

ORDINANCE NO. 2015-09

AN ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF ESCONDIDO, CALIFORNIA,  
AMENDING ESCONDIDO MUNICIPAL CODE  
CHAPTER 22, ARTICLES 1 AND 2 –  
WASTEWATERS, STORM WATERS, AND  
RELATED MATTERS

WHEREAS, the City of Escondido is a Copermitee subject to Regional Water Quality Control Board (“RWQCB”) Order No. R9-2013-0001, National Pollutant Discharge Elimination System (“NPDES”) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (“MS4s”) Draining the Watersheds within the San Diego Region (“MS4 Permit”); and

WHEREAS, the MS4 Permit requires updates to the discharge prohibitions and other requirements established in Chapter 22 of the Escondido Municipal Code; and

WHEREAS, the City Council of the City Escondido desires to amend Chapter 22 of the Escondido Municipal Code to provide protection for the public health, safety, and welfare by amending Articles 1 and 2 related to wastewaters, stormwaters and related matters.

Now, therefore, the City Council of the City of Escondido, California, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. That Escondido Municipal Code Chapter 22, Article 1, Section 22-1 is hereby amended and replaced to read as follows:

## **Sec. 22-1. Definitions.**

As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this section.

Act shall mean the Federal Water Pollution Control Act of 1972, also known as the Clean Water Act, 33 U.S.C. 1251, et seq.

Approved or approval shall mean the approval of the director, and/or approval shall mean meeting the approval of the director as a result of investigation and/or tests conducted by the director or by reason of accepted principles or tests by national authorities, technical or scientific organizations, or research laboratory of recognized authority.

Approval authority shall mean the California State Water Resource Control Board that regionally governs the city's pretreatment program.

Authorized representative shall mean the following:

(1) A president, secretary, treasurer, or vice president in charge of a principal business function, or any other person who performs similar policy or decision making functions, if the discharger is a corporation;

(2) The manager of one (1) or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000.00) (in second-quarter 1980 dollars), if the discharger is a corporation, and authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(3) A general partner or proprietor if the discharger is a partnership or proprietorship, respectively;

(4) A principal executive officer or director having responsibility for the overall operation of the discharging facility or a ranking elected official if the discharger is a governmental entity, charitable organization or other such unincorporated entity; or

(5) A representative authorized in writing by an individual designated above, if the authorization is submitted to the director and specifies an individual or a position having responsibility for the overall operation of the facility. This includes the position of plant manager, a position of equivalent responsibility for environmental matters for the company. If an authorization under this subsection is no longer accurate because a different individual or position has the responsibility for the overall operation of the facility, or overall responsibility for environmental matters of the company, a new authorization satisfying the requirements of this subsection must be submitted to the director prior to or together with, any reports to be signed by such person.

Basin plan means the comprehensive water quality control plan for the San Diego Basin, adopted by the Regional Water Quality Control Board, San Diego Region in 1975, and all subsequent amendments.

Beer manufacturer shall mean a manufacturer of beer as defined in California Business and Professions Code Section 23012.

Best management practices (BMPs) shall mean schedules of activities, pollution treatment practices or devices, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices or devices to prevent or reduce the discharge of pollutants directly or indirectly to sewer system or the MS4. Best management practices also include, but are not limited to, treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage. Best management practices may include any type of pollution prevention and pollution control measure that can help to achieve compliance with this chapter.

Biological oxygen demand (BOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Celsius, expressed in terms of milligrams per liter (mg/l) and analyzed in accordance with the most recent of "Standard Methods for the Examination of Water and Wastewater" prepared and published by the American Public Health Association, American Water Works Association and Water Environmental Federation.

Brandy manufacturer shall mean a manufacturer of brandy as defined in California Business and Professions Code Section 23014.

Building shall include all structures.

Building drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.

Building sewer shall mean the extension from the building drain to the public sewer or other place of disposal.

California Ocean Plan means the Water Quality Control Plan for Ocean Waters of California, adopted by the State Water Resources Control Board in September 1991, and all subsequent amendments.

Categorical pretreatment standard or categorical standard shall mean any regulation containing pollutant discharge limits promulgated by EPA in accordance with Section 307(b) and (c) of the Act (33 USC 1317) which apply to a specific category of users and which appear in 40 CFR Chapter 1, Subchapter N, Parts 405-471. CFR means the Code of Federal Regulations.

City shall mean authorized representatives of and facilities owned by the City of Escondido.

Clean Water Act or CWA shall mean the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. 86 Stat. 916, Public Law 92-500.

Commercial establishment shall mean a private establishment such as a restaurant, hotel laundry, store, filling station, or recreational facility. A nonprofit private or government entity such as a church, school, hospital, military facility, correctional institution, recreation facility or a facility owned and operated by a charitable organization is considered a commercial establishment.

Compliance schedule shall mean a document issued with milestone dates agreed to by the city and the IU, enforced by the city, represents the shortest schedule of actions to achieve compliance with pretreatment standards.

Composite sample shall mean a sample formed by mixing discrete samples taken at periodic times at periodic points in time or a continuous proportion of the flow. The number of discrete samples which make up the composite sample depends upon the variability of pollutant concentration and flow.

Cooling water shall mean the water discharged from any use including, but not limited to, air conditioning, cooling or refrigeration, during which the only pollutant assessed is heat.

Contamination shall mean an impairment of the quality of the waters of the state by the introduction of waste material to a degree which creates a hazard to the public health through poisoning or through the spread of disease.

Combined sewer shall mean a sewer receiving both surface runoff and sewage.

Daily maximum limit shall mean the maximum allowable discharge of any pollutant. Where daily maximum limitations are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken during the twenty-four (24) hour period.

Direct discharge shall mean the discharge of treated or untreated wastewater into the receiving water of the state of California.

Director shall mean the person designated by the city manager to have charge of the administration and supervision of the utilities department or any other official(s) as designated by the city manager.

Distilled spirits manufacturer shall mean a manufacturer of distilled spirits as defined in California Business and Professions Code Section 23015.

Domestic septage shall mean the liquid or solid material removed from private sewage disposal system, portable toilet or other holding device that receives only domestic sewage.

Domestic wastewater (domestic sewage) shall mean sanitary wastewater and wastewater generated from household type operations.

DPH shall mean the department of public health.

Drainage system or drainage piping shall mean and include all the piping within public or private premises which conveys sewage or other liquid wastes to a legal point of disposal, but shall not include the mains or laterals of a public sewerage system.

EIWP shall mean the Escondido industrial waste program.

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 11, 1991, and all subsequent amendments.

F.O.G. shall mean fats, oils and grease.

Food service establishment shall mean a facility engaged in preparing food for consumption by the public such as a restaurant, commercial kitchen, caterer, hotel, school, hospital, prison, correctional facility or care institution.

Garbage shall mean solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

Grab sample shall mean a single sample of water collected at a particular time and place with no regard to the flow of the waste stream. A single grab sample should be taken over a period not to exceed fifteen (15) minutes.

Grease interceptor shall mean a plumbing device designed to intercept most greases and solids before they enter a wastewater sewer. Sizing will be determined by using the most recently adopted version of the Uniform Plumbing Code by the Building Standards Commission, as well as any other requirements the pretreatment department considers necessary.

Grease trap shall mean a device designed to retain grease prior to the wastewater exiting the trap and entering the sewer system. Sizing will be determined by using the most recently adopted version of the Uniform Plumbing Code by the Building Standards Commission, as well as any other requirements the pretreatment department considers necessary.

HARRF shall mean Hale Avenue resource recovery facility.

IBCS shall mean the industrial brine collection system.

Illegal connection shall mean any physical connection to the MS4 which has not been permitted in writing by the City of Escondido or the San Diego Regional Water Quality Control Board.

Illegal discharge means any discharge to the MS4 that is prohibited by federal, state, or local laws, or degrades the quality of receiving waters in violation of any plan standard.

Individual residential vehicle washing means the noncommercial washing of vehicles in a residential zone.

Industrial brine shall mean any industrial wastewater that consists exclusively of concentrated salts or dissolved minerals that are derived from water softener processes, evaporative processes, or water treatment processes.

Industrial brine collection system shall mean any system of pipelines, pressure mains, pumping stations, outfall sewers, and appurtenances constructed and maintained by the city for the exclusive use of collecting industrial brine, and shall include facilities used to bypass the city's POTW and dispose of the brine under regulations established in a NPDES permit separate from the NPDES permit that regulates the city's POTW.

Industrial user(s) shall mean any facility which discharges process wastewater other than domestic, to the POTW for treatment.

Industrial user permit shall mean a permit issued by the city, regulating specific limitations for constituent strength and daily flow from industrial users process wastewater discharging to the POTW.

Industrial waste shall mean and includes nondomestic liquid or semisolid wastes from any producing, manufacturing or processing operation of whatever nature.

Infectious waste shall mean any waste material or article which harbors or may reasonably be considered to harbor any microorganism, helminthic parasites or viruses which may be expected to produce disease in healthy persons. And shall include the following:

(1) Significant laboratory wastes including, but not limited to, cultures of bacteria and or microorganisms.

(2) Pathological specimens including, but not limited to, human or animal tissues, blood elements, excreta and secretions which may contain microorganisms, helminthic parasites or viruses.

(3) Human dialysis waste materials including arterial lines and dialysate membranes.

(4) Surgical specimens including, but not limited to, human or animal parts and tissues removed surgically or at autopsy which may contain microorganisms, helminthic parasites or viruses.

(5) Equipment, instruments, utensils, and other materials of a disposable nature which may transmit viruses any other communicable disease from the rooms of humans and or the enclosures of animals that have been isolated with suspected or diagnosed communicable diseases.

(6) Any materials defined by a duly authorized public health officer as potentially infectious and required to be managed as an infectious waste.

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 11, 1991 and all subsequent amendments.

Interference shall mean a discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of (the city's) NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Local limits shall mean the limits that are developed by the city to enforce the specific and general prohibitions that are required in Section 307(b) of the Federal Clean Water Act and Section 403, Title 40 of the Code and Federal Regulations.

Municipal separate storm sewer system (or "MS4") means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (1) owned or operated by a state, city town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or designated and approved management agency that discharges to waters of the United States; (2) designated or used for collecting or conveying stormwater; (3) which is not a combined sewer; (4) which is not part of the publicly owned treatments works (POTW).

National categorical pretreatment standard (national standard) shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act.

National pollution discharge elimination system (NPDES) permit means a permit issued by the San Diego Regional Water Quality Control Board or the State Water Resources Control Board pursuant to Division 7 of the California Water Code to control discharges from point sources to waters of the United States.

Natural outlet shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

New source means:

(1) Any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated with that section; provided, that:

(A) The building, structure, facility or installation is constructed at a site at which no other source is located, or

(B) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source, or

(C) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered;

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)(B) or (C) of this definition but otherwise alters, replaces or adds to existing process or production equipment;

(3) Construction of a new source as defined herein has commenced and the owner or operator has:

(A) Begun, or caused to begin, as part of a continuous on-site construction program:

(i) Any placement, assembly or installation of facilities or equipment, or

(ii) Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment, or

(B) Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this definition.

Nonstormwater discharge shall mean all discharges to and from a MS4 that do not originate from precipitation events. Nonstormwater includes illegal discharges and NPDES permitted discharges.



Nuisance shall mean a discharge of wastewater in violation of city regulations or orders, or which is or could be harmful to or unreasonably affect the wastewater collection system and treatment facilities of the city or which impairs or unreasonably affects the operation and maintenance of such facilities, or which violates quantity, quality or flow standards adopted by the city, and all wastewater discharges which unreasonably affect the quality of the city's treatment plant effluent in such a manner that receiving water quality requirements established by law cannot be met by the city.

Order shall mean the San Diego Regional Water Quality Control Board Order Number 2001-01, as renewed on January 24, 2007 as Order No. R9-2007-0001, as amended and renewed on May 8, 2013 as Order No. R-9-2013-0001, together with all subsequent amendments.

Pass through shall mean a discharge which exits the POTW into the receiving waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit (including an increase in the magnitude or duration of a violation).

Peak flow shall mean the maximum five (5) minute rate of wastewater flow to be generated from the premises as estimated by the city engineer.

Person shall mean any individual, partnership, firm, association, corporation or agency, including the State of California and the United States of America.

pH shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Pigment shall mean a substance that imparts black or white or a color to other materials.

Plan standard 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.

Plumbing shall include all drainage systems, both direct and indirect, and all vent piping, water piping and other piping in any building or within the boundaries of any property through which sewage, water, wastewater or any other substance or liquid is conveyed.

Point of discharge shall mean a physical location at which a discharger directly or indirectly, disposes wastewater.

Pollutant shall mean solid waste, sewage, garbage, medical waste, wrecked or discarded equipment, radioactive materials, dredged spoil, rock, sand, industrial waste, and any organic or inorganic contaminant whose presence degrades the quality of the receiving waters in violation of any plan standard. Pollutant includes fecal coliform, fecal

streptococcus, enterococcus, volatile organic carbon surfactants, oil and grease, petroleum hydrocarbons, total organic carbon lead, copper, chromium, cadmium, silver, nickel, cyanides, phenols, and biocides. A pollutant also includes any contaminant which can degrade the quality of the receiving waters in violation of any plan standard by altering pH, total suspended or settleable solids, biochemical oxygen demand, chemical oxygen demand, nutrients, or temperature. Pollutant means any agent that may cause or contribute to the degradation of water quality such that a condition of pollution or contamination is created or aggravated.

Pollution shall mean an alteration of the quality of the waters of the state by pollutants to a degree which unreasonably affects: (1) such waters for beneficial use, or (2) facilities which serve such beneficial uses.

Premises shall mean a parcel of real property or portion thereof, including any improvements thereon, which is determined by the city to be a single unit for purposes of receiving, using and paying for wastewater disposal service.

In making this determination, the city shall take into consideration such factors as whether the unit could reasonably be subdivided, number and location of side sewers, and whether the unit is being used for a single activity and, if not, what is the principal activity for wastewater disposal services.

Pretreatment or treatment shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less polluted state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW or receiving water of the state. The reduction or alteration can be obtained by physical, chemical or biological processes, or through process changes or other means, except as prohibited by 40 CFR Section 403.6(d).

Pretreatment requirements shall mean any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

Properly shredded garbage shall mean the wastes from the preparation, cooking and dispensing of foods that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no article greater than three-eighths (3/8) inch in any dimension.

Public owned treatment works (POTW) shall mean publicly owned treatment works defined by Section 212 of the Act, which are wholly or partially owned by the city. This includes public sewers, treatment plants, land, appurtenances, pumping stations, or equipment. For the purpose of this ordinance, POTW shall include the sewers within

the City of Escondido that convey wastewater to the POTW who are by contract or agreement with the city, dischargers to the city's POTW.

Public sewer shall mean a sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority.

Receiving water quality requirements shall mean requirements for the city's wastewater treatment plant effluent established by law or by state or federal regulatory agencies for the protection of receiving water quality. Requirements shall include effluent limitations, and waste discharge standards, limitations, or prohibitions which may be promulgated or adopted from time to time by local, state or federal regulatory agencies.

Residential wastewater shall mean the waterborne wastes derived from human habitation and use of residential, business, institutional and industrial buildings or other structures.

Sanitary sewer shall mean a sewer which carries sewage and to which storm, surface and groundwaters and industrial wastes are not intentionally admitted.

Septic tank waste means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.

Sewage shall mean a combination of water-carried wastes from residences, business buildings, institutions, and commercial and industrial establishments.

Sewage system shall mean all facilities for collecting, pumping, treating and disposing of sewage.

Sewage treatment plant shall mean any arrangement of devices and structures used for treating sewage.

Sewer shall mean a pipe or conduit for carrying sewage.

Side sewer shall mean a sewer conveying the wastewater of a user from a residence, building or other structure to a city-owned interceptor sewer.

Significant industrial user shall mean:

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:
  - (A) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
  - (B) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant;

(C) Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement; or

(3) Upon a finding that a user meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from the user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Significant noncompliance (SNC) shall mean a significant industrial user is in significant noncompliance if its violation meets one (1) or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 302.2(l);

(2) Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the measurements taken for the same pollutant parameter during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC=1.4 for biochemical oxygen demand ("BOD"), total suspended solids ("TSS"), fats, oil, and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3(l) daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance;

(8) Any other violation or group of violations, which may include a violation of best management practices, which the POTW determines will adversely affect the operation of implementation of the local pretreatment program.

Slug discharge shall mean any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge,

which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

Standard industrial classification (SIC) shall mean classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

Standard methods means analytical procedures described in the latest edition of "Standard Methods for the Examination of Water and Wastewater" as published by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

State shall mean the State of California.

Storm drain inlet shall mean any pipeline, or portion thereof, constructed in a street, alley, sidewalk or other public place, or easement granted to the city, and connecting or proposed to connect any lot or part of lot to the storm drain system.

Storm sewer or storm drain shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes.

Stormwater pollution prevention plan (SWPPP) is a document which describes, by word and illustration, the best management practices to be implemented on-site by the owner or operator of a business to eliminate or reduce to the maximum extent practicable pollutant discharges to the MS4.

Suspended solids shall mean solids that either float on the surface of or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

Temporary permit shall mean an interim status permit issued to a discharger until a final determination is made by the director or designee to issue an industrial user wastewater discharge permit.

Total suspended solids (TSS) shall mean the total non-filterable residue in water, wastewater or other liquids, which is removable in accordance with the most recent publication of the Standard Methods for the Examination of Water and Wastewater, prepared and published by the American Public Health.

Total dissolved solids (TDS) shall mean the combined content of all inorganic and organic substances contained in a liquid in: molecular, ionized or micro-granular (colloidal sol) suspended form.

Toxic pollutant shall mean any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of the CWA 307(a) or other Acts.

TTO shall mean total toxic organics and is the sum of the masses of the concentration of specific toxic organics compounds found on the Chemicals Regulated Under TTO list available at the city utilities department.

User or industrial user shall mean any person who contributes, causes or permits the contribution of wastewater into the city's collection and treatment facilities.

Waste material shall mean and includes any and all substances of liquid, solid, gaseous or radioactive nature associated with human habitation, or of human or animal origin, or from any producing, manufacturing or processing operation of any nature.

Wastewater shall mean all residential and nonresidential material and waters, whether treated or untreated, discharged into or permitted to enter the wastewater collection system.

Wastewater strength shall mean the quality of wastewater discharged as measured by its concentration, including its constituents and characteristics.

Wastewater system shall mean and includes intercepting sewers, wastewater treatment works, sanitary sewer collection facilities that discharge to a POTW, industrial brine collection facilities that are regulated by a separate NPDES, pumping stations, outfall sewers, and appurtenances constructed, operated and maintained by the city for residential and nonresidential wastewater disposal purposes.

Watercourse shall mean a channel in which a flow of water occurs, either continuously or in-termittently.

Winegrower shall mean a winegrower as defined in California Business and Professions Code Section 23013.

SECTION 2. That Escondido Municipal Code Chapter 22, Article 1, Section 22-10 is hereby amended and replaced to read as follows:

**Section 22-10. Enforcement authority.**

(a) The city and the director or designee can exercise any enforcement powers as provided in this chapter, as may be necessary to effectively implement and enforce this chapter.

(b) In addition to the general enforcement powers provided in this chapter, the city and director or designee shall exercise any of the following supplemental enforcement powers as may be necessary under the circumstances:

(1) Sampling authority. During any inspection, the director or designee shall take samples deemed necessary in order to implement and enforce the provisions of this chapter. This may include the installation of sampling and metering devices on private property, or requiring the person owning or occupying the premises to supply

samples to the control authority and have them analyzed at the owner's or occupants expense.

(2) Clean and abate. The director or designee may require any person owning or occupying a premises to clean up or remove any material that could create a potential hazard which may result in a violation of this chapter.

(3) Monitoring and mitigation. The director or designee shall require reasonable monitoring of discharges from any premises to the MS4 or sewage system and shall have authority to order the mitigation of circumstances which may result in illegal discharges to the maximum extent practicable.

(4) Stormwater pollution prevention plan. The director or designee shall have the authority to require any business to establish, adopt and implement elements of a stormwater pollution prevention plan pursuant to Municipal Code section 22-26(a), as may be necessary to fulfill the purposes of this chapter.

(5) Employee training program. The director or designee shall have the authority to require any business to establish the elements of an employee training program, as may be necessary to fulfill the purposes of this article.

(6) Best management practices. The director or designee shall require the establishment of best management practices for any premises pursuant to Municipal Code section 22-26(h).

(7) Reports. The director or designee shall have the authority to require any person or entity owning a premises to submit a report to the city confirming their compliance with this chapter.

SECTION 3. That Escondido Municipal Code Chapter 22, Article 1, Section 22-11 is hereby amended and replaced to read as follows:

**Section 22-11. Enforcement and remedies.**

(a) It is unlawful for any person, or entity to violate provision of this chapter. Any violation of this chapter shall be a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding one thousand dollars (\$1,000.00) or be imprisoned for a period of not exceeding six (6) months, or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

(b) The violation of any provision of this chapter, any standard adopted by this chapter, or any permit or permit condition issued under this chapter is hereby declared a public nuisance, and shall be abated by any means available under the law. The city may also pursue any of the alternative civil remedies herein against any discharger who violates the provisions of this chapter. The city may pursue any of the following alternative remedies against any person, or entity who violates the provisions of this chapter:

(1) Repair of damage to facilities. When a discharge to a MS4 or a prohibited discharge to the sewage system, causes an obstruction, damage, or other impairment to the MS4 or the sewage system, any person or entity causing such

obstruction, damage, or impairment shall be liable for the work required to clean or repair the system.

(2) Injunction. Whenever a discharge to a MS4 or a prohibited discharge to the sewage system is in violation of this chapter or otherwise causes or threatens to cause a condition of contamination, pollution, or nuisance, the city may petition the superior court for the issuance of injunctive relief as may be appropriate, preventing the continuance of such discharge.

(3) Reimbursement. Whenever the city is assessed any fine, fee, or penalty as a result of a discharge to a MS4 or a prohibited discharge to the sewage system in violation of this chapter, the city may seek reimbursement of such fine, fee, or penalty from the discharger.

(4) Cost recovery. Whenever the city incurs any costs or expenses abating any discharge in violation of any provision of this chapter, the city may seek reimbursement of such costs from the person, or entity causing such violation. Any such expense shall constitute a debt owed to the city, and shall include both the direct and indirect costs involved in the abatement of the illegal discharge and in collecting such reimbursement.

(5) Stop work notice. Whenever any violation of this chapter exists, a stop work notice may be issued and all regular work on a project must cease until the required remedies are implemented.

(6) Administrative citation. Any person violating this chapter may be issued an administrative citation, as provided in Chapter 1A, Administrative Remedies, of this code. Failure to satisfactorily respond to a written notice of violation within the time frame specified by the director or a duly authorized designee can result in the issuance of an administrative citation. Each and every day a violation of any provision of this chapter constitutes a separate and distinct offense. In accordance with the fees set by the city, a graduated schedule of administrative fines will be used to assess the first and any successive violations.

(7) Ten thousand dollar (\$10,000.00) per day penalty. Any person who violates any order issued by the director or any provision of this chapter, shall be liable civilly to the city in a sum not to exceed ten thousand dollars (\$10,000.00) for each day in which such violation occurs. The city attorney shall have authority to petition the superior court to impose, assess and recover any such sums.

(8) Termination of service. The city may terminate or cause to be terminated wastewater treatment or water service to any premises if a violation of any provision of this chapter pertaining to control of wastewater is found to exist or if a discharge of wastewater causes or threatens to cause a condition of contamination, pollution or nuisance, as defined in this chapter. This provision is in addition to other statutes, rules or regulations authorizing termination of service.



SECTION 4. That Escondido Municipal Code Chapter 22, Article 2, Sections 22-19 thru Section 22-29 are hereby amended and replaced to read as follows:

**Section 22-19. Purpose and intent.**

(a) The purposes of this article are to ensure the health, safety and general welfare of the citizens of the City of Escondido by controlling nonstormwater discharges to the MS4; by eliminating discharges to the MS4 from spills, dumping, or disposal of solid or liquid waste other than stormwater; and by preventing, eliminating or reducing pollutants in urban stormwater discharges to the maximum extent practicable.

(b) The intent of this article 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 and the Order.

**Section 22-20. Reserved.**

**Section 22-21. Construction and application.**

This article shall be interpreted to assure consistency with the requirements of applicable federal and state laws, regulations, orders and permits, and with the purposes and intent of this article.

**Section 22-22. Prohibited discharges to MS4.**

Except as provided in Escondido Municipal Code section 22-23, it is unlawful for any person to discharge anything except stormwater to a MS4, including, but not limited to:

- (a) Sewage;
- (b) Discharges of wash water resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive service facilities;
- (c) Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility including motor vehicles, cement-related equipment, and port-a-potty servicing, etc.;
- (d) Discharges of wash water from mobile operations such as mobile automobile washing, steam cleaning, power washing, and carpet cleaning, etc.;
- (e) Discharges of wash water from the cleaning or hosing of impervious surfaces in municipal, industrial, commercial, and residential areas including parking lots, streets, sidewalks, driveways, patios, plazas, work yards and outdoor eating and drinking areas, etc.;
- (f) Discharges or runoff from material storage areas containing chemicals, fuels, grease, oil, or other hazardous materials;
- (g) Discharges of pool or fountain water containing chlorine, biocides, or other chemicals; discharges of pool filter or fountain filter backwash water;

- (h) Discharges of sediment, pet waste, vegetation clippings, or other landscape or construction-related wastes; and
- (i) Discharges of food-related wastes (e.g., grease, fish processing, and restaurant kitchen mat and trash bin wash water, etc.).

**Section 22-23. Exceptions to discharge to MS4 prohibitions.**

The following discharges are exempt from the prohibition set forth in section 22-22:

(a) Any discharge or connection regulated under a NPDES permit issued to the discharger and administered by the State of California pursuant to 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;

(b) Discharges from the following activities which are not identified by the RWQCB as a source of pollutants to receiving waters:

- (1) Diverted stream flows;
- (2) Rising ground waters;
- (3) Uncontaminated groundwater infiltration to MS4s;
- (4) Springs
- (5) Flows from riparian habitats and wetlands;
- (6) Potable water sources;
- (7) Foundation drains; and
- (8) Footing drains;

(c) Discharges from the following activities when the controls listed below are implemented:

(1) Air conditioning condensation. Condensation discharges should be directed to landscaped areas or other pervious surfaces, or the sanitary sewer when feasible;

(2) Individual residential vehicle washing. Discharge of wash water should be directed to landscaped areas or other pervious surfaces where feasible. The volume of water, washing detergent and other vehicle wash products should be minimized. Any other practices that will prevent the discharge of pollutants from residential vehicle washing are encouraged.

(3) Dechlorinated swimming pool discharges. Discharges to the MS4 must be free from residual chlorine, algaecide, filter backwash, and other pollutants. Discharge of saline pool water must be directed to the sanitary sewer, landscaped areas, or other pervious surfaces.

(4) Flows from emergency firefighting.

(i) Non-emergency firefighting discharges must be addressed by appropriate BMPs to prevent pollutants associated with such discharges to enter the MS4.

(ii) During emergency situations, BMPs should not interfere with immediate emergency response operations or impact the public health and safety. Priority of efforts should first be directed toward life and property before the environment.

(d) Any discharge which the enforcement official or the Regional Water Quality Control Board determines in writing is necessary for the protection of the public health and safety;

(e) Notwithstanding the exemptions provided by Municipal Code section 22-23(a)-(d), if the Regional Water Quality Control Board or the enforcement official determines that any of these otherwise exempt discharges cause or significantly contribute to violations of any plan standard, or convey significant quantities of pollutants to surface waters, or are a danger to public health or safety, such discharges shall be prohibited from entering the MS4.

**Section 22-24. Discharge in violation of permit.**

It is unlawful for any person to cause either individually or jointly any discharge to the MS4 which results in or contributes to a violation of the Order.

**Section 22-25. Illegal connection prohibited.**

It is unlawful for any person to establish, use, or maintain any illegal connection to the MS4. This section expressly supersedes any city permit or earlier authorization for said discharge, but is subject to the exceptive provisions of Escondido Municipal Code section 22-23, above.

**Section 22-26. Reduction of pollutants in stormwater.**

Any person engaged in activities which may result in pollutants entering the MS4 shall, to the maximum extent practicable, undertake all measures to reduce the risk of nonstormwater or pollutant discharges. At the discretion of the enforcement official, the following requirements shall be applied to any persons engaged in such activities:

(a) Stormwater pollution prevention plan. The enforcement official shall require any business in the City of Escondido that is engaged in activities which may result in pollutant discharges to develop and implement a SWPPP, which must include an employee training program. Business activities which shall require a SWPPP include maintenance, storage, manufacturing, assembly, equipment operations, vehicle loading or fueling, or cleanup procedures, which are carried out partially or wholly out of doors.

(b) Parking lots and impervious surface. Persons owning or operating a parking lot or impervious surfaces used for similar purposes shall clean those surfaces frequently and thoroughly to prevent the discharge of pollutants to the MS4 to the maximum extent practicable. Sweepings or cleaning residue from parking lots or impervious surfaces shall not be swept or otherwise made or allowed to go into any gutter or roadway.

(c) Street Parking. No person shall stand or park any vehicle or equipment on any public street, if such vehicle or equipment is determined by the enforcement official to be leaking fluids such as oils or other fluids that contribute or have the potential to contribute to a discharge of pollutants to the MS4 or the receiving waters.

(d) Trash areas.

(1) Trash and recycling storage facilities shall be located in a roofed, four-sided enclosure. The enclosure may not include any storm drain inlets. These

storage facilities must have a grade-break at the entrance or be otherwise designed to prevent liquids draining from the enclosure.

(2) Trash areas shall be kept free of debris and liquid waste at all times. Trash dumpster container lids shall remain closed with when not actively in use.

(3) Properties with existing trash areas without a roofed, four-sided enclosure may be required to install said enclosure following the receipt of storm water violation notices.

(e) New developments and redevelopments. Any person performing construction work in the City of Escondido shall, to the maximum extent practicable, prevent pollutants from entering the MS4 by complying with all applicable local ordinances, and applicable provisions of any general construction NPDES permit issued by the State Water Resources Control Board. The enforcement official shall establish controls on the volume and rate of stormwater runoff from new developments and redevelopments as may be reasonably necessary to minimize the discharge and transport of pollutants.

(f) Compliance with general permits. Each industrial discharger, discharger associated with construction activity, or other discharger subject to any general stormwater NPDES permit issued by the United States Environmental Protection Agency, the State Water Resources Control Board, or the San Diego Regional Water Quality Control Board, shall comply with all requirements of such permit, which may include the general industrial stormwater permit, the general construction activity stormwater permit, and/or the general dewatering permit.

(g) Coordination with Hazardous Materials Release Response Plans and Inventory. Any activity subject to the Hazardous Materials Release Response Plan, Chapter 6.95 of the California Health and Safety Code, shall include in that Plan provisions for compliance with this section, including the prohibitions on non-storm water discharges and illegal discharges, and the requirement to reduce release of pollutants to the maximum extent practicable.

(h) Compliance with best management practices. Every person undertaking any activity or use of a premises which may cause or contribute to stormwater pollution or contamination, illegal discharges, or nonstormwater discharges shall comply with best management practices guidelines or pollution control requirements as may be reasonably established by the enforcement official.

(i) Maintenance of structural BMPs for function and appearance. Property owners with structural BMPs shall maintain those BMPs associated with their property and its development.

(j) Grading, ground clearing, stockpiling. All work shall be done in accordance with the requirements of this Chapter and any permits required by the city or other applicable agencies.

(k) Ground surface landscape preservation. No person shall remove ground surface landscaping that could result in erosion without installation of pollution control measures.

**Section 22-27. Containment and notification of spills.**

Any person owning or occupying a premises who has knowledge of any release of pollutants or nonstormwater from those premises which might enter the MS4 shall immediately take all reasonable action to contain the release and minimize any nonstormwater discharge. Such person shall notify the enforcement agency as soon as practical.

**Section 22-28. Protection of MS4 and Watercourses in general.**

Every person owning or occupying property through which a natural watercourse of a MS4 passes shall:

(a) Keep and maintain that part of the watercourse within the property free of trash, debris and other obstacles which would pollute, contaminate, or retard the flow of water through the MS4;

(b) Maintain existing structures within or adjacent to such a watercourse so that those structures will not become a hazard to the use, function, or physical integrity of the MS4; and

(c) Not remove healthy bank vegetation beyond that necessary for maintenance, nor remove vegetation in such a manner as to increase the vulnerability of the watercourse to erosion.

**Section 22-29. Maintenance Agreement.**

The owner of a priority development project must execute a storm water facilities maintenance agreement with the city prior to occupancy of the development. The agreement shall be recorded and run with the land and be binding upon the owner, and their heirs, and successors in interest to the project and to any real property developed in conjunction with the project.

SECTION 5. SEPARABILITY. If any section, subsection sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 6. That as of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7. That the City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation, printed and published in the County and circulated in the City of Escondido.

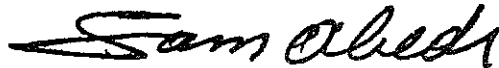
PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 20<sup>th</sup> day of May, 2015 by the following vote to wit:

AYES : Councilmembers: DIAZ, GALLO, MORASCO, ABED

NOES : Councilmembers: MASSON

ABSENT : Councilmembers: NONE

APPROVED:



SAM ABED, Mayor of the  
City of Escondido, California

ATTEST:



EVA HETER, Assistant City Clerk of the  
City of Escondido, California

\*\*\*\*\*

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO : ss.  
CITY OF ESCONDIDO )

I, EVA HETER, Assistant City Clerk of the City of Escondido, hereby certify that the foregoing ORDINANCE NO. 2015-09 passed at a regular meeting of the City Council of the City of Escondido held on the 20<sup>th</sup> day of May, 2015, after having been read at the regular meeting of said City Council held on the 6<sup>th</sup> day of May, 2015.



EVA HETER, Assistant City Clerk of the  
City of Escondido, California

ORDINANCE NO. 2015-09