

## Chapter 7.74

STORMWATER MANAGEMENT  
AND DISCHARGE CONTROL

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Article I. Title, Purpose and General  
Provisions

## 7.74.010 Title.

The ordinance codified in this chapter shall be known as the "City of Dublin Stormwater Management and Discharge Control Ordinance" and may be so cited. (Ord. 9-92 § 2 (part))

## 7.74.020 Purpose and intent.

A. The purpose of this chapter is to ensure the future health, safety and general welfare of city of Dublin citizens by:

1. Eliminating non-stormwater discharges to the municipal separate storm sewer;
2. Controlling the discharge to municipal separate storm sewers from spills,

dumping or disposal of materials other than stormwater; and

3. Reducing pollutants in stormwater discharges to the maximum extent practicable.

B. The intention of this chapter is to protect and enhance the water quality of our watercourses, water bodies and wetlands, in a manner pursuant to and consistent with the Clean Water Act. (Ord. 9-92 § 2 (part))

**7.74.030 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 regulations. Specifically, the definitions of the following terms included in that statute or regulations are hereby incorporated by reference, as now applicable or as may hereafter be amended:

1. "Discharge" means:

a. Any addition of any pollutant to navigable waters from any point source, or

b. 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 storm sewer system that is not composed entirely of stormwater, except discharges pursuant to a NPDES permit and discharges resulting from firefighting activities.

3. "Pollutant" means dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes,

biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, dirt, and industrial, municipal and agricultural waste discharge into water.

4. "Stormwater" means stormwater runoff, snow-melt runoff, and surface runoff and drainage.

B. When used in this chapter, the following words will have the meanings ascribed to them in this section:

1. "Authorized enforcement official" means the following city officials and their designated associates: Fire Chief, Public Works Director/City Engineer, and Building Official.

2. "Best management practices (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.

3. "City" means the city of Dublin.

4. "City storm sewer system" means and 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 systems, 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 Section 122.2.

5. "Non-stormwater discharge" means any discharge that is not entirely composed of stormwater.

6. "Premises" means any building, lot, parcel, real estate, or land or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips. (Ord. 9-92 § 2 (part))

**7.74.040 Responsibility for administration.**

This chapter shall be administered for the city by the Public Works Director/City Engineer. Where storm drain facilities and/or watercourses have been accepted for maintenance by the Alameda County Flood Control and Water Conservation District (ACFCWCD) or other public agency legally responsible for certain watercourses, then the responsibility for enforcing the provisions of this chapter may be assigned to such agency (through contract or agreement executed by the city and such agency) with respect to those watercourses for which they have accepted maintenance. (Ord. 9-92 § 2 (part))

**7.74.050 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. CA0029831 and any amendment, revision, or reissuance thereof. (Ord. 9-92 § 2 (part))

**7.74.060 Severability and validity.**

If any portion of the ordinance codified in this chapter is declared invalid, the re-

maining portions of such ordinance are to be considered valid. (Ord. 9-92 § 2 (part))

**Article II. Discharge Regulations and Requirements**

**7.74.070 Discharge of pollutants.**

The discharge of non-stormwater discharges to the city storm sewer system is prohibited. All discharges of material other than stormwater must be in compliance with a NPDES permit issued for the discharge (other than NPDES Permit No. CA0029831).

A. Exceptions to Discharge Prohibition. The following discharges are exempt from the prohibition set forth in Section 7.74.70 above:

1. 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;

2. Discharges from the following activities when properly managed: water-line flushing and other discharges from potable water sources; landscape irrigation and lawn watering; irrigation water; diverted stream flows; rising groundwaters; infiltration to separate storm drains; uncontaminated pumped groundwater; 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 fire-fighting. (Ord. 9-92 § 2 (part))

**7.74.080 Discharge in violation of permit.**

Any discharge that would result in or contribute to a violation of NPDES Permit No. CA0029831, and of 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, and such persons shall defend, indemnify, and hold harmless the city in any administrative or judicial enforcement action relating to such discharge. (Ord. 9-92 § 2 (part))

**7.74.090 Illicit discharge and illicit connections.**

It is prohibited to establish, use, maintain or continue illicit drainage connections to the city storm sewer system and to commence or continue any illicit discharges to the city storm sewer system. This prohibition is expressly retroactive and applies to connections made in the past, regardless of whether made under a permit or other authorization or whether permissible under the law or practices applicable or prevailing at the time of the connection. (Ord. 9-92 § 2 (part))

**7.74.100 Reduction of pollutants in stormwater.**

Any person engaged in activities which will or may result in pollutants entering the city storm sewer system shall undertake all practicable measures to reduce such pollutants. The following minimal requirements shall apply.

**A. Littering.**

1. Except when deposited into containers or in lawfully established dumping

grounds, 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.

2. 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 Dublin in front of which there is a paved sidewalk shall maintain said sidewalk free of dirt or litter to the maximum extent practicable. Sweepings from the sidewalk shall not be swept or otherwise made or allowed to go into the gutter or roadway, but shall be disposed of in receptacles maintained on such real property as required for the disposal of garbage.

3. No person shall throw or deposit litter in any fountain, pond, lake, 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 storm sewer system.

C. Best Management Practices for New Developments and Redevelopments. Any construction contractor performing work in the city shall endeavor, whenever possible, to provide filter materials at the catchbasin to retain any debris and dirt flowing into the city's storm sewer system. The Public Works Director/City Engineer 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.

D. Compliance with Best Management Practices. Where best management practices guidelines or requirements have been adopted by any federal, state of California, regional, and/or city agency, 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 stormwater system, every person undertaking such activity or operation, or owning or operating such facility, shall comply with such guidelines or requirements. (Ord. 9-92 § 2 (part))

#### **7.74.110 Watercourse protection.**

A. 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 or adjacent to 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.

B. No person shall commit or cause to be committed any of the following acts, unless a written permit has first been obtained from the Public Works Director/City Engineer:

1. Discharge into or connect any pipe or channel to a watercourse;
2. Modify the natural flow of water in a watercourse;
3. Carry out development within thirty feet (30') of the centerline of any creek or twenty feet (20') of the top of a bank;
4. Deposit in, plant in, or remove any material from a watercourse, including its banks, except as required for necessary maintenance;
5. Construct, alter, enlarge, connect to, change or remove any structure in a watercourse; or
6. Place any loose or unconsolidated material along the side of or within a watercourse, or so close to the side as to cause a diversion of the flow, or to cause a probability of such material being carried away by stormwaters passing through such watercourse. (Ord. 9-92 § 2 (part))

### **Article III. Inspection and Enforcement.**

#### **7.74.120 Authority to inspect.**

##### **A. General Procedures.**

1. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever an authorized 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 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 is occupied, he or she shall first present proper credentials and request entry; and

b. If such building or premises is 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.

2. Any such 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 or occupant refuses entry after such request has been made, or in the event that the owner or person in charge of the building or premises cannot be located, an inspection/abatement warrant authorizing entry shall be obtained prior to the city's entry onto the building or premises. The official is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such warrant authorizing entry.

3. 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.

B. Authority to Sample and Establish Sampling Devices. 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.

C. Notification of Spills. As soon as any person in charge of a facility or responsible

for emergency response for a facility 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 storm sewer system, such person shall take all necessary steps to ensure the discovery and containment and cleanup of such release, and shall notify the city of the occurrence by telephoning the city's Public Works Director/City Engineer and confirming the notification by correspondence to the same.

D. Requirement to Test or Monitor. Any authorized 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 the 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. (Ord. 9-92 § 2 (part))

**7.74.130 Violations constituting misdemeanors or infractions.**

Unless otherwise specified by ordinance, 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, in the discretion of the city, be charged and prosecuted as an infraction. (Ord. 9-92 § 2 (part))

**7.74.140 Penalty for violation.**

A. Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section 36901.

B. Upon conviction of an infraction, a person shall be subject to payment of a fine, not to exceed the limits set forth in California Government Code Section 36900. After a third infraction conviction for a violation of the same provision within a twelve (12) month period, subsequent violations of that same provision within a twelve (12) month period may be charged as a misdemeanor. (Ord. 9-92 § 2 (part))

**7.74.150 Continuing violation.**

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. (Ord. 9-92 § 2 (part))

**7.74.160 Concealment.**

Causing, permitting, aiding, abetting or concealing a violation of any provision of this chapter shall constitute a violation of such provision. (Ord. 9-92 § 2 (part))

**7.74.170 Acts potentially resulting in violation of Federal Clean Water Act and/or Porter-Cologne Act.**

Any person who violates any provision of this chapter, any provision of any permit issued pursuant to this chapter, or who discharges waste or wastewater which causes pollution, or who violates any cease and desist order, prohibition, or effluent limitation, may also be in violation of the Federal Clean Water Act and/or Porter-Cologne Act and may be subject to the sanctions of those Acts, including civil and criminal penalty. Any enforcement action authorized under this article shall also include notice to the violator of such potential liability. (Ord. 9-92 § 2 (part))

**7.74.180 Violations deemed a public nuisance.**

A. In addition to the penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to the public health, safety and welfare, and is declared and deemed a nuisance. Such condition may be summarily abated and/or restored by any authorized enforcement official pursuant to Chapter 5.64 of the Dublin Municipal Code, and/or civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken by the City Attorney.

B. The cost of such abatement and restoration shall be borne by the owner of the property, and the cost thereof shall be a lien upon and against the property. The procedures of Article IV, Chapter 5.64 of the Dublin Municipal Code shall be followed for any such lien.

7.74.180

C. If violation of this chapter constitutes a seasonal and recurrent nuisance, the City Council shall so declare. Thereafter, such seasonal and recurrent nuisance shall be abated every year without the necessity of any further hearing. (Ord. 9-92 § 2 (part))

**7.74.190 California Code of Civil Procedure Section 1094.6.**

The provisions of Section 1094.6 of the California Code of Civil Procedure are applicable to judicial review of city decisions pursuant to this chapter. (Ord. 9-92 § 2 (part))

**7.74.200 Civil actions.**

In addition to any other remedies provided in this chapter, 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;

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. (Ord. 9-92 § 2 (part))

**7.74.210 Administrative enforcement powers.**

In addition to the other enforcement powers and remedies established by this chapter, any authorized enforcement official has the authority to utilize the following administrative remedies:

A. Cease and Desist Orders. When an authorized enforcement official finds that a discharge has taken place or is likely to take place in violation of this chapter, the official may issue an order to cease and desist such discharge, or practice, or operation likely to cause such discharge and direct that those persons not complying shall: (1) comply with the requirement, (2) comply with a time schedule for compliance, and/or (3) take appropriate remedial or preventive action to prevent the violation from recurring.

B. Notice to Clean. Whenever an authorized enforcement official finds any oil, earth, dirt, grass, weeds, dead trees, cans, rubbish, refuse, waste, or any other material of any kind, in or upon the sidewalk abutting or adjoining any parcel of land, or upon any parcel of land or grounds, which may result in an increase in pollutants entering the city storm sewer system or a non-stormwater discharge to the city storm sewer system, the official may give notice to the property owner and/or to the tenant, if any, to remove such oil, earth, dirt, grass, weeds, dead trees, cans, rubbish, refuse, waste or other material, in any manner that he or she may reasonably provide. The recipient of such notice shall undertake the activities as described in the notice. (Ord. 9-92 § 2 (part))

**7.74.220 Authority to issue citations or arrest.**

A. Authorized enforcement officials may issue a citation for an infraction and notice to appear in the manner prescribed by Chapter 5c of Title 3, Part 2 of the Penal Code, or as the same may hereafter be amended. It is the intent of the City Council that the immunities prescribed in Section 836.5 of the Penal Code be applicable to public officers or employees or employees acting in the course and scope of employment pursuant to this chapter.

B. Police officers, but not authorized enforcement officials, shall have and are hereby vested with the authority to arrest or cite any person who violates any section of this chapter in the manner provided by the California Penal Code for the arrest or release on citation of misdemeanor infractions as prescribed by Chapter 5, 5c, and 5d of Title 3, Part 2 of the Penal Code, or as the same may be hereinafter amended. (Ord. 9-92 § 2 (part))

**7.74.230 Remedies not exclusive.**

Remedies under this 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. (Ord. 9-92 § 2 (part))

**Article IV. Coordination with Other Programs**

**7.74.240 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. (Ord. 9-92 § 2(part))