement official shall have the authority to establish elements of a storm water pollution prevention plan, and to require any owner or occupier of any premises to adopt and implement such a plan, pursuant to CVMC 14.20.120(B), as may be reasonably necessary to fulfill the purposes of this chapter.

D. Employee Training Program. The enforcement official shall have the authority to establish elements of an employee training program, as may be necessary to fulfill the purposes of this chapter, where such a program has been required as an element of a storm water pollution prevention plan.

E. Best Management Practices. The enforcement official may establish the requirements of BMPs for any premises pursuant to CVMC 14.20.040.

F. Civil Penalties. Notwithstanding any other provisions of the municipal code, a person who violates any of the provisions of this chapter or who fails to implement a storm water monitoring plan, violates any cease and desist order or notice to clean and abate, or fails to adopt or implement a storm water pollution prevention plan as directed by the enforcement official shall be liable for a civil penalty not to exceed \$10,000 for each day such a violation exists. The violator shall also be charged for the full costs of any investigation, inspection, or monitoring survey which led to the detection of any such violation; for abatement costs; and for the reasonable costs of preparing and bringing legal action under this subsection. In addition to any other

applicable procedures, the enforcement agency may utilize the lien procedures of Chapter 1.30 CVMC to enforce the violator's liability. The violator may also be liable for compensatory damages for impairment, loss or destruction to water quality, wildlife, fish and aquatic life.

G. Administrative Citations. Notwithstanding any other provision of the municipal code, a person who violates any provision of this chapter or disobeys an enforcement order may be issued an administrative citation by the enforcement official requiring immediate corrective action and imposing an administrative fine in an amount as set forth in CVMC 1.41.100(D)(1). (Ord. 2854 § 13, 2002; Ord. 2597 § 11, 1994).

#### **14.20.320 Administrative notice, hearing, and appeal procedures.**

A. Service. Unless otherwise provided herein, any order, notice of violation, or other notice required to be given by the enforcement official under this chapter shall be in writing and served in accordance with CVMC 1.40.030.

B. Notice Contents. Notwithstanding any other provision of the municipal code, when the enforcement official determines that a violation of one or more provisions of this chapter exists or has occurred, any violator(s) may be served with a written notice of violation and order. The notice and order shall state the municipal code section violated, describe how violated, the location, date(s) and time(s) of the violation(s), and describe the corrective action required. The notice and order may require immediate corrective action by the violator(s) and explain which method(s) of enforcement the city is utilizing. The notice and order shall explain the consequences of failing to comply. Finally, the notice and order shall identify all hearing/appeal rights and specify the issuing officer.

C. Hearings and Appeals. Notwithstanding any other provision of the municipal code, a violator may request a hearing to contest the enforcement official's determination that a violation has occurred. Such request must be in writing and received by the city within 10 calendar days of service of the notice of violation (or 30 calendar days for out-of-state residents) in a form approved by the enforcement official. If the city does not receive such a written request within 10 calendar days (or 30 calendar days for out-of-state residents), it shall constitute a waiver of the right to a hearing and adjudication of all or any portion of the notice and order. Once a request for hearing is

received, the hearing shall be conducted pursuant to CVMC 1.40.020(B) through (I) and 1.40.070. If the violator(s) fails to attend the hearing, it shall constitute a waiver of the right to a hearing and adjudication of all or any portion of the notice and order. (Ord. 2854 § 14, 2002; Ord. 2597 § 11, 1994).

#### **14.20.330 Judicial enforcement.**

A. Criminal Penalties. Notwithstanding CVMC 1.20.010, any person who violates any provision of this chapter or who fails to implement a storm water monitoring plan, violates any cease and desist order or notice to clean and abate, or fails to adopt or implement a storm water pollution prevention plan as directed by the enforcement official shall be punished, upon conviction, by a fine not to exceed \$10,000 for each day in which such violation occurs, or imprisonment in the San Diego County jail for a period not to exceed one year, or both.

B. Injunction/Abatement of Public Nuisance. Whenever a discharge into the storm water conveyance system is in violation of the provisions of this chapter or otherwise threatens to cause a condition of contamination, pollution, or nuisance, the enforcement official may also cause the city to seek a petition to the superior court for the issuance of a preliminary or permanent injunction, or both, or an action to abate a public nuisance, as may be appropriate in restraining the continuance of such discharge.

C. Other Civil Action. Whenever a notice and order or hearing officer's decision is not complied with, the city attorney may, at the request of the enforcement official, initiate any appropriate civil action in a court of competent jurisdiction to enforce such notice and order and decision, including the recovery of any unpaid storm drain fees and/or civil penalties provided herein. (Ord. 2597 § 11, 1994).

#### **14.20.340 Violations deemed a public nuisance.**

In addition to the other civil and criminal penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to the public health, safety, and welfare and is declared and deemed a public nuisance, which may be summarily abated and/or restored as directed by the enforcement official in accordance with the procedures identified in this chapter or Chapter 1.30 CVMC. A civil action to abate, enjoin or otherwise compel the cessation

of such nuisance may also be taken by the city, if necessary.

The full cost of such abatement and restoration shall be borne by the owner of the property, and the cost thereof shall be a lien upon and against the property in accordance with the procedures set forth in Chapter 1.30 CVMC. (Ord. 2854 § 15, 2002; Ord. 2597 § 11, 1994).

**14.20.350 Remedies not exclusive.**

Remedies set forth in this chapter are not exclusive but are cumulative to all other civil and criminal penalties provided by law, including, but not limited to, penalty provisions of the federal Clean Water Act and/or the State Porter-Cologne Water Quality Control Act. The seeking of such federal and/or state remedies shall not preclude the simultaneous commencement of proceedings pursuant to this chapter. (Ord. 2597 § 11, 1994).

**14.20.360 Civil penalties to be deposited in the storm drain revenue fund.**

Any civil penalties collected by the city as a result of violations of this chapter shall be deposited in the storm drain revenue fund. (Ord. 2597 § 11, 1994).