

**ORDINANCE NO. 812 – C.S.**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA AMENDING CHAPTER 12 OF TITLE 6 OF THE PACIFICA MUNICIPAL CODE (STORM WATER MANAGEMENT AND DISCHARGE CONTROL ORDINANCE)**

**WHEREAS**, the City's existing Storm Water Management and Discharge Ordinance (Ordinance), codified at Chapter 12 of Title 6 of the Pacifica Municipal Code, is out of date and does not adequately address the City's goals and obligations with respect to protecting water resources and water quality, including pursuant to the federal Clean Water Act and the City's National Pollutant Discharge Elimination System (NPDES) permit; and

**WHEREAS**, it is necessary to enact comprehensive revisions to the Ordinance to bring it up-to-date and to ensure the City can meet its goals and obligations;

**NOW, THEREFORE**, the City Council of the City of Pacifica does ordain as follows:

**Section 1. Recitals.** The City Council of the City of Pacifica does hereby find that the above referenced recitals are true and correct and material to the adoption of this Ordinance.

**Section 2. Amendments.** Chapter 12 of Title 6 of the Pacifica Municipal Code (Storm Water Management and Discharge Ordinance) is hereby amended in its entirety, as reflected in Exhibit A attached hereto and incorporated herein.

**Section 3. Compliance with CEQA.** The City Council hereby finds that the action to adopt this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to the statute (Public Resources Code Section 21000, et seq.) and the CEQA Guidelines (14 Cal. Code Regs. 15000 et seq.), including without limitation under sections 15307 and 15308 of the CEQA Guidelines (actions to protect natural resources and the environment) and because it can be seen with certainty that there is no possibility the adoption of this Ordinance may have a significant effect on the environment (CEQA Guidelines § 15061(b)(3)).

**Section 4. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

**Section 5. Publication.** The City Clerk is hereby ordered and directed to certify to the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published once in The Pacifica Tribune, a newspaper of general circulation, published and circulated in the City of Pacifica, California.

**Section 6. Effective Date.** This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law.

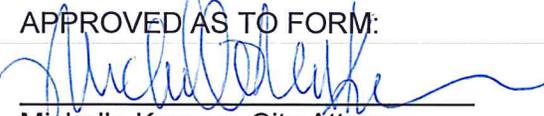
The foregoing ordinance was introduced on November 28, 2016 and passed and adopted at a regular meeting of the City Council of the City of Pacifica held on the 12<sup>th</sup> day of December, 2016 by the following vote:

AYES: Keener, Nihart, Ervin, O'Neill, Digre  
NOES: None  
ABSTAIN: None  
ABSENT: None

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Kathy O'Connell, City Clerk

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
Michelle Kenyon, City Attorney

## EXHIBIT A

### CHAPTER 12. - STORM WATER MANAGEMENT AND DISCHARGE CONTROL

#### Article 1. - Title, Purpose and General Provisions

##### Sec. 6-12.101. - Title.

This chapter of the Pacifica Municipal Code shall be known as the "City of Pacific's Storm Water Management and Discharge Control Ordinance" and may be so cited and referred to as the chapter.

##### Sec. 6-12.102. - Purpose and intent.

The purpose of this chapter is: to protect water resources and to improve water quality; to set forth uniform requirements and prohibitions for discharges and places of discharge into the stormwater system and receiving waters necessary to enforce and administer all federal and state laws, legal standards, and orders that provide for the protection, enhancement and restoration of water quality. Through a program that balances environmental and economic considerations, the City seeks to protect and promote the public health, safety and general prosperity of its citizens with the implementation of the following objectives:

- (a) To comply with all federal and state laws, standards, and orders applicable to stormwater and urban runoff pollution control;
- (b) To prohibit illicit discharges to the stormwater system;
- (c) To reduce non-stormwater discharge to the stormwater system to the maximum extent practicable;
- (d) To reduce pollutants in stormwater discharges to the maximum extent practicable; and
- (e) To establish requirements for the management of stormwater flows from development projects.

##### Sec. 6-12.103. - Definitions.

- (a) Any terms defined in the Federal Clean Water Act and acts amendatory thereof or supplementary thereto, and/or defined in the regulations for the stormwater discharge permitting program issued by the Environmental Protection Agency on November 16, 1990 (as may from time to time be amended) as used in this chapter shall have the same meaning as in that statute or regulation.
  - (1) "Discharge" means any addition of any pollutant to navigable waters from any point source, or by any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.
  - (2) "Illicit discharge" means any discharge to the City stormwater system that is prohibited under local, state or federal statutes, ordinances, codes or regulations. Illicit discharges include all non-stormwater discharges except discharges pursuant to an NPDES permit or discharges that are exempted by the NPDES permit or granted a special waiver or exemption by the Regional Water Quality Control Board and discharges resulting from firefighting and other emergency response activities.
  - (3) "Pollutant" means any "pollutant" defined in Section 502(b) of the Clean Water Act or incorporated into Section 13373 of the California Water Code. Pollutants may include, but are not limited to the following:

- A. Commercial and industrial waste such as trash, litter, fuel, solvents, detergents, plastic pellets, hazardous substances, fertilizers, pesticides, slag, ash and sludge;
  - B. Metals such as cadmium, lead, zinc, silver, nickel, chromium, copper and nonmetals such as phosphorus and arsenic;
  - C. Petroleum hydrocarbons such as oil, fuels, lubricants, surfactants, waste oils, solvents, coolants and grease;
  - D. Excessive eroded soil, sediment, and particulate materials in amounts that may adversely affect the beneficial use of the receiving water, flora or fauna of the state;
  - E. Animal wastes such as discharge from confinement facilities, kennels, pens, recreational facilities, stables and show facilities; and
  - F. Substances having characteristics of a pH less than six or greater than nine, or unusual coloration or turbidity, or excessive levels of fecal coliform, fecal streptococcus, or enterococcus.
- (4) "Pollution" means the man-made or man-induced alteration of the chemical, physiological, biological or radiological integrity of water.
- (5) "Storm water" or "stormwater" means storm water runoff and surface runoff and drainage.
- (6) "Authorized enforcement official." The City Manager or his/her designee is hereby authorized to enforce the provisions of this chapter.
- (7) "Best management practices" or "BMPs" means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to "waters of the United States." BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- (8) "City" means the City of Pacifica.
- (9) "City storm water system" or "City stormwater system" includes but is not limited to those facilities within the City by which stormwater may be conveyed to waters of the United States, including any roads with drainage system, municipal streets, catchbasins, curbs, gutters, ditches, man-made channels or storm drains, which are not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.
- (10) "Clean Water Act" means the Federal Water Pollution Control Act enacted in 1972 by Public Law 95-200 and amended by the Water Quality Act of 1987 and any additional amendments and regulations promulgated under the Act.
- (11) "Construction Activity" means any activity that involves soil disturbing activities including, but not limited to, clearing, paving, grading, stockpiling and excavation. Construction activity does not include routine maintenance to maintain original line and grade, nor does it include emergency construction activities required to protect public health and safety.
- (12) "Development" means any construction, rehabilitation, redevelopment or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development), industrial, commercial, retail or other non-

residential projects, including public agency projects and any mass grading for future construction.

- (13) "Discharge of a Pollutant" means (a) the addition of any pollutant or combination of pollutants to waters of the United States from any point source; or (b) any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or floating craft which is being used as a means of transportation. The term includes additions of pollutants to waters of the United States from surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances leading to a privately owned treatment works.
- (14) "National Pollutant Discharge Elimination System" or "NPDES" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits and imposing and enforcing pretreatment requirements under Sections 307, 402, 318 and 405 of the Clean Water Act.
- (15) "NPDES Permit" means a permit issued by the U.S. EPA, State Water Resources Control Board, or a California Regional Water Quality Control Board pursuant to the Clean Water Act that authorizes discharges to waters of the United States and requires the reduction of pollutants in the discharge.
- (16) "Non-storm water discharge" or "non-stormwater discharge" means any discharge that is not entirely composed of stormwater except those noted within an NPDES permit and this chapter.
- (17) "Premises" means any building, lot, parcel, real estate, or land or portion of land, whether improved or unimproved, including adjacent sidewalks, parking strips, street, curb and gutter.
- (18) "Stormwater Pollution Prevention Plan" means a plan identifying potential pollutant sources and describing design, placement and implementation of BMPs, to effectively prevent non-stormwater discharges and reduce pollutants of stormwater discharges.
- (19) "Watercourse" means a natural stream, creek, earthen or concrete swales or ditches, natural or man-made uncovered channel through which water flows continuously or intermittently.

Sec. 6-12.104. - Responsibility for administration.

This chapter shall be administered for the City by the City Manager or his/her designee. The City Manager may delegate his/her powers or duties under this article to a designated employee or employees of the City.

Sec. 6-12.105. - Construction and application.

This chapter shall be construed to assure consistency with the requirements of the Federal Clean Water Act and acts amendatory thereof or supplementary thereto, applicable implementing regulations, and NPDES Permit No. CAS612008 and any amendment, revision or reissuance thereof. This chapter shall not be construed as the exclusive authority governing implementation of the aforementioned law, regulations and NPDES Permit.

Article 2. - Discharge Regulations and Requirements

Sec. 6-12.201. - Discharge of pollutants.

The discharge of non-stormwater discharges to the City stormwater system is prohibited. All discharges of material other than stormwater must be in compliance with an NPDES Permit issued for the discharge (other than NPDES Permit No. CAS612008) and this article.

Sec. 6-12.202. - Exceptions to discharge prohibition.

The following discharges are exempt from the prohibition set forth in this article:

- (a) The prohibition on discharges shall not apply to any discharge regulated under a national pollutant discharge elimination system (NPDES) permit issued to the discharger and administered by the State of California under authority of the United States Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit and other applicable laws or regulations.
- (b) Discharges from the following activities will not be considered a source of pollutants to waters of the United States when property managed: water line flushing and other discharges from potable water sources, municipal street cleaning, municipal park maintenance, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising ground waters, infiltration to separate storm drains, uncontaminated pumped ground water, foundation and footing drains, water from crawl space pumps, air conditioning condensation, springs, individual residential car washings, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges or flows from firefighting, and accordingly are not subject to the prohibition on discharges.

Sec. 6-12.203. - Discharge in violation of permit.

Any discharge that would result in or contribute to a violation of NPDES Permit No. CAS612008, the terms of which are incorporated herein by reference, and which is on file in the Office of the City Clerk, and any amendment, revision or reissuance thereof, either separately considered or when combined with other discharges, is prohibited. Liability for any such discharge shall be the responsibility of the person(s) causing or responsible for the discharge, including without limitation the owner of the property upon which the discharge occurred, and such persons shall defend, indemnify, and hold harmless the City in any administrative or judicial enforcement action relating to such discharge.

Sec. 6-12.204. - Illicit discharge.

It is prohibited to commence or continue any illicit discharges to the City stormwater system.

Sec. 6-12.205. - Reduction of pollutants in storm water.

Any person engaged in activities which will or may result in pollutants entering the City stormwater system shall undertake all practicable measures to reduce such pollutants. Examples of such activities include ownership and use of facilities which may be a source of pollutants such as parking lots, gasoline stations, industrial facilities, commercial facilities, stores fronting City streets, etc. The following minimal requirements shall apply:

- (a) Littering. No person shall throw, deposit, leave, maintain, keep or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley sidewalk, storm drain, inlet, catchbasin, conduit or other drainage structures, business place, or upon any public or private lot of land in the City, so that the same might be or become a pollutant, except in containers or in lawfully established dumping grounds.

The occupant or tenant, or in the absence of occupant or tenant, the owner, lessee, or proprietor of any real property in the City of Pacifica in front of which there is a paved sidewalk shall maintain said sidewalk free of litter to the maximum extent practicable.

No person shall throw or deposit litter in any pond, lake, ocean, stream or any other body of water within the City.

- (b) Standard for parking lots and similar structures. Persons owning or operating a parking lot, gas station pavement or similar structure shall clean those structures as frequently and thoroughly as practicable in a manner that does not result in discharge of pollutants to the City stormwater system.
- (c) Best management practices for new developments and redevelopments. Any person performing construction activity or development in the City shall provide filter materials at the nearest downslope catchbasin to retain any debris and dirt flowing into the City's stormwater system. City may establish controls on the volume and rate of stormwater runoff from new developments and redevelopments as may be appropriate to minimize the discharge and transport of pollutants including but not limited to a requirement to limit stormwater runoff to pre-project levels.
- (d) Compliance with best management practices. Where best management practices guidelines or requirements have been adopted by the City for any activity, operation, or facility which may cause or contribute to stormwater pollution or contamination, illicit discharges, and/or discharge of non-stormwater to the storm system, every person undertaking such activity or operation, or owning or operating such facility shall comply with such guidelines or requirements as may be identified by the Planning Director or his/her designee.

Sec. 6-12.206 Best Management Practices (BMPs) for Construction Activities.

- (a) Any person performing construction activities or development in the City shall implement appropriate BMPs to prevent the discharge of construction wastes or contaminants from construction materials, tools and equipment, stockpiles, or exposed soil from entering the City stormwater system or watercourse.
- (b) All construction plans and applications submitted to the City pursuant to any permit applications shall implement appropriate BMPs to prevent the discharge of construction wastes or contaminants from construction materials, tools, and equipment, stockpiles, or exposed soil from entering the City stormwater system or watercourse.
  - 1. (1) Construction-phase BMPs include erosion and sediment controls and pollution prevention practices. Erosion control BMPs may include, but are not limited to, scheduling and timing of grading activities, timely revegetation of graded areas, the use of hydroseed and hydraulic mulches, and installation or application of soil binders, straw mulch, wood mulch, fiber rolls, check dams, and erosion control blankets. Sediment control may include properly sized detention basins, dams, or filters to reduce entry of suspended sediment into the storm water system and watercourses, installation of silt fences, fiber rolls, check dams, or gravel bags, and installation of construction entrance controls to prevent tracking of sediment onto adjacent streets. Pollution prevention practices may include designated washout areas or facilities, control of trash and recycled materials, tarping of materials stored on-site, and proper location of and maintenance of temporary sanitary facilities. The combination of BMPs used, and their execution in the field, must be customized to the site using up-to-date standards and practices. The City will provide references to current guidance manuals and BMP information on request.
  - 2. Financial security may be required to insure that temporary measures to control stormwater pollution are implemented and maintained during construction and after construction for a period determined by the City. Financial security shall consist of

an irrevocable letter of credit, cash deposit, or performance bond as determined by the City.

3. When any work is being done contrary to the provisions of this chapter, including failure to properly install or maintain applicable BMPs, the enforcement official may order the work stopped by notice in writing served on any persons engaged in doing or causing the work to be done. Such work shall stop until the enforcement official authorizes the work to proceed. This remedy is in addition to and does not supersede or limit any and all other remedies, both civil and criminal provided in the City of Pacifica Municipal Code.
4. The City has the authority to review designs and proposals for construction activities and new development and redevelopment sites to determine whether adequate BMPs will be installed, implemented, and maintained during construction and after final stabilization (post-construction).
5. All construction plans and applications for construction activity submitted to the City shall consider the potential for erosion and sedimentation at the construction site, and shall include appropriate erosion and sedimentation controls.

Sec. 6-12.207. Requirements for New Development and Redevelopment Projects

- (a) Stormwater treatment requirements as specified in NPDES Permit No. CAS612008 are mandated for certain categories of new development and redevelopment projects based upon the amount of impervious area created, added, or replaced by a project. Applicable requirements for stormwater treatment shall be determined by whether a project is categorized as a regulated project, small project, or single-family home project, including applicable subcategories thereto, as described in NPDES Permit No. CAS612008. Treatment measures shall be designed to the technical specifications and other design criteria as specified in the NPDES permit.
- (b) Prior to issuance of a building permit, an applicant shall submit a completed checklist provided by the City, and any plans, reports, or other technical information that, in the opinion of the Planning Director or his/her designee, are necessary to determine whether a project is subject to and/or has complied with the requirements of NPDES Permit No. CAS612008.

An application for a discretionary permit under Title 9 of the Pacifica Municipal Code shall not be deemed complete until an applicant has submitted the information described in the first paragraph of this subsection (b), unless the Planning Director or his/her designee authorizes in writing the submission of such information at a later time.

- (c) It is a violation of this chapter for any occupant or tenant, or in the absence of occupant or tenant, the owner, lessee, or proprietor of any real property in the City of Pacifica to fail to properly operate or maintain any approved stormwater treatment measure, treatment facility, and/or best management practice measure.

Sec. 6-12.208. - Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee or tenant, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles which would pollute, contaminate, or significantly retard the flow of water through the watercourse; shall maintain existing privately owned structures within a watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse; and shall not remove

healthy bank vegetation beyond that actually necessary for said maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion.

### Article 3. - Inspection and Enforcement

#### Sec. 6-12.301. - Authority to inspect.

Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever an authorized City enforcement official has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this chapter, the City official may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the official by this chapter; provided that (a) if such building or premises be occupied, he or she shall first present proper credentials and request entry; and (b) if such building premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

Any request for entry shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry after such request has been made, the official is hereby prepared to seek assistance from any court of competent jurisdiction in obtaining such entry.

Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this chapter, including but not limited to random sampling and/or sampling in areas with evidence of stormwater contamination, illicit discharges, discharge of non-stormwater to the stormwater system, or similar factors.

In accordance with the authority to inspect, no person shall refuse, resist, restrict, delay or interfere with the enforcement officer's performance of his or her duties.

#### Sec. 6-12.302. - Authority to sample and establish sampling devices.

- (a) The City shall have the right to establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the official may take any samples deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities on site.
- (b) No person shall tamper with, destroy or otherwise interfere with sampling or monitoring equipment or activities.

#### Sec. 6-12.303 – Enforcement Authority.

- (a) General Authority. Any authorized enforcement official is authorized to enforce the provisions of this chapter and to exercise any enforcement powers authorized in this chapter, including the imposition of administrative requirements, orders and penalties pursuant to this chapter, as may be necessary to effectively implement and enforce this chapter. The authorized enforcement official is authorized to exercise any of the following enforcement powers as he or she determines may be necessary or appropriate in the enforcement official's judgment under the circumstances.
- (b) Administrative Actions. In addition to any other enforcement powers and remedies provided on this chapter, an authorized enforcement official may issue an order to a person to cease and desist from the discharge, practice, operation or other activity causing or likely to cause a violation of this chapter. Such order shall be directed to those persons in violation of the chapter stating clearly and concisely the nature of the

violation, the requirements to achieve compliance, a timetable for compliance and such other remedial and/or preventive action as may be necessary. If the violator fails to comply with such an order, the City may take further enforcement action as specified in this chapter, or as authorized by any other provision of local, state or federal law. At the discretion of the authorized enforcement official, enforcement may include the following:

1. Verbal Warnings, as may be issued during inspections.
  2. Warning Letters and Orders to Abate Pollution.
  3. Warning Letters and requirements to submit written reports of compliance efforts.
  4. Administrative Citations: The penalty amounts imposed pursuant to this chapter shall be set forth in a schedule of penalties established by resolution of the City Council. In the event that there is no applicable schedule of penalties established by resolution of the City Council, the following penalty schedule shall apply for violations within a 12-month period: first offense: \$250 per violation; second offense: \$500 per violation; each additional offense: \$1,000 per violation.
  5. Civil actions or criminal enforcement actions as authorized by the City of Pacifica Municipal Code.
- (c) Notice of Violations (NOV). Whenever the enforcement official determines that a person owning or occupying a premises has violated or is in violation of this chapter or order issued under this chapter, the enforcement official may serve, by personal service, or registered or certified mail, upon the person a written NOV. Within ten (10) days of the receipt of the notice or other period as may be prescribed in the NOV, or prior to the next rain event, the person to whom the NOV has been issued shall provide the enforcement official a written explanation or denial of the violation and, if the person does not deny the violation, a plan for correction of the NOV, which shall include without limitation specific actions or mitigations required by the enforcement official in the NOV. Submission of this plan shall not relieve the person of any liability for any violation before or after receipt of the NOV.
- (d) Cease and Desist Orders. The enforcement official may require any person owning or occupying premises to cease and desist all activities that may cause or contribute to a discharge in violation of this chapter. This order may also require such person to: (1) comply with the applicable provisions of this chapter within a designated period of time; or (2) take such other appropriate remedial or preventative action the enforcement official determines to be necessary to prevent the violation from recurring.
- (e) Notice to Clean and Abate. The enforcement official may require any person owning or occupying premises to clean up and abate any release of one or more pollutants on those premises, which would otherwise result in a violation of this chapter. The enforcement official may also require any person owning or occupying premises to clean up and abate any accumulation of one or more pollutants on those premises which have the imminent potential to result in a violation of this chapter due to a forecasted rainfall or severe wind event.
- (f) Mitigation. The enforcement official shall have the authority to order the mitigation of any condition, activity or circumstance which would otherwise result in or contribute to illicit discharges.
- (g) Stormwater Pollution Prevention Plan. The enforcement official shall have the authority to establish elements of a stormwater pollution prevention plan, and to require a business or person to adopt and implement such a plan, as may be reasonably

necessary to comply with this chapter and applicable local, state or federal stormwater laws and regulations.

- (h) Best Management Practices. The enforcement official may establish and impose the requirements for best management practices for any premises.
- (i) Emergency Orders and Abatements. The enforcement official may order the abatement and cleanup of any discharge from any source to the stormwater system when, in the opinion of the enforcement official, the discharge causes or threatens to cause a condition which presents an imminent danger to public health, safety, welfare or the environment. Discharges in violation of this chapter are considered as presenting an imminent danger to the environment. In emergency situations where the property owner or other responsible party is unavailable and time constraints are such that the service of notice to abate cannot be effected without presenting an immediate danger to the public health, safety and welfare or the environment or a violation of the NPDES permit, the City may perform or cause to be performed such work as shall be necessary to abate the threat or danger. The City is authorized to recover all costs of any such abatement from the property owner or other responsible party.
- (j) Appeals. An aggrieved party may appeal a notice of violation, cease and desist order, or other order or notice issued by the enforcement official pursuant to this chapter.
  - 1. An appeal of any action taken by the enforcement official (other than an appeal of an administrative citation, which is addressed in subdivision (j)(2) of this Section 6-12.303) shall be subject to the following requirements procedures: The appeal shall be in writing, shall fully state all legal and factual bases for the appeal, and shall be filed with the city clerk within ten (10) calendar days following service of the notice of violation, cease and desist order, or other order or notice issued by the enforcement official. The City Manager shall designate or appoint a Hearing Officer who shall be selected in a manner that avoids the potential for pecuniary or other bias, and in no event shall the enforcement official, nor any other officer or employee in his or her department, be the Hearing Officer. Appeal hearings are informal, and formal rules of evidence do not apply. The Hearing Officer may approve, disapprove or modify the decision of the enforcement official. The decision by the Hearing Officer shall be in writing and shall set forth the Hearing Officer's findings. The Hearing Officer's decision shall be final and conclusive. The limitation period provided pursuant to California Code of Civil Procedure Section 1094.6 shall apply to all lawsuits seeking judicial review of the Hearing Officer's decision.
  - 2. An appeal of an administrative citation issued pursuant to subdivision (b)(4) of this Section 6-12.303 shall be governed by the provisions of Chapter 6 of Title 1 of the Pacifica Municipal Code, including without limitation Sections 1-6.07, 1-6.08 and 1-6.09.
- (k) Authorization to File Suit. The City is authorized to file a citizen suit pursuant to Clean Water Act Section 505(a), seeking penalties, damages and injunctive relief compelling compliance or other appropriate relief.
- (l) Notification. The City may notify EPA Region IX, the regional water quality control board, or any other appropriate state or local agency, of any alleged violation of this chapter.

Sec. 6-12.304. - Notification of spills.

As soon as any person has knowledge of any confirmed or unconfirmed release of materials, pollutants, or waste which may result in pollutants or non-stormwater discharges entering the City stormwater system, such person shall take all necessary steps to insure the

discovery and containment and cleanup of such release and shall immediately notify the City of the occurrence by telephoning 650-738-7343 and confirming the notification by correspondence within five (5) days to the City of Pacifica, Code Enforcement Officer, 170 Santa Maria Avenue, Pacifica, CA 94044.

Sec. 6-12.305. - Requirement to test or monitor.

Any authorized City enforcement official may request that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to stormwater pollution or contamination, illicit discharges, and/or discharge of non-stormwater to the stormwater system, undertake such monitoring activities and/or analyses and furnish such reports as the official may specify. The burden, including costs, of these activities, analyses and reports shall bear a reasonable relationship to the need for monitoring, analyses and reports and the benefits to be obtained. The recipient of such request shall undertake and provide the monitoring, analyses and/or reports requested.

Sec. 6-12.306. - Violations constituting misdemeanors.

Unless otherwise specified by this chapter, the violation of any provision of this chapter, or failure to comply with any of the mandatory requirements of this chapter shall constitute a misdemeanor; except that notwithstanding any other provisions of this chapter, any such violation constituting a misdemeanor under this chapter may, at the discretion of the enforcing authority, be charged and prosecuted as an infraction.

Sec. 6-12.307. - Continuing violations.

Unless otherwise provided, a person, firm, corporation or organization, shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this chapter is committed, continued or permitted by the person, firm, corporation or organization and shall be punishable accordingly as herein provided.

Sec. 6-12.308. - Concealment.

Causing, permitting, aiding, abetting or concealing a violation of any provision of this chapter shall constitute a violation of such provision.

Sec. 6-12.309. - Civil actions.

In addition to any other remedies provided in this article, any violation of this chapter may be enforced by civil action brought by the City. In any such action, the City may seek, and the court shall grant, as appropriate, any or all of the following remedies:

- (a) A temporary and/or permanent injunction;
- (b) Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection;
- (c) Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation, including reasonable attorney's fees and court costs;
- (d) Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life. Assessments under this subsection shall be paid to the City to be used exclusively for costs associated with monitoring and establishing stormwater discharge pollution control systems and/or implementing or enforcing the provisions of this chapter;
- (e) Civil penalties as provided for by the Pacifica Municipal Code.

Sec. 6-12.310. - Remedies not exclusive.

Remedies under the article are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

Article 4. - Coordination With Other Programs

Sec. 6-12.401. - Coordination with hazardous materials inventory and response program.

~~The first revision of the business plan for any facility subject to the City's hazardous materials inventory and response program shall include a program for compliance with this chapter, including the prohibitions on non-stormwater discharges and illicit discharges, and the requirement to reduce stormwater pollutants to the maximum extent practicable.~~