

**ORDINANCE NO. 1543 (2010 Series)**

**AN ORDINANCE OF THE CITY OF SAN LUIS OBISPO REGULATING  
URBAN STORMWATER QUALITY AND DISCHARGE CONTROL**

**WHEREAS**, the City is obligated under the federal Clean Water Act and the State Porter-Cologne Act to take steps to reduce pollution in its streams; and

**WHEREAS**, the City is part of a group of agencies identified by the Clean Water Act required to implement a Stormwater Management Plan; and

**WHEREAS**, the City has prepared a Storm Water Management Plan for approval that includes a commitment to prepare a stormwater ordinance to regulate stormwater discharge, animal waste, construction related erosion and sediment control, and post construction devices; and

**WHEREAS**, the Stormwater Quality Ordinance is statutorily exempt from CEQA under Discharge Requirements, Section 15263 of the CEQA Regulations.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of San Luis Obispo, as follows:

**SECTION 1:** Chapter 12.08 of the City's Municipal Code entitled Rainwater Drains is hereby repealed in its entirety.

**SECTION 2:** A new Chapter 12.08, entitled Urban Stormwater Quality Management and Discharge Control is hereby added to the San Luis Obispo Municipal Code to read as follows:

**12.08.010 Title.** This Ordinance may also be cited as the "Stormwater Quality Ordinance" of the City of San Luis Obispo.

**12.08.020 Purpose and intent.** The purpose and intent of this Ordinance is to ensure the health, safety, and general welfare of citizens, and protect and enhance the quality of watercourses and water bodies in a manner pursuant to and consistent with the Clean Water Act by reducing pollutants in stormwater discharges to the maximum extent practicable, by prohibiting non-stormwater discharges to the storm drain system, and improving stormwater management.

**12.08.030 Definitions.**

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

- A. "Administrative Technical Documents" or "ATD" means the following documents adopted by the City. The most current versions of these documents shall be considered in use for purposes of interpreting this ordinance.
  - a. Storm Drain Map
  - b. Waterway Management Plan

- c. Waterway Management Plan Appendix
  - d. Waterway Management Plan Drainage Design Manual
  - e. Waterway Management Plan Stream Management and Maintenance Program
  - f. Waterway Management Plan Stream Management and Maintenance Program Appendix A
  - g. Waterway Management Plan Environmental Impact Statement / Report for Public Hearing
  - h. Creek and Flood Protection Fee Schedule
  - i. City Engineering Standards
  - j. City Engineering Standard Specifications
  - k. City of San Luis Obispo Stormwater Management Plan
  - l. Community Design Guidelines
- B. "Authorized Representative" means that person, designated in writing to the Director by the property owner, to act on behalf of the property owner.
- C. "Best Management Practice" or "BMP" means activities, practices, and procedures to prevent or reduce the discharge of pollutants directly or indirectly to the Storm Drain System and waters of the United States. BMPs include but are not limited to, treatment facilities to remove pollutants from storm water; operating and maintenance procedures; facility management practices to control runoff, spillage or leaks of non-storm water, waste disposal, and drainage from materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices, and procedures and such other provisions as the City determines appropriate for the control of pollutants.
- D. "City" shall mean the City of San Luis Obispo.
- E. "Clean Water Act" means the federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., and any subsequent amendments thereto.
- F. "Construction activity" means any of the following activities, including but not limited to clearing and grubbing, grading, excavating, demolition and construction.
- G. "Director" means the Community Development Director or Public Works Director of the City, acting either directly or through an authorized designee.
- H. "Groundwater" means any naturally occurring subsurface water, including springs.
- I. "Hazardous material" means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated,

stored, transported, disposed of, or otherwise managed, as defined in section 25501 of the Health and Safety Code.

- J. "Illegal discharge" means any direct or indirect non-storm water discharge to the storm drain system, except as exempted by this ordinance.
- K. "Illicit connection" means any of the following:
- a. Any conveyance system, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, sewage, process wastewater, wash water, pool or spa water.
  - b. Any connections to the storm drain system from indoor drains and sinks not currently exempted or permitted, regardless of whether the drain or connection has been previously allowed, permitted, or approved by a government agency.
  - c. Any drain or conveyance connected from any land use to the storm drain system which has not been documented and approved by the City.
  - d. Any unpermitted connection of a stormwater system to the publicly owned treatment works as defined in Chapter 13.08 of the Municipal Code.
- L. "Industrial activity" means any activity subject to a NPDES Industrial Permit as defined in 40 CFR, Section 122.26 (b)(14).
- M. "Municipal separate storm sewer system" or "MS4" means the public portion of the storm drain system."
- N. "National Pollutant Discharge Elimination System" or "NPDES" means the general, group, and individual storm water discharge permits which regulate facilities defined in federal NPDES regulations pursuant to the Clean Water Act.
- O. "Non-Storm water discharge" means any discharge to the storm drain system that is not composed entirely of storm water.
- P. "Pollutant" means anything which causes or contributes to pollution including, but are not limited to, paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes, either from domestic or wild animals or birds; wastes and residues that result from constructing a building or structure, including but not limited to, dirt, sediment, slurry, and concrete residuals; and noxious or offensive matter of any kind.
- Q. "Pollution" means the human-made or human-induced alteration of the quality of waters by waste or pollutants, or the presence of a substance in the environment that, because of its chemical composition or quantity, prevents the functioning of natural processes and produces undesirable environmental and health effects or alters the quality of the water to a degree that

unreasonably affects the waters for beneficial uses or the facilities which serve these beneficial uses.

- R. "Porter-Cologne Act" means the Porter-Cologne Water Quality Control Act (California Water Code, Sections 13000 et seq.) as amended.
- S. "Premises" means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- T. "Storm drain system" means any public or private facilities by which storm water is collected and/or conveyed, including but not limited to roads, sidewalks, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels and swales, reservoirs, lakes, creeks, waters of the United States and other drainage structures which are within the City and are not part of a publicly owned treatment works as defined at 40 CFR Section 122.2.
1. Public facilities are those owned, maintained and operated by the City and other public agencies including the enclosed system of pipelines, catch basins, manholes and junction structures.
  2. Private facilities are those on private property or under the control of persons other than the City or other public agencies.
- U. "Storm water" means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- V. "Stormwater Pollution Prevention Plan" or "SWPPP" means a plan that identifies sources of pollution and provides direction during construction to the contractor and owner, using BMPs to prevent pollution from occurring.
- W. "Waters of the United States" means surface watercourses and water bodies as defined at 40 CFR 122.2. including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry storm water at and during all times and seasons.

**12.08.040 Applicability.** This Ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands within the City.

**12.08.050 Responsibility for Administration.** The Director shall administer, implement, and enforce the provisions of this Chapter.

**12.08.060 Severability.** The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

**12.08.070 Regulatory Consistency.** This Ordinance shall be construed to assure consistency with the requirements of the Clean Water Act and Porter-Cologne Act and acts amended thereto or supplementary thereto, or any applicable implementing regulations.

**12.08.080 Ultimate Responsibility of Discharger.** The standards set forth herein and promulgated pursuant to this Ordinance are minimum standards; therefore this Ordinance does not intend nor imply that a person's compliance will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the United States. This Ordinance shall not create liability on the part of the City, or any of its employees or agents for any damages that result from any person's reliance on this Ordinance or any administrative decision lawfully made there under.

**12.08.090 Prohibition of Illegal Discharges.** No person shall discharge or cause to be discharged into the storm drain system any materials including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water, including water runoff as defined in Chapter 13.07 of the Municipal Code.

An illegal discharge is assumed to have occurred if prohibited material is placed, blown, washed, tracked or in any way allowed to accumulate in any part of the MS4 so that it can be conveyed by storm water.

**12.08.100 Exceptions to discharge.** No person shall commence, conduct, or continue any illegal discharge to the storm drain system except as follows. Discharges from the following will not be considered a source of pollutants to the storm drain system and to waters of the United States when properly managed to ensure that no potential pollutants are present, and therefore they shall not be considered illegal discharges unless determined to cause a violation of the provisions of the Porter-Cologne Act, Clean Water Act, or this Ordinance.

- A. Uncontaminated groundwater, air conditioning condensation, uncontaminated roof, foundation, footing, or french drains (not including active groundwater dewatering systems,) flows from riparian habitats and wetlands, residential car washing and fire fighting flows.
- B. Non-storm water discharge permitted under an NPDES permit, waiver, low-threat discharge permit or waste discharge order issued to the discharger and administered by the State of California under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the City for any discharge to the storm drain system.
- C. With written concurrence of the Central Coast Regional Water Quality Control Board, the City may exempt in writing other non-storm water discharges, which are not a source of pollutants to the storm drain system nor waters of the United States.

**12.08.110 Prohibition of Illicit Connections.** The construction, use, maintenance or continued existence of illicit connections to the storm drain system or to a POTW is prohibited. This

prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

**12.08.120 Waste Disposal Prohibitions.**

- A. Waste. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system, or water of the United States, any pollutant, so that the same may cause or contribute to pollution.
- B. Sidewalk Cross Drainage. No person shall place, erect or maintain any rainwater leader drain, pipe, conduit or swale as to convey, carry or discharge any water on or to any sidewalk in the City, but all leaders, drains, pipes, conduits, and swales conveying, carrying or discharging water exempt under this Ordinance to or beyond the exterior boundary of the lot or premises on which the same is erected, placed or maintained, must be led under the sidewalk to the gutter. Facilities not in compliance with this section shall be considered a public nuisance and abated in accordance with the provisions in Chapter 8.24 of the Municipal Code.
- C. Drainage to Public Facilities. No person shall cause water to be deposited to the public street or other public facility, which results in an organic growth of any kind in the public facility, particularly that which creates a slick surface. Such growth shall be considered a public nuisance and abated in accordance with the provisions in Chapter 8.24 of the Municipal Code.

**12.08.130 Animals.**

- A. Property Maintenance. Where it is determined by the City or by the Central Coast Regional Water Quality Control Board that an area used by animals is affecting water quality, the City will require the property owner or authorized representative to implement measures, which may include installation of preclusionary devices, to eliminate the pollution and prevent the migration of waste components to the storm drain system. Installation of devices or measures may require permits from the City or other regulatory agency. Installation, maintenance and permitting are the responsibility of the property owner.
- B. Feeding Near Water Bodies. No person shall feed feral animals or deposit or leave any foodstuff of any kind or nature, except in a trash receptacle provided for that purpose, within one hundred feet of a lake or creek.
- C. Domesticated Animal Waste. All persons owning, possessing, in control of, or otherwise responsible for an animal, must promptly collect, pickup and remove all fecal matter left by the animal on public or private lands. Animals in agricultural areas are not covered under this subsection if the area complies with subsection A or is covered under separate regulation.

**12.08.140 Compliance with Industrial or Construction Activity NPDES Storm Water Discharge Permit.** Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance, in a form acceptable to the Director, shall be provided:

- A. Prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan;
- B. Upon inspection of the facility;
- C. During any enforcement proceeding or action; or
- D. For any other reasonable cause.

**12.08.150 Requirement to Prevent, Control, and Reduce Storm Water and Pollutants.**

- A. Authorization to adopt BMPs. The City recognizes the current requirements of the State Water Resources Control Board for general permits for construction, industrial and municipal activities. In addition to the requirements of these general permits, the City may adopt additional requirements identifying BMP for any activity, operation, or facility which may cause or contribute to degradation, pollution, or contamination of storm water, the storm drain system, or waters of the United States.
- B. Authorization to impose BMP. Where the City or any federal, State of California, or regional agency has adopted BMP requirements for any activity, operation, or facility which may cause or contribute to storm water pollution or contamination, illicit discharges, and/or discharge of non-storm water or pollutants, or degradation to the storm drain system or water of the United States, every person undertaking such activity or operation, or owning or operating such facility, shall comply with such requirements within the time limit or under the conditions set forth in the BMP.
- C. SWPPP submittal and maintenance. Prior to the City's issuing any permit for activities which may contribute to pollution of the storm drain system, the person seeking the permit must submit a SWPPP. The SWPPP shall include detailed information describing the potential sources of pollution that may be created by the project being permitted and the recommended BMPs that will be applied. The information shall be sufficient to be used to direct a contractor to perform the BMPs and to recognize whether the BMP is achieving the required affect. The Director will approve the SWPPP once the Director is satisfied that the SWPPP meets the requirements of this Ordinance. The SWPPP is a "living" document, meaning it must be adjusted during the course of the Construction Activity to adapt to new or unforeseen conditions and changing work to maintain compliance with the requirements of this Ordinance.
- D. New development and redevelopment design standards. The City will adopt design standards requiring appropriate BMPs to control the volume, rate, and potential pollutant load of storm water runoff from newly developed and redeveloped property. Such requirements are incorporated, unless specifically waived by the Director, in any land use entitlement and

construction or building-related permit to be issued relative to such development or redevelopment. The owner and developer shall comply with the terms, provisions, and conditions of such land use entitlements and building permits as required in this Section.

- E. Compliance assurance deposit. A person with a project that includes a grading permit or any other permit that is likely to create a source of pollution shall submit a SWPPP compliance assurance construction security deposit in an amount to be fixed by the Director to ensure NPDES compliance in accordance with the approved SWPPP. Should a project have inadequate BMPs, resulting in an illegal discharge, and if the SWPPP holder fails immediately to implement or maintain necessary BMPs to comply with this Ordinance, upon receiving notice from the City, the City or its agent will install the BMPs and deduct payment for this work from the compliance assurance deposit. If that occurs, the compliance assurance deposit must be replenished to the original amount, or to the amount expended by the City for BMP installation, whichever is higher, and the City will issue a stop work order on the project until such occurs. When the project has received final clearance, the Director will release the compliance assurance deposit. Compliance with this Section does not absolve a person from other penalties and fines as provided for in this Ordinance.
- F. Responsibility to implement BMPs. Any person engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering storm water or the storm drain system, shall implement BMPs to prevent and reduce such pollutants. The owner or operator of a commercial or industrial establishment shall provide protection from accidental discharge of prohibited materials or other wastes into the storm drain system. The owner or operator shall provide and maintain facilities to prevent accidental discharge of prohibited materials or other wastes at the owner's or operator's expense.
- G. Responsibility to identify and post. For the purposes of implementing Section 374 of the California Penal Code and the requirements of this Ordinance, property owners are required to mark and or post all drainage inlets that have a connection to the creek system, either directly or through a portion of the storm drain system, as follows:
  - a. Signs. Property owners of an apartment complex consisting of four or more units shall be responsible for causing a sign to be posted in a conspicuous location as close as possible to each drainage inlet with the following wording in English and Spanish:

DRAINS TO CREEK – DUMP NO WASTE  
SLO MC SEC 12.08.150

PENAL CODE SECTION 374

Signs specifications shall be available from the Community Development Department.

- b. Placard. Property owners shall be responsible for causing a placard, conforming to City engineering standards, to be installed at each drainage inlet.
- c. Maintenance. Property owners shall be responsible for maintaining signs and placards, insuring they remain legible.

**12.08.160 Maintenance.**

- A. General. Property owners are responsible to maintain their premises in such a way as to comply with this Ordinance and prevent migration of pollutants into the storm drain system.
- B. Construction storm water devices. BMPs installed during construction or as measures for post construction storm water shall be maintained as required to ensure proper operation. Failure to maintain construction BMPs will result in a stop work order being issued until the site is in conformance with the requirements of this Ordinance.
- C. Post construction storm water devices. Property owners of development or re-development projects which require installation of post construction storm water devices shall submit a maintenance plan or manufacturer's maintenance guide for those devices as part of the project submittal. The plan or guide provided shall be considered the minimum maintenance required, with additional maintenance performed as needed to comply with this Ordinance.

All property owners with post construction storm water devices on their property shall submit to the Director annual inspection / maintenance reports to confirm continued compliance with this Ordinance. Reports shall be signed and certified by the property owner or the authorized representative.

All property owners with post construction storm water devices on their property shall enter into an agreement with the City, to be recorded, documenting the devices, the required maintenance and the responsibility by the property owners for maintenance and reporting.

**12.08.170 Watercourse Protection.**

- A. Every person owning, leasing property or otherwise controlling property ("owner") through which a watercourse originates or passes shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. The owner shall not remove healthy bank vegetation beyond that actually necessary for maintenance, nor perform vegetation management in such a manner as to increase the vulnerability of the watercourse to erosion. The owner shall be responsible for maintaining and stabilizing that portion of the watercourse that is within that owner's property, within regulatory frameworks, to a reasonable standard as determined by the Director, in order to protect against erosion and degradation of the watercourse originating or passing through the property.
- B. Every owner of property through which a watercourse originates or passes shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.
- C. Every owner is responsible to comply with all laws, rules, and regulations of State or Federal agencies that may have jurisdiction over wetlands and waterways. Maintenance must be done in a manner that does not adversely impact waterway species.

**12.08.180 Connections to public storm drain system. .**

- A. Permit Required. Any person who owns an existing connection or intends to connect directly to a public storm drain system must have a permit issued by the City to do so.
- B. Cost of Inspection. Each person owning a connection to a public storm drain system shall pay an annual inspection fee, as set forth in the Creek and Flood Protection Fee Schedule, to cover the cost of routine inspection, reporting review, and sampling.
- C. Compliance Notice. The Director shall require by written notice that a person with an illicit connection to the public storm drain system comply with the requirements of this Ordinance to eliminate or secure City approval for the connection by a specified date, regardless of whether or not the connection had been established or approved prior to the effective date of this Ordinance, or through prior permit. If the person with an illicit connection can demonstrate to the Director that an illegal discharge will not occur, the person may request the Director's approval to maintain the connection and shall obtain the required permit.
- D. Sampling and reporting. Any connection to the public storm drain system must include a sampling port to allow the City to verify discharge quality. Person owning the connection to the public storm drain system must submit to the Director self-monitoring reports to assess and assure continued compliance with this Ordinance. Reports shall be signed by the property owner or the authorized representative. Sampling and reporting shall conform to the provisions of the permit.
- E. Agreement concerning permit. Any person to whom the City has issued a permit under this Section shall enter into an agreement with the City which agreement shall be recorded and shall reflect the provisions of this Section.
- F. Transfers of property; new permit required. Whenever a person to whom the City has issued a permit under this Section transfers the property to which the permit is attached, the transferee has 30 days in which to obtain a new permit in the transferee's name. If such permit is not obtained, the connection will be deemed illicit.

**12.08.190 Requirement to eliminate illegal discharges and remediate.**

Whenever the Director determines that a discharge of pollutants is occurring, or has occurred, and the discharge has caused, or will cause, pollution of storm water or the storm drain system, or determines an illegal discharge is occurring or has occurred, the Director will require by written notice to the property owner and/or their authorized representative (a) remediation of the pollution and restoration of the affected property within a specified time/date, and (b), discontinuance of the discharge and, if necessary, implementation of measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges.

**12.08.200 Requirement to monitor and analyze.**

The Director may require any person engaged in any activity, and/or owning or operating any facility, which may cause or contribute to storm water pollution, illegal discharges, and/or non-storm water discharges to the storm drain system, to undertake, at the person's expense, a

monitoring, analysis, and reporting program, as approved by the Director, to determine compliance with this Ordinance.

**12.08.210 Reporting and remediating discharges; retention of records.**

A. Notification. In the event of a release of a hazardous material, any property owner, authorized person or any other person responsible for property, a facility or an operation, shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911).

In the event of a release of any pollutant such that it enters an enclosed system or waterway, any property owner, authorized person or any other person responsible for a property, a facility or an operation shall notify the Director in person, by phone, or by facsimile no later than 5:00 p.m. of the same business day or, if on a weekend or holiday, by 10:00 a.m. of the next business day. Notification in person or by phone shall be confirmed by written notice addressed and mailed to the Director within two business days of the in person or phone notice.

B. Remediation. Notwithstanding other requirements of law, as soon as any property owner, authorized person, or any other person responsible for property, a facility or an operation, or the person responsible for emergency response for a facility or operation, has information of any known or suspected release of pollutants which may result or have resulted in illegal discharges or pollutants discharging into storm water or the storm drain system from the property, facility or operation, the person shall take all necessary steps to ensure the containment, and remediation of such release.

C. Commercial / Industrial properties. If the reported discharge emanates from a commercial or industrial property, the owner or operator of the property shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years from the date of the occurrence and be available for inspection by the Director.

**12.08.220 Authority to inspect, sample, establish sampling devices, and test.**

Whenever the Director determines it is necessary to make an inspection to verify compliance with this Ordinance, investigate potential violations of this Ordinance, or to make an inspection to enforce any provision of this Ordinance, or whenever the Director has reasonable cause to believe that there exists, a condition which constitutes a violation of this Ordinance, the Director may enter the premises during normal business hours to inspect, take water samples, perform any testing deemed necessary to aid in the inspection, record site activities, and to inspect and copy records related to storm water compliance. During any inspection, the Director may establish on any property such devices as are necessary to conduct sampling or metering operations. If the Director is refused entry after a request to enter and inspect has been made, the City may seek assistance from any court of competent jurisdiction in obtaining such entry.

If the Director has reasonable cause to believe that discharges to the storm drain system are so hazardous, unsafe, or dangerous as to require immediate inspection to safeguard public health or safety or the integrity of the storm drain system, the Director shall have the right to immediately

enter and inspect the property and may use any reasonable means required to effect such entry and make such inspection.

**12.08.230 Notice of violation.**

A. Violation Conditions. Whenever the Director finds that a person has violated this Ordinance, the Director may issue to the person a notice of violation and order compliance. Such notice may require without limitation:

- a. Monitoring, providing analyses, and reporting;
- b. Eliminating illicit connections or discharges;
- c. Cease and desist of discharges, practices, or operations;
- d. Abating or remediating storm water pollution or contamination hazards, and restoring the affected property;
- e. Implementing source control or treatment BMPs; and
- f. Paying a fine and administrative and remediation costs.

B. Abatement. If abatement of a condition and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement or restoration must be completed. The notice shall further provide that if there is not compliance with the notice within the established deadline, the City may abate the condition and/or restore the property, and the expenses thereof shall be charged to the property owner and/or the person responsible for the violation.

**12.08.240 Appeal.** Except as provided in Section 12.08.260 Urgency Abatement, any person receiving a notice of violation may appeal following the procedures in Chapter 1.20 of the City Municipal Code.

**12.08.250 Abatement by City.** If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, and 10 days have passed or, if an appeal of the notice of violation was filed and 10 days have passed from the date of the decision upholding the decision of the Director, then the City or its agents may enter upon the property and take any and all measures necessary to abate the violation and/or restore the property. If the City or its agents is refused entry for this purpose, the City shall seek the assistance of any court of competent jurisdiction to authorize entry. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the City or its agents to enter upon the premises for the purposes set forth above.

**12.08.260 Urgency abatement.**

A. Immediate Abatement. The Director may require immediate abatement of any violation of this Ordinance that constitutes an immediate and significant threat to the health, safety or well-being of the public.

- B. Construction Sites. The Director shall give verbal notice and issue a notice of violation to persons owning or controlling construction sites with inadequate erosion and sediment controls that such controls must be put in place immediately, and the City shall not allow any other site work until the controls are in place.
- C. Failure to Abate. If a violation as described in subsection A of this Section is not immediately abated, the City is authorized to enter the premises and take any and all measures required to abate the violation. Any expenses incurred by the City related to such abatement shall be charged to the property owner. Any relief obtained under this section shall not prevent City from seeking other and further relief authorized under this Ordinance.

**12.08.270 Charging cost of abatement/liens.**

- A. Notice of Cost. If the City has incurred costs to abate a violation, the Director shall notify the property owner within 30 days of the cost, including administrative costs.
- B. Appeal. Within 15 days of the Director's notice, the property owner may file with the City Clerk a written appeal objecting to the amount of the costs. The City Clerk shall set the matter for hearing by the City Council. The decision of the City Council shall be final.
- C. Payment due date; failure to pay. If no appeal has been filed or if an appeal has been filed and the City Council has made a decision on the appeal, any cost due shall be paid in full within 10 days. If the costs are not paid in full within 10 days, the costs shall become a special assessment against the property, shall constitute a lien on the property. The information shall be provided to the County Auditor so that the auditor may enter the amount of the assessment against the property, as it appears on the current assessment roll, and the tax collector include the amount of the assessment on the bill for taxes levied against the property.

**12.08.280 Violations.**

- A. Violations. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. Any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a Code violation and public nuisance, and may be summarily abated or restored by the City at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be undertaken by the City.
- B. Penalties and fines. A violation of, or failure to comply with, any of the requirements of this Ordinance shall constitute a misdemeanor and may be punished as set forth in Chapter 1.12 of the Municipal Code. Violators are also subject to fines provided for in the Administrative Code provisions of the Municipal Code, Chapter 1.24, revocation of their Business License, and/or for persons seeking to work in the right of way, a prohibition from working within the right-of-way for a period of two years.

- C. Compensatory action. In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the Director may impose upon a violator alternative compensatory actions, such as storm drain marking, attendance at compliance workshops, creek cleanup, etc.

**12.08.290 Acts potentially resulting in a violation of the Clean Water Act and/or the Porter-Cologne Act.** Any person who violates any provision of this Ordinance or any provision of any requirement issued pursuant to this Ordinance, may also be in violation of the Clean Water Act and/or the Porter-Cologne Act and may be subject to the provisions of those acts including civil and criminal penalties. Any enforcement action authorized under this Ordinance shall also include written notice to the violator of such potential liability.

**SECTION 3.** Section 5.01.101 of the Municipal Code shall be amended to reference the new Stormwater Ordinance, to read as follows:

**5.01.101 Purpose.**

The purpose of the city's business license regulations is to provide for necessary regulation of lawful businesses being conducted within the city in the interest of the public health, safety and welfare of the people of the city. While due diligence will be exercised in reasonably assuring compliance with all city policies, regulations and ordinances before issuing a business license, the primary focus of the city's business license regulations is to provide reasonable assurance that businesses operating in the city are doing so in compliance with the city's planning and building policies, regulations and ordinances; in compliance with the city's business tax provisions as set forth in Chapter 3.01 of the municipal code; and in compliance with the city's storm water quality ordinance set forth in Chapter 12.08 of the municipal code.

**SECTION 4.** Section 8.05.020 of the Municipal Code shall be amended to add new section 8.05.020 E. as follows:

**8.05.020 Threshold for covered projects.**

E. Control of Waste

Regardless of the project size and requirement for a formal recycling plan, all projects shall implement control of waste to prevent the release of pollutants to the storm drain system in accordance with the city's storm water quality ordinance set forth in Chapter 12.08 of the municipal code and city construction standards.

**SECTION 5.** Section 12.20.040 D. of the Municipal Code is repealed and the existing subsections E and F shall be re-lettered as follows:

**Section 12.20.040 Rules and regulations applicable to city parks.**

D. Amplified Sound in City Parks.

1. Purpose. The council enacts this legislation for the sole purpose of securing and promoting the public health, comfort, safety and welfare of its citizenry. While recognizing that certain uses of sound amplifying equipment are protected by the

constitutional rights of freedom of speech and assembly, the council nevertheless feels obligated to reasonably regulate the use of sound amplifying equipment in order to protect the correlative constitutional rights of the citizens of this community to privacy and freedom from the public nuisance of loud and unnecessary sound.

2. **Permit Required for Amplifiers.** It is unlawful for any person to install, use and operate within a park a loudspeaker or any sound amplifying equipment for the purposes of giving instructions, directions, talks, addresses and lectures, or of transmitting music to any persons or assemblages of persons in the park, or in the vicinity thereof, except when installed, used or operated in compliance with one of the following provisions:
  - a. By authorized law enforcement, fire department or park and recreational personnel;
  - b. Under a reservation or a permit issued by the director, and when operated in accordance with the terms of the reservation or permit.
3. **Power Source for Amplifiers.** Amplifiers permitted in parks shall be operated only through a power source provided by the park department.
4. **Regulation of Amplified Volume.** If, at any time, the police department determines that the sound produced by an amplifier in the park is unreasonably interfering with other persons using the park or with nearby residents in the comfortable and reasonable enjoyment of their premises, an officer shall request the person in charge of the assembly, or any other person appearing to be involved in the production of the sound, to immediately reduce the level thereof.

If the sound is not reduced within five minutes to a level satisfactory to the officer, he or she shall immediately disconnect all amplifiers from the power source provided by the park department. If the sound is reduced to a level satisfactory to the officer, and he or she thereafter finds that the sound level appears to have again been increased, he or she shall then disconnect all amplifiers from the power source provided by the park department.

5. The council shall by resolution adopt standards prescribing staff's discretion in issuing permits for sound amplifiers, such standards as recommended by the city attorney.
- E. **Presence in Parks During Certain Hours Prohibited.** It shall be unlawful to enter, remain, or stay in any public park between the hours of ten p.m. and five a.m. of the following day without approval from the Director. (Ord. 1001 § 1, 1983; Ord. 976 § 1, 1983; prior code § 4226.3; Ord. 1309 §§ 4- 6, 1996)

**SECTION 6.** Section 12.40.010 (Storm drains—posting signs warning persons not to litter or dump waste materials) of the Municipal Code is repealed.

**SECTION 7.** Section 13.08.130 (Stormwater and unpolluted drainage) of the Municipal Code is deleted in its entirety.

**SECTION 8.** Section 17.18.050 A. of the Municipal Code is repealed and replaced with new section 17.18.050 as follows.

**17.18.050 Discharges to water or public sewer system.**

A. Discharges to groundwater or waterways, whether direct or indirect, shall comply with the requirements of the city's storm water quality ordinance set forth in Chapter 12.08 of the municipal code and city standards, as well as requirements of the State and Regional Water Quality Control Boards, the California Department of Fish and Game and any other regulatory agency with jurisdiction over the activity.


**SECTION 9.** A summary of this ordinance, together with the names of Council members voting for and against, shall be published at least five (5) days prior to its final passage in the Tribune, a newspaper published and circulated in this City. This ordinance shall go into effect at the expiration of thirty (30) days after its final passage.

**INTRODUCED** on the 6<sup>th</sup> day of April 2010, **AND FINALLY ADOPTED** by the Council of the City of San Luis Obispo on the 20th day of April 2010 on the following vote:

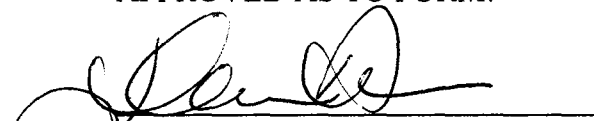
AYES: Council Members Ashbaugh and Marx, Vice Mayor Carter and Mayor Romero  
NOES: Council Member Settle  
ABSENT: None

  
Mayor David F. Romero

ATTEST:

  
Elaina Cano  
City Clerk

APPROVED AS TO FORM:

  
J. Christine Dietrick  
City Attorney

I hereby certify that this document is a true and accurate original of Ordinance No. 1543 and that the ordinance was published pursuant to Charter Section 002.

4-27-10   
Date City Clerk