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STORMWATER POLLUTION PREVENTION REGULATIONS

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Article 1 – General Provisions

5-401 Purpose, objectives and applicable regulations.

- A. The purpose of this chapter is to protect and enhance the water quality of the city's watercourses, water bodies and wetlands pursuant to, and consistent with the Federal Clean Water Act of 1987 (33 U.S.C. Section 1251 et seq.) and the state's Porter-Cologne Water Quality Control Act (Water Code Section 13000 et seq.).
- B. This chapter shall be construed to assure consistency with the requirements of the Federal Clean Water Act of 1987 and the state's Porter-Cologne Water Quality Control Act and all amendments to them, applicable implementing regulations, and national pollutant discharge elimination system (NPDES) permits issued to the city and any amendments, revisions or re-issuances of the permit, including conditions in the city's NPDES permit that require effective February 15, 2005 implementation of appropriate source control and site design measures and stormwater treatment measures for projects that create or replace an acre or more of impervious surface, and that effective August 15, 2006 reduce the threshold to projects that create or replace 10,000 square feet or more of impervious surface. The purpose and objectives of this chapter are to protect the health, safety and general welfare of Lafayette's citizens as follows:
 - 1. To maintain and improve the quality of water impacted by the storm drainage system within the city of Lafayette;
 - 2. To prevent the discharge of contaminated stormwater runoff and illicit discharges from industrial, commercial, residential, and construction sites into the storm drainage system within the city;
 - 3. To minimize increases in nonpoint source pollution caused by stormwater runoff from development that would otherwise degrade local water quality;
 - 4. To reduce stormwater run-off rates and volumes and nonpoint source pollution whenever possible, through stormwater management controls and ensuring that these management controls are properly maintained and pose no threat to public safety;

5. To promote public awareness of and minimize the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the storm drainage system;
6. To encourage recycling of used motor oil and safe disposal of other hazardous consumer products;
7. To facilitate compliance with state and federal standards and permits by owners of construction sites within the city;
8. To enable the city to comply with all federal and state laws and regulations applicable to the NPDES permitting requirements for stormwater discharges.
(Ord. 549 § 1 (part), 2005)

5-402 Administration and definitions.

- A. Except as otherwise provided herein, the city of Lafayette community development director or designated representative, shall administer, implement, and enforce the provisions of this chapter.
- B. Unless a provision explicitly states otherwise, the following terms and phrases as used in this chapter, shall have the meanings hereinafter designated. Words and phrases in this chapter and not otherwise defined shall be interpreted as defined in the regulations issues by the U.S. Environmental Protection Agency to implement the provisions of the Federal Clean Water Act, and as defined by the State Water Resources Control Board to implement the Porter-Cologne Act.
 1. "Administrative citation" means a citation issued by designated enforcement personnel in accordance with Lafayette Municipal Code [Chapter 1-9](#) for violations of this chapter.
 2. "Authorized enforcement officer" means the community development director of the city or any individual designated by director to enforce the provisions of this chapter. A designated individual may include a consultant or an employee of any agency with which the city enters into an agreement.
 3. "Best management practices (BMPs)" means and includes structural devices, a schedule of activities, prohibition of practices, general good housekeeping practice, pollution prevention practice, maintenance procedure, and other management practice to prevent or reduce the discharge of pollutants directly or indirectly to a watercourse, water body, wetland or the stormwater system. BMPs can also include a treatment requirement, operating procedure, design specification and practice to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
 4. "Business" means any partnership, copartnership, firm, company, corporation, association, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns, including all federal, state, and local governmental entities.
 5. "Cash bond" means a check payable to the city of Lafayette, a city approved instrument of credit in favor of the city, or an approved certificate of deposit made in favor of the city.

6. "Cease and desist order" means a written notice detailing any violations of this chapter and any action expected of the violators.
7. "CFR" means the Code of Federal Regulations as that document currently exists or may hereafter be amended.
8. "City" means the city of Lafayette.
9. "Commercial" means pertaining to any business, trade, industry, or other activity engaged in for profit.
10. "Compliance bond" means a cash bond or approved bond issued by an approved bonding company in favor of the city.
11. "Construction activity" means an activity including, but not limited to, grading, dewatering operations, roadwork and paving operations, concrete operations, structure construction and painting, construction material storage and handling, construction waste/debris storage and disposal, and construction equipment/vehicle cleaning, maintenance, and fueling operations.
12. "Construction site" means any location where construction activity occurs.
13. "Contaminated" means containing harmful quantities of pollutants.
14. "Contractor" means any person, business, corporation or other entity performing or managing construction work at a construction site, including any construction manager, general contractor or subcontractor. Contractor also includes, but is not limited to, earthwork, paving, building, plumbing, mechanical, electrical or landscaping contractors, and material suppliers delivering materials to the site.
15. "Development runoff requirements" mean the provisions in the city's NPDES permit that contain performance standards to address both the construction and post-construction phase impacts of new projects and redeveloped projects on stormwater quality. In the city's 1999 NPDES permit these requirements are in Section C.3.
16. "Director" means the community development director of the city or designated representative.
17. "Discharge" means any addition or release of any pollutant, stormwater or any other substance whatsoever into and from the storm drainage system.
18. "Discharger" means any person, business, corporation or other, who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any owner of a construction site or industrial facility.
19. "Domestic sewage" means sewage originating primarily from kitchen, bathroom and laundry sources, including waste from food preparation, dishwashing, garbage grinding, toilets, baths, showers and sinks.

20. "Earthwork" means the disturbance of soils on a site associated with clearing, grading, or excavation activities.
21. "Environmental protection agency (EPA)" means the United States Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of the EPA or such successor agency.
22. "Facility" means any building, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.
23. "Fertilizer" means a substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers.
24. "Fire protection water" means any water, and any substances or materials contained therein, used in any way to control or extinguish a fire, or to inspect or test fire equipment.
25. "Garbage" means putrescible animal and vegetable waste materials from the handling, preparation, cooking, or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products.
26. "General permit" means a Statewide Construction Activities and Statewide Industrial Stormwater General Permit.
27. "Groundwater" means any water residing below the surface of the ground or percolating into or out of the ground.
28. "Guidebook" means the most recent version of the Contra Costa Clean Water Program Stormwater C.3 Guidebook.
29. "Harmful quantity" means the amount of any substance that the director determines will cause an adverse impact to storm drainage system or will contribute to the failure of the city to meet the water quality based requirements of the NPDES permit for discharges from the MS4.
30. "Hazardous substance" means any substance listed in Table 302.4, designation of hazardous substances, of 40 CFR Part 302, U.S. Environmental Protection Agency.
31. "Hazardous waste" means any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.
32. "Household hazardous waste (HHW)" means any material generated in a household (including single and multiple residences) that if discarded from homes may threaten human health or the environment when disposed of improperly.
33. "Illicit discharge" is a discharge to the city's stormwater that is not composed entirely of stormwater, except as exempted by Section 5-407 (Exemptions).

34. "Illicit connection" means any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drainage system.
35. "Industrial waste or commercial waste" means any wastes produced as a by-product of any industrial, institutional or commercial process or operation, other than domestic sewage.
36. "Maximum extent practicable" means an individual BMP or group of BMPs that address a pollutant concern, that have a cost of implementation reasonably relative to the pollution control benefits achieved, and which are technologically feasible.
37. "Mechanical fluid" means any fluid used in the operation and maintenance of machinery, vehicles and any other equipment, including lubricants, antifreeze, petroleum products, oil and fuel.
38. "Mobile commercial cosmetic cleaning or mobile washing" means power washing, steam cleaning, and any other method of mobile cosmetic cleaning, of vehicles and/or exterior surfaces, engaged in for commercial purposes or related to a commercial activity.
39. "Municipal separate storm sewer system (MS4)" means the system of conveyances, including roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins and ponds owned and operated by the city and designed or used for collecting or conveying stormwater, and not used for collecting or conveying sanitary sewage.
40. "National pollutant discharge elimination system (NPDES)" means a regulatory pollution elimination program, Permit No. CAS0029912, and any subsequent amendment, reissuance or successor to this NPDES permit, established by the Federal Clean Water Act and administered by the state of California under the authority of the U.S. EPA. In the San Francisco Bay Area the program is controlled by the San Francisco Bay Area Regional Water Quality Control Board (RWQCB).
41. "New development" means any construction, alteration or improvement at a new or already developed site that will increase the total impervious surface area of that site, or that involves activities that could expose contaminants to rainfall.
42. "Non-stormwater discharge" means a discharge that is not entirely composed of stormwater.
43. "NPDES" means the national pollutant discharge elimination system.
44. "NPDES permit" means a permit issued by EPA or by the state or regional Water Quality Control Board under their delegated authority from EPA that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
45. "Notice of intent (NOI)" means a formal notice with appropriate fee submitted to the SWRCB by the owner of an industrial site or construction site that the owner seeks coverage under a general permit for discharges associated with industrial and construction activities.

The NOI provides information on the owner, location, type of project, and certifies that the owner will comply with the conditions of the construction general permit.

46. "Oil" means any kind of oil in any form, including, but not limited to: petroleum, fuel oil, crude oil, synthetic oil, motor oil, cooking oil, grease, sludge, oil refuse, and oil mixed with waste.
47. "Owner" means the person(s), business, corporation or other entity who owns a facility, part of a facility, or land.
48. "Parking lot" means an open area, other than a street or other public way, used for the parking of motorized vehicles, whether for a fee or for free, to accommodate clients or customers or to accommodate residents of multifamily dwellings (e.g., apartments, condominiums, townhomes, mobilehomes, dormitories, or group quarters).
49. "Pesticide" means a substance or mixture of substances intended to prevent, destroy, repel, or migrate any pest.
50. "Pet waste or animal waste" means excrement and other waste from domestic animals.
51. "Petroleum product" means a product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel or lubricant in a motor vehicle or aircraft, including motor oil, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel.
52. "Pollutant" means any substance attributable to water pollution, including but not limited to petroleum products or by-products, solid waste, incinerator residue, sewage, sewage sludge, septic tank waste, pet waste, animal waste, chemical waste, industrial waste, agricultural waste, biological materials, garbage, litter, debris, yard waste, wastewater, mechanical fluid, oil, motor oil, used oil, grease, antifreeze, surfactants, solvents, detergents, cleaning agents, paint, heavy metals, toxins, household hazardous waste, small quantity generator waste, hazardous substances, hazardous waste biological material, fertilizer, pesticide, herbicide, radioactive materials, wrecked or discarded equipment, rock (except in cases of repairs approved by the city's representative), sand, industrial, municipal or agricultural waste, vegetative material, soil, dredged soil, eroded soil, sediment, toxic motor fluids, grease and other kitchen waste.
53. "Pollution" means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animal life, plant life, property, or public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.
54. "Potable water" means water that has been treated to drinking water standards and is safe for human consumption.
55. "Premises" means a building lot, structure, parcel, real estate, or land or portion of land whether improved, or unimproved, including an adjacent sidewalk and parking strip.

56. "Private drainage system" means all privately owned ground, surfaces, structures or systems, excluding the MS4, that contribute to or convey stormwater, including but not limited to, roofs, gutters, downspouts, lawns, driveways, pavement, roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins, ponds, draws, swales, streams and any ground surface.
57. "Public improvement plans" mean engineering drawings subject to approval by the engineering services manager for the construction of public improvements.
58. "Qualified person" means a person who possesses the required certification, license, or appropriate competence, skills, and ability as demonstrated by sufficient education, training, and/or experience to perform a specific activity in a timely and complete manner consistent with the regulatory requirements and generally accepted industry standards for such activity.
59. "Redevelopment" means a project on a previously developed site that results in the addition or replacement of impervious surfaces.
60. "Release" means to dump, spill, leak, pump, pour, emit, empty, inject, leach, dispose or otherwise introduce into the storm drainage system.
61. "Responsible person" means the owner or occupant of any premises or who engages in any activity from which there is or may be a non-stormwater discharge or any person who releases pollutants to the city's stormwater system.
62. "Rubbish" means nonputrescible solid waste, excluding ashes that consist of: (a) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials, and (b) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (1,600 to 1,800 degrees Fahrenheit).
63. "Sanitary sewage" means the domestic sewage and/or industrial waste that is discharged into the sanitary sewer system and passes through the sanitary sewer system to the sewage treatment plant for treatment.
64. "Sanitary sewer" means the system of pipes, conduits, and other conveyances that carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to the sewage treatment plant (and to which stormwater, surface water, and groundwater are not intentionally admitted).
65. "Sediment" means soil (or mud) that has been disturbed or eroded and transported naturally by water, wind or gravity, or mechanically by any person.
66. "Septic tank waste" means any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and aerated tanks.
67. "Shall" means mandatory; "may" means discretionary.

68. "Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.
69. "Small quantity generator waste" means any hazardous waste generated by a small quantity generator as defined in the U.S. Environmental Protection Agency 40 CFR Part 302, Table 302.4, Designation of Hazardous Substances.
70. "Solid waste" means any garbage, rubbish, refuse and other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from industrial, municipal, commercial, construction, mining or agricultural operations, and residential, community and institutional activities.
71. "State" means the state of California.
72. "Storm drainage system" means all surfaces, structures and systems that contribute to or convey stormwater, including private drainage systems, the MS4, surface water, groundwater, waters of the state and waters of the United States.
73. "Stormwater" means surface runoff and drainage associated with storm events and resulting from precipitation.
74. "Stormwater control plan" means a plan that meets those criteria contained in the most recent version of the Contra Costa Clean Water Program Stormwater C.3 Guidebook.
75. "Stormwater management facility" means any device designated to detain, retain, filter, or infiltrate stormwater.
76. "Stormwater pollution prevention plan (SWPPP)" means a document that identifies pollutant sources that may affect the quality of stormwater discharges from the construction site and describes the best management practices to be implemented at a site, to prevent or reduce the discharge of pollutants, including proposed post-construction controls.
77. "Stormwater system" means and includes, but is not limited to, those facilities within the city, whether publicly or privately maintained, by which stormwater may be conveyed to waters of the United States. These facilities include a creek, flood control channel, street, catch basin, curb, gutter, ditch, man-made channel, storm drain, and other stormwater conveyance system which is not part of publicly owned treatment works (POTW) as defined at 40 CFR 122.2.
78. "Surface water" means water bodies and any water temporarily residing on the surface of the ground, including oceans, lakes, reservoirs, rivers, ponds, streams, puddles, channelized flow and runoff.
79. "Uncontaminated" means not containing harmful quantities of pollutants.
80. "Used oil or used motor oil" means any oil that as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties.

81. "Utility agencies" mean private utility companies, city departments or contractors working for private utility companies or city departments, engaged in the construction or maintenance of utility distribution lines and services, including water, sanitary sewer, storm sewer, electric, gas, telephone, television and communication services.
82. "Waste discharger identification (WDID)" means a number that will be issued within ten business days after the SWRCB receives a complete NOI package with an original signed NOI, vicinity map, and check.
83. "Watercourse" means a natural or man-made channel with defined banks and bottom that has the ability to carry stormwater during all or part of the year.

C. Words and phrases, when used in this chapter and not otherwise defined shall be interpreted as defined in the regulations promulgated by the EPA to implement the requirements of the Federal Clean Water Act, or as defined by the State Water Resources Control Board to implement the California Water Code (Porter-Cologne Water Quality Control Act).
(Ord. 549 § 1 (part), 2005)

5-403 Authorization to adopt and impose best management practices.

- A. The city may adopt and impose requirements identifying BMPs for any activity, operation, or facility, which may cause a discharge of pollutants to the storm drainage system. Where specific BMPs are required, every person, business, corporation or other entity undertaking such activity or operation, or owning or operating such facility shall implement and maintain these BMPs at their own expense.
- B. BMPs are of two types: "source controls" (nonstructural) and "treatment controls" (structural). Source controls are practices that prevent pollution by reducing potential pollutants at their source, before they come into contact with stormwater. Treatment controls remove pollutants from stormwater. The selection, application and maintenance of BMPs must be sufficient to prevent or reduce the likelihood of pollutants entering the storm drainage system. Specific BMPs may be imposed by the city and are discussed further in Article 4 of this chapter.
(Ord. 549 § 1 (part), 2005)

5-404 Remedies not exclusive.

The remedies identified in this chapter are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal. The remedies provided herein are cumulative and not exclusive.
(Ord. 549 § 1 (part), 2005)

Article 2 - Prohibited Discharges, Spill and Discharge Reporting, Cleanup and Training

5-405 General.

- A. A discharge, including an exempt discharge listed in [Section 5-407](#) of this chapter, that would result in or contribute to a violation of an NPDES permit and each amendment, revision, or reissuance, either separately or when combined with another discharge, is prohibited. The discharge of stormwater from premises or an activity that causes or contributes to a violation of receiving water limitations in the city's NPDES permit is prohibited. Liability for any such discharge shall be the

responsibility of the person(s) or entity causing or responsible for the discharge, and such person shall defend, indemnify and hold harmless the city in any administrative or judicial enforcement action relating to such discharge.

1. No person, business, corporation or other entity shall release or cause to be discharged into the storm drainage system any discharge that is not composed entirely of uncontaminated stormwater, except as allowed in [Section 5-407](#) of this chapter. Common stormwater contaminants include trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste and sediment.
 2. Notwithstanding the provisions of [Section 5-407](#) of this chapter, any discharge shall be prohibited by this section if the discharge in question has been determined by the city's representative to be a source of pollutants to the storm drainage system. No discharge shall cause the following conditions, create a nuisance or adversely affect beneficial uses of waters of the state: floating suspended or deposited macroscopic matter or foam, bottom deposits or aquatic growth, alterations of temperature, sediment load, nutrient load, or dissolved oxygen, which cause significant adverse impacts to native aquatic biota, visible, floating, suspended or deposited oil or products of petroleum origin, substances present in concentrations or quantities which cause deleterious effects on aquatic biota, wildlife or waterfowl or which render any of these unfit for human consumption.
 3. The construction, use, maintenance or continued existence of illicit connections to the storm drain system 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.
 4. No person, business, corporation or other entity shall connect a line conveying sanitary sewage, domestic sewage or industrial waste, to the storm drainage system, or allow such a connection to continue.
 5. No person, business, corporation or other entity shall maliciously destroy or interfere with BMPs implemented pursuant to this section.
 6. No mobile commercial cosmetic cleaning person, business, corporation or other entity cleaning operations shall discharge to the stormwater system in violation of this chapter.
- B. The standards set forth herein are minimum standards; therefore this section does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the United States caused by said person. (Ord. 549 § 1 (part), 2005)

5-406 Illicit discharge and spill reporting and cleanup and training.

A. Reporting Illicit Discharge or Spill.

1. Any person, business, corporation or other entity in charge of a facility having knowledge of a known or suspected release or spill of materials which are resulting in or may result in illicit or prohibited discharges to the storm drainage system shall take all necessary steps to ensure the discovery, containment, abatement and cleanup of such discharge.

2. Any person, business, corporation or other entity responsible for a known or suspected release or spill of materials which are resulting in or may result in illicit and prohibited discharges to the storm drainage system shall take all necessary steps to ensure the discovery, containment, abatement and cleanup of such release or spill. In the event of such a release or spill of a hazardous material, said person, business, corporation, or other entity shall comply with all state, federal, and local laws requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release or spill, and:
 - a. In the event the discharge or spill is a hazardous material, or suspected hazardous material, said person, business, corporation or other entity shall immediately call police dispatch and/or 911, and notify the director no later than nine a.m. of the next business day;
 - b. In the event of a discharge or spill of nonhazardous materials, said person, business, corporation or other entity shall notify the director no later than nine a.m. of the next business day.
 3. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city of Lafayette, public works services division within three business days of the telephone or personal notice.
 4. The owner and/or responsible party shall establish, maintain and 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 and made available to the city within three business days of written request.
- B. Cleanup of Illicit Discharge or Spill. In the event the discharge or spill is a hazardous material, or suspected to be hazardous, said person, business, corporation or other entity shall comply with all state, federal, and local laws requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release.
- C. Training. A person, business, corporation or other entity in charge of a facility or responsible for emergency response for a facility is responsible for training facility personnel and maintaining notification procedures to assure that immediate notification is provided to the city of suspected, confirmed or unconfirmed release or spill of material, pollutant or waste creating a risk of illicit or prohibited discharge into the city's stormwater system.
(Ord. 549 § 1 (part), 2005)

Article 3 – Exempt Discharges

5-407 Exemptions.

A discharge from the following activities or sources is not considered a source of pollutants to the city's stormwater system when properly managed:

- A. Uncontaminated water line flushing and other discharge of a potable water source;
- B. Uncontaminated irrigation and lawn watering;

- C. Irrigation water;
- D. Diverted stream flow;
- E. Ground water infiltration to storm drains;
- F. Uncontaminated pumped ground water;
- G. Foundation and footing drain;
- H. Water from crawl space pump;
- I. Air conditioning condensation;
- J. Natural springs;
- K. Individual residential car washing;
- L. Flow from riparian habitat and wetland;
- M. Dechlorinated swimming pool discharge;
- N. Fire protection water; and
- O. A discharge in compliance with an NPDES permit issued to the discharger and administered by the state under the authority of the U.S. EPA, if the discharger is in full compliance with all requirements of the permit and applicable laws or regulations. This section does not relieve the discharger from responsibilities under [Section 5-411](#) of this chapter. In addition, the discharger shall supply written verification of permit authority to the city before discharging. (Ord. 549 § 1 (part), 2005)

Article 4 – Stormwater Pollution Prevention Requirements for Construction Activities, New Development and Redevelopment, Business Activities, Utility Operations and Watercourse Protection

5-408 General requirements.

- A. Each discharger associated with construction activity or other discharger described in any general stormwater permit addressing discharges, as may be adopted by the United States EPA, the State WRCB, or the California RWQCB, San Francisco Bay Region, shall provide the director with the notice of intent, comply with and undertake all other activities required by any general stormwater permit applicable to dischargers. Each discharger identified in an individual NPDES permit relating to stormwater discharges shall comply with and undertake all activities required by the permit.
- B. Every application for a development project, including but not limited to a rezoning, tentative map, parcel map, conditional use permit, variance, site development permit, design review, or building permit that is subject to the development runoff requirements in the city's NPDES permit shall be accompanied by a stormwater control plan that meets the criteria in the most recent version of the Contra Costa Clean Water Program Stormwater C.3 Guidebook.

Effective February 15, 2005 this requirement shall apply to:

- 1. All developments that create one acre (43,560 square feet) or more of impervious surface. Excluded from this category is the construction of one single-family home, which is not part of a larger plan of development, with appropriate pollutants source control and site design measures, and using landscaping to appropriately treat runoff from roof and house-associated impervious surfaces.

2. Streets and road projects that create one acre (43,560 square feet) or more of new impervious surface. Excluded from this category are sidewalks, bicycle lanes, trails, bridge accessories, guardrails, and landscape features.
3. Projects on previously developed sites that result in the addition or replacement of a combined total of one acre (43,560 square feet) or more of impervious surface, routine maintenance and repair includes roof or exterior surface replacement, pavement resurfacing, repaving and road pavement structural section rehabilitation with the existing footprint, and any other reconstruction work within a public street or road right-of-way where both sides of that right-of-way are developed.

Effective August 15, 2006 this requirement shall apply to:

1. All developments that create 10,000 square feet or more of impervious surface. Excluded from this category is the construction of one single-family home, which is not part of a larger plan of development, with appropriate pollutant source control and site design measures, and using landscaping to appropriately treat runoff from roof and house-associated impervious surfaces.
 2. Streets and road projects that create 10,000 square feet or more of new impervious surface. Excluded from this category are sidewalks, bicycle lanes, trails, bridge accessories, guardrails, and landscape features.
 3. Projects on previously developed sites that result in the addition or replacement of a combined total of 10,000 square feet or more of impervious surface. Excluded from this category are interior remodels and routine maintenance or repair. Excluded routine repaving and road pavement structural section rehabilitation within the existing footprint and any other reconstruction work within a public street or road right-of-way where both sides of that right-of-way are developed.
- C. Requirements shall be interpreted in a manner that is consistent with the development runoff requirements and exclusions in the city's NPDES permit.
- D. Implementation of an approved stormwater control plan and submittal of an approved stormwater control operation and maintenance plan by the applicant shall be a condition precedent to the issuance of a certificate of occupancy for a project subject to this section.
- E. All stormwater management facilities shall be designed in a manner to minimize the need for maintenance and reduce the chances of failure. Design guidelines are outlined in the guidebook.
- F. All stormwater management facilities shall be maintained according to the guidebook and the approved stormwater control operation and maintenance plan. The person or organization responsible for maintenance shall be designated in the plan. Unless a different time period is provided for in the plan, those responsible for maintenance may be required to inspect the stormwater management facility at least annually and obtain a valid operation and maintenance certificate of compliance certifying to the inspection of a proper operation and maintenance of the treatment measures and other appropriate source control and site design measures. Each responsible person subject to this requirement shall contact the city annually and request an inspection form from the city every 12 months, if an inspection is required by the city at that

time. Upon the filing of such request, and the payment of a fee covering the cost of inspection, the city inspector shall inspect the property and shall either issue such certificate upon a determination by the inspector that all treatment measures and other appropriate source control and site design measures have been properly maintained and are in good condition, or shall issue a conditional certificate noting deficiencies that must be corrected within a time indicated on the certificate, or shall deny the certificate. A certificate shall be valid for one year from the date of issuance. The city council may by resolution establish the fee for the inspection and certificate.

- G. In lieu of a city inspection, such person may arrange for an inspection from a private company authorized to conduct inspections by the city. Such company shall use a city-approved inspection form that shall be executed under penalty of perjury. Should such inspection form establish that the treatment measures and other appropriate source control and site design measures have been properly maintained and are in good condition, the city may issue an operation and maintenance certificate of compliance or the city may at its cost reinspect the property and proceed as described in the city inspection in subsection (f) of this section. The filing of a false inspection report shall be a misdemeanor.
- H. The plan shall also describe how the maintenance costs will be funded. Upon the failure of a responsible person to maintain a stormwater management facility in accordance with this chapter or the plan, the city may perform the maintenance and recover its costs from the responsible person as provided in Section 5-428 (Enforcement actions) of this chapter.
- I. For access to stormwater management facilities for inspections and maintenance, recorded covenants and/or easements shall be provided by the property owner for access by the city, the Contra Costa Mosquito and Vector Control District, and the Regional Water Quality Control Board.
- J. Any person, business, corporation or entity owning or operating a facility or responsible for or in control of an activity that may contribute pollutants to the city's stormwater system shall undertake all practicable BMPs to reduce the potential for pollutants entering the system and may be required by the director to develop and implement a stormwater pollution prevention plan, which shall include an employee training program. Example facilities include, but are not limited to, operation of parking lots, repair shops and other commercial enterprises. Examples of construction activities include, but are not limited to, grading, roadwork and paving operations, structure construction, and construction material storage and handling. The following minimum standards shall be met at all times:
 - 1. Compliance with BMPs. All dischargers shall comply with BMP guidelines or requirements adopted by any federal or state agency or by the city. Where there is conflict between various guidelines and requirements the more stringent shall apply.
 - 2. Private Drainage System Maintenance. The owner of any private drainage system shall maintain the system to prevent or reduce the discharge of pollutants. This maintenance shall include, but is not limited to, sediment removal, bank erosion repairs, maintenance of vegetative cover, and removal of debris from pipes and structures.

3. **Minimization of Irrigation Runoff.** A discharge of irrigation water that is of sufficient quantity to cause a concentrated flow in the storm drainage system is prohibited. Irrigation systems shall be managed to reduce the discharge of water from a site.
4. **Cleaning of Paved Surfaces Required.** The visible buildup of mechanical fluid, waste materials, sediment or debris on any paved parking lot, street or other paved surface is a violation of this chapter. Persons owning, operating or maintaining a paved parking lot, the paved areas of a gas station, a paved private street or road, or other paved surface and related stormwater systems shall clean the pavement as frequently as required to prevent the buildup and discharge of pollutants to the city's stormwater system. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping or other method in compliance with approved BMPs.
5. **Sidewalk Maintenance.** The occupant or tenant, or in the absence of occupant or tenant, the owner or proprietor of any real property in front of which there is a paved sidewalk shall maintain said sidewalk free of dirt or litter to the maximum extent practicable. Sidewalks shall be hand swept or vacuumed only, none of the material from the sidewalk shall be swept or otherwise made or allowed to go into the gutter or roadway, and shall be disposed of in a receptacle maintained as required for disposal of solid waste.
6. **Litter.** No person, business, corporation or other entity shall throw, deposit, leave, keep or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage or other discarded or abandoned objects or other potential pollutants, articles or other litter in or upon any street, alley, sidewalk, place of business, creek, stormwater system, fountain, pool, lake, stream, or any other body of water, or upon any public or private parcel or land so that the same might become a pollutant, except in lawfully established waste disposal facilities.
7. **Maintenance of Equipment.** Any leak or spill related to equipment maintenance in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants. Vehicles, machinery and equipment must be maintained to reduce leaking fluids.
8. **Materials Storage.** In addition to other requirements of this code, materials shall be stored to prevent the potential release of pollutants. The uncovered, outdoor storage of unsealed containers of hazardous substances is prohibited.
9. **Pet Waste.** Pet waste shall be disposed of as solid waste or sanitary sewage in a timely manner, to prevent discharge to the storm drainage system.
10. **Pesticides, Herbicides and Fertilizers.** Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer recommendations and applicable laws. Excessive application shall be avoided.
11. **Prohibition on Use of Pesticides and Fungicides Banned from Manufacture.** Use of any pesticide, herbicide or fungicide, the manufacture of which has been either voluntarily discontinued or prohibited by the Environmental Protection Agency, or any federal, state or city regulation is prohibited.

12. Open Drainage Channel Maintenance. Every person, business, corporation or other entity owning or occupying property through which an open drainage channel passes shall keep and maintain that part of the drainage channel within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or retard the flow of water through the drainage channel. In addition, the owner or occupant shall maintain existing privately owned facilities adjacent to a drainage channel, so that such facilities will not become a hazard to the use, function, or physical integrity of the drainage channel.
 13. Mobile commercial cosmetic cleaning operations shall not discharge to the stormwater system in violation of this chapter.
- K. All construction shall conform to the requirements of the latest editions of the California Stormwater Quality Association (CASQA), Stormwater Best Management Practices Handbooks, California Regional Water Quality Control Board San Francisco Bay Region, Guidelines for Construction Projects, California Regional Water Quality Control Board San Francisco Bay Region, Erosion and Sediment Control Field Manual, the Association of Bay Area Governments (ABAG), Manual of Standards for Erosion and Sediment Control Measures, city standard specifications, the city's grading and erosion control ordinance and other generally accepted engineering practices for erosion controls and any special conditions set forth by the city as a condition of approval of development, to the approved SWPPP (if required pursuant to [Section 5-411](#) of this chapter), and to the requirements set forth by this chapter. The director may establish controls on the rate of stormwater runoff from new developments and redevelopment as may be appropriate to minimize the discharge and transport of pollutants.
(Ord. 549 § 1 (part), 2005)

5-409 Construction sites requiring an approved Stormwater Pollution Prevention Plan (SWPPP).

This section applies to all development construction sites excluding new development and redevelopment. Where construction activities occur on a previously divided legal parcel that exceeds the one or more acres (or 10,000 square feet on or after August 15, 2006, or as amended by the RWQCB) of land during the life of the construction project, the site owner is required to notify the state, prepare and implement an approved SWPPP for the project and monitor the effectiveness of the approved plan.

- A. The owner of a site of construction activity shall be responsible for compliance with the requirements of [Section 5-408](#) of this chapter.
- B. Waste Disposal. Solid waste, industrial waste, yard waste and any other pollutants or waste on any construction site shall be controlled through the use of BMPs. Waste or recycling containers shall be provided and maintained by the owner or contractor on construction sites where there is the potential for release of waste. Uncontained waste that may blow, wash or otherwise be discharged from the site is prohibited.
- C. The area disturbed shall be assumed to include the entire property area unless all applicable plans specifically exclude certain areas from disturbance.

- D. The SWPPP must be provided by the owner and submitted to the city for approval. Two copies of the SWPPP shall be submitted to the city's engineering services division. For sites subject to plan review by the planning and building services division, the plan will not be approved for construction, and no construction permits issued prior to SWPPP approval.
- E. The preparation and implementation of the SWPPP must comply with [Section 5-413](#) of this chapter.
- F. The engineering services manager, or authorized representative, will review the SWPPP submitted for the site and will return either a letter of approval or a request for revisions within 14 days of submission of the SWPPP. Construction activity, including any soil disturbance or removal of vegetation, shall not commence on the site until the manager has issued a letter of approval.
- G. The owner bears the responsibility for implementation of the SWPPP and notification of all contractors and utility agencies on the site.
- H. Ready-mixed concrete, or any materials resulting from the cleaning of vehicles or equipment containing or used in transporting or applying ready-mixed concrete, shall be contained on construction sites for proper disposal. Release of these materials is prohibited.
- I. Erosion and Sediment Control. BMPs shall be implemented to prevent the discharge of sediment from construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances shall be managed to prevent sediment tracking. Excessive sediment tracked onto public streets shall be removed immediately.
- J. Upon completion of permitted construction activity on any site, the property owner and subsequent property owners will be responsible for continued compliance with the requirements of this section.
(Ord. 549 § 1 (part), 2005)

5-410 New development and redevelopment requiring an approved SWPPP.

- A. Where construction of a new development and redevelopment project will disturb soil or remove vegetation on one or more acres (or 10,000 square feet on or after August 15, 2006, or as amended by the RWQCB) of land during the life of the development project. The site owner must notify the state, prepare and implement an approved SWPPP and monitor its effectiveness. The SWPPP for the project must be provided and implemented by the developer/owner as follows:
 - 1. The area disturbed shall be assumed to include the entire platted area.
 - 2. An SWPPP must be provided by the developer/owner and included in improvement plans submitted to the engineering services manager for the development.
 - 3. Improvement plans, final maps and parcel maps will not be approved, no construction permits issued, and no construction activity shall begin prior to SWPPP approval by the city.

4. The preparation and implementation of an SWPPP must comply with [Section 5-413](#) of this chapter.
 5. An SWPPP must be provided for all phases of development, including sanitary sewer construction, storm drainage system construction, waterline, street and sidewalk construction, general grading and the construction of individual homes. The developer/owner will not be required to provide an SWPPP for the activities of utility agencies within the new development and redevelopment. Utility construction is addressed in [Section 5-412](#) of this chapter.
 6. Approval of public improvement plans by the engineering services manager will constitute approval of the SWPPP.
 7. The developer/owner shall provide a copy of the approved SWPPP to all utility agencies prior to project commencement.
 8. The developer/owner bears the responsibility for implementation of the approved SWPPP for all project construction activity, excluding construction under the control of subsequent owners of individual lots in the case of a subdivision and construction managed by utility agencies.
 9. The subsequent owner of an individual lot bears the responsibility for continued implementation of the approved SWPPP for all construction activity within or related to the individual lot, excluding construction managed by utility agencies.
- B. The city may establish controls on the rate of stormwater runoff from new development and redevelopment projects as may be appropriate to minimize, or eliminate, the discharge and transport of pollutants to the city's stormwater system.
(Ord. 549 § 1 (part), 2005)

5-411 SWPPP requirements for businesses.

The engineering services manager may require a business that is engaged in an activity that may result in a discharge of pollutants to develop and implement an SWPPP if, in the judgment of the engineering services manager, there is reason to believe that adequate control of pollutants will not occur in the absence of an SWPPP. The engineering services manager shall require that the SWPPP include an employee-training program. A business activity which may require an SWPPP includes, but is not necessarily limited to: maintenance, assembly, equipment operation, vehicle loading or fueling, or clean-up procedure which is carried out partially or wholly out-of-doors. The engineering services manager may accept an individual NPDES permit in lieu of an SWPPP.
(Ord. 549 § 1 (part), 2005)

5-412 Requirements for utility construction.

- A. Utility agencies shall be responsible for compliance with the requirements of [Section 5-408](#) of this chapter and city encroachment permit requirements as defined by the engineering services department.

- B. Utility agencies shall develop and implement BMPs to prevent the discharge of pollutants on any site of utility construction within the city. In addition, the city may adopt and impose BMPs on utility construction activity.
- C. Utility agencies shall implement BMPs to prevent the release of sediment from utility construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances shall be managed to prevent sediment tracking. Excessive sediment tracked onto public streets shall be removed immediately.
- D. Prior to entering a site, utility agencies shall have obtained from the owner a copy of the approved SWPPP. Any disturbance to BMPs resulting from utility construction shall be repaired immediately by the utility company in compliance with the SWPPP.
(Ord. 549 § 1 (part), 2005)

5-413 Preparation and content of an SWPPP.

An SWPPP shall comply with and contain the following (See California Regional Water Quality Control Board San Francisco Bay Region, Guidelines for Construction Projects, for details of SWPPP requirements.):

- A. Be prepared under the direction of a qualified person, as defined in [Section 5-402](#) of this chapter;
- B. Provide the name, address, phone number (daytime and emergency phone number) of the project owner and contractor for purposes of correspondence and enforcement;
- C. Provide the WDID for the project (assigned upon submittal of an NOI for coverage under the general permit);
- D. Include certification page as required by general permit standard provision or as requested by the RWQCB, USEPA or local stormwater management agency;
- E. Identify existing natural resources such as streams, tree groves, riparian vegetation, forest cover, and other established vegetative cover;
- F. Specify and provide detail for all BMPs necessary to meet the requirements of this chapter, including any applicable BMPs that have been adopted and imposed by the city;
- G. Specify when each BMP will be installed, and for how long it will be maintained within the construction schedule. Multiple plans may be required for major phases of construction such as rough grading, building construction and final grading;
- H. Delineate all anticipated disturbed areas and specify the vegetative cover that must be established in those areas to achieve final stabilization;
- I. Include post-construction stormwater management and monitoring and reporting plans.
(Ord. 549 § 1 (part), 2005)

5-414 Implementation of SWPPP and plan revisions.

- A. BMPs shall be installed and maintained by qualified persons. The owners or their representative shall provide upon the director's request the SWPPP on site within one hour during construction activity, or within the next business day for periods of inactivity, and shall be prepared to respond to unforeseen maintenance of specific BMPs.
- B. The owner or their representative shall inspect all BMPs at least once per month and within the next business day after a rainfall of one quarter of an inch or more as measured at the site or generally reported in the Lafayette area.
- C. Based on inspections performed by the owner or by authorized city personnel, modifications to the SWPPP will be necessary if at any time the specified BMPs do not meet the objectives of this chapter. In this case, the owner shall meet with authorized city personnel to determine the appropriate modifications. All modifications shall be approved by the city and completed within seven days of the referenced inspection, and shall be recorded on the owner's copy of the SWPPP.
(Ord. 549 § 1 (part), 2005)

5-415 Coordination with hazardous materials release response and inventory plan.

A business subject to the hazardous material release response and inventory plan, Division 20 Chapter 6.95 of the California Health and Safety Code (commencing with Section 25500), shall include in that plan provisions for compliance with this chapter, including the prohibitions of illicit discharges and non-stormwater discharges, and the requirement to reduce the release of pollutants to the maximum extent practicable.
(Ord. 549 § 1 (part), 2005)

5-416 Notification of intent and compliance with general permits.

Each discharger associated with construction activity or other discharger described by any general stormwater permit addressing discharges, as may be adopted by the USEPA, SWRQCB, or SFRWQCB shall provide the director with the notice of intent, shall comply with and undertake all other activities required by any general stormwater permit applicable to such dischargers. Each discharger identified in an individual NPDES permit relating to stormwater discharges shall comply with and undertake all activities required by the permit.
(Ord. 549 § 1 (part), 2005)

5-417 Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee 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. The owner or lessee shall not remove healthy bank vegetation beyond that actually necessary for maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. The property owner shall be responsible for maintaining and stabilizing that portion of the watercourse that is within their property lines in order to protect against erosion and degradation of the watercourse originating or contributed

from their property.
(Ord. 549 § 1 (part), 2005)

Article 5 – Compliance Bonds

5-418 General.

When a compliance bond and/or cash bond is required by the city, no SWPPP, improvement plans, final maps and parcel maps will be approved, no construction permits issued, and no construction activities allowed to commence (including demolition, clearing and grubbing) until an approved compliance bond and/or cash bond has been accepted by the city.

(Ord. 549 § 1 (part), 2005)

5-419 Compliance bonds.

- A. As a condition of approval of an SWPPP or city-required permits, or where necessary to insure reasonable compliance with the provisions of this chapter, the engineering services manager may, by written notice, order any owner of a construction site, new development and redevelopment or business to file a compliance bond with the city.
- B. The form of the bond shall be as approved by the city and issued by an approved surety company.
- C. The amount of the bond shall be as determined by the engineering services manager, to be necessary to achieve consistent compliance with this chapter.

(Ord. 549 § 1 (part), 2005)

5-420 Cash bond.

- A. In addition to or in lieu of the compliance bond, the city may require posting of a cash bond in an amount determined by the engineering services manager to insure compliance with the provisions of this chapter.
- B. A required cash bond may be used by the city for emergency work performed or ordered by the city.

(Ord. 549 § 1 (part), 2005)

5-421 Additional compliance bond or cash deposit.

The director may require additional compliance surety in the form of a bond or cash bonding be made at any time when, in the director's opinion, the amount of the compliance bond or cash deposit previously made is insufficient. When such additional surety is required, the owner of a construction site, new development and redevelopment or business shall be notified in writing. The additional surety shall be filed with the city within 14 calendar days of the notice.

(Ord. 549 § 1 (part), 2005)

5-422 Exclusion for public utilities or public agencies.

A compliance bond or cash deposits shall not be required of any public utility or public agency. (Ord. 549 § 1 (part), 2005)

Article 6 – Enforcement and Citations

5-423 Enforcement personnel designated and authorized.

The following personnel are hereby designated by the city as "enforcement personnel" and shall have the power to issue notices of violations and implement other enforcement actions under this chapter:

- A. All authorized personnel under the supervision of the city manager or community development director;
- B. All inspectors under the supervision of the Contra Costa County Building Department, and all inspectors under the supervision of the Central Contra Costa Sanitary District;
- C. All authorized representatives of the Contra Costa County Environmental Services Department. (Ord. 549 § 1 (part), 2005)

5-424 Authority to inspect.

Routine or scheduled inspections shall be based upon as reasonable a selection process as may be deemed necessary to carry out the intent of this chapter, including, but not limited to, random sampling and/or sampling areas with evidence of stormwater contamination, discharge of non-stormwater or an illicit discharge to the stormwater system, or similar activities. Inspections may also be conducted in conjunction with routine or scheduled inspections such as building permit and grading permit inspections and or routine or scheduled inspections conducted by other public agencies or special districts, such as the Central Contra Costa Sanitary District, Contra Costa County Fire Protection District, Contra Costa County Public Works, Contra Costa County Environmental Health Department, Contra Costa Mosquito and Vector Control District, or the Regional Water Quality Control Board. (Ord. 549 § 1 (part), 2005)

5-425 Right of entry and sampling.

- A. Whenever the city has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this chapter, the city, with the consent of the owner or occupant or pursuant to a search or inspection warrant, shall have the right to enter the premises at any reasonable time to determine if the discharger is complying with all requirements of this chapter.
- B. The city shall have the right to access without permission or a warrant any premises at the time of an emergency or suspected emergency situation, including but not limited to not being able to contact the owner or occupant or in the event of an actual or threatened discharge that presents or may present imminent danger to the environment, or to the health or welfare of persons or to the storm drainage system.
- C. The city shall have the right to set up on the property of any discharger to the storm drainage system such devices that are deemed necessary to conduct sampling or metering operations of discharges to the stormwater system. During all authorized inspections, the officer may take any

sample deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities on site.

- D. It shall be unlawful for any person, business, corporation, entity, or agent in possession of any premises to refuse to allow city representatives to enter upon the premises for these purposes. (Ord. 549 § 1 (part), 2005)

5-426 Cease and desist order.

In addition to other enforcement powers and remedies established by this chapter, an authorized enforcement officer may issue a cease and desist order:

- A. Cease and Desist Order. When an authorized enforcement officer finds that an illicit discharge has taken place or is likely to take place, the officer may issue a written order to cease and desist the illicit discharge, practice or operation likely to cause the illicit discharge and direct that a person, business, corporation or other entity subject to the cease and desist order shall comply with one or more of the following:
1. Take appropriate immediate remedial action to stop and prevent further contamination of the city's stormwater system;
 2. Take immediate action to remove any and all contaminants from the city's stormwater system;
 3. Develop and implement an SWPPP as described in [Section 5-413](#) of this chapter;
 4. Comply with a time schedule for compliance.
- B. The cease and desist order shall identify:
1. The name of the responsible person;
 2. The date and location of the violation;
 3. A description of the violation;
 4. Actions that must be taken by the responsible person to remedy the violation;
 5. The deadline within which the required actions must be completed;
 6. Enforcement actions that may be taken by the city.
- (Ord. 549 § 1 (part), 2005)

5-427 Action without prior notice.

Any person, business, corporation or other entity who violates a prohibition or fails to meet a requirement of this chapter will be subject, without prior notice, to one or more of the enforcement actions identified in [Section 5-428](#) of this chapter. When attempts to contact the person, business, corporation or other entity have failed and the enforcement actions are necessary to stop an actual or threatened discharge that presents or may present imminent danger to the environment, or to the health or welfare of persons, or to the storm drainage system, appropriate actions will be immediately enforced.

(Ord. 549 § 1 (part), 2005)

5-428 Enforcement actions.

- A. In addition to any enforcement action imposed by federal, state and other local agencies, any person, business, corporation or other entity who fails to comply with or appeal a cease and desist order, or fails to comply with an appeal decision of the director or city council, may be subject to one or more of the following enforcement actions:
1. **Stop Work Order.** The director may issue a stop work order to the owner and contractors on a construction site, by posting the order at the construction site and distributing the order to all city departments whose decisions may affect any activity at the site. Unless express written exception is made, the stop work order shall prohibit any further construction activity at the site and shall bar any further inspection or approval necessary to commence or continue construction or to assume occupancy at the site until written authorization to continue is received from the director. A cease and desist order shall accompany the stop work order, and shall define the compliance requirements.
 2. **Administrative Remedies.** Designated enforcement personnel may invoke the provisions of Chapter 1-10 of this code to remedy any violation of this chapter.
 3. **Administrative Citation.** Designated enforcement personnel may issue an administrative citation for any violation of this chapter as allowed by Chapter 1-9 of this code.
 4. **Abatement of a Violation on Private Property.** The city's authorized representatives are authorized to enter upon private property and to take any and all measures required to remediate any violation of this code. Any expense related to such remediation undertaken by the city shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the city from seeking other and further relief authorized by this code.
 5. **Requirement to Test and/or Monitor.** Director or designated enforcement personnel may require that a person, business, corporation or other entity engaged in an activity or owning or operating a facility that may cause or contribute to an illicit discharge, shall monitor activity and/or undertake an analysis, and furnish a report as required. The property owner's burden including the cost of this activity, analysis and report shall bear a reasonable relationship to the need for monitoring, analysis and report and the benefit to be obtained as defined by the director.
 6. **Termination of Utility Services.** After lawful notice to the customer and property owner concerning the proposed disconnection, the director shall have the authority to order the disconnection of water, sanitary sewer and/or sanitation services, upon a finding by the director that the disconnection of utility services will remove a violation of this chapter that poses a public health hazard or environmental hazard.
 7. **Criminal Prosecution.** Any person, business, corporation or other entity who violates or continues to violate a prohibition or requirement of this chapter shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to criminal penalties.
 8. **Civil Suit.** In addition to enforcement actions specified herein, any person, business, corporation or other entity that violates any provision of this chapter may be subject to

civil suit and the imposition by the court of civil penalties pursuant to Section 17200 of the State Business and Professions Code. In such action, the city may seek, as appropriate, any and all of the following remedies:

- a. A temporary restraining order, preliminary injunction and permanent injunction;
- b. An action for an unlawful business practice pursuant to Business and Professions Code Section 17206;
- c. Reimbursement for the costs of investigation, inspection or monitoring survey which led to the establishment of the violation;
- d. Reimbursement for reasonable costs of preparing and bringing administrative action under this chapter;
- e. Reimbursement for all costs incurred in removing, correcting, or terminating the adverse effect(s) resulting from the violation;
- f. Compensatory damages for the loss of, or destruction to, water quality, wildlife, fish or aquatic life. Costs and damages under this subsection shall be paid to the city and shall be exclusively for costs associated with monitoring and establishing a stormwater discharge control system and/or implementing provisions of this article;
- g. The cost of maintenance and repair of any BMP or stormwater management facility that is not maintained in accordance with the guidebook or the stormwater control plan; and
- h. Recovery of costs including attorney's fees and expenses as part of any civil action.

- B. Concealing, aiding or abetting a violation of any provision of this chapter shall constitute a violation of such provision, and is subject to the enforcement actions contained herein. (Ord. 549 § 1 (part), 2005)

5-429 Criminal penalties.

Any violation or failure to comply with any provision of this chapter shall be deemed a municipal offense. Any person, business, corporation or other entity violating this chapter shall, upon an adjudication of guilt or a plea of no contest, be fined a minimum of \$250.00 to a maximum of \$1,500.00. Each separate day on which a violation is committed or continues shall constitute a separate offense. The municipal court judge shall have no authority to suspend all or a portion of the minimum fine. (Ord. 549 § 1 (part), 2005)

5-430 Other legal action.

- A. Any person, business, corporation or other entity who violates any provision of this chapter, and provision of any permit issued pursuant to this chapter, or who unlawfully discharges, 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 the Porter-Cologne Act and may be subject to the

enforcement provisions of those acts, including civil and criminal penalties. Any enforcement actions authorized pursuant to this chapter may also include notice to the violator of such potential liability pursuant to federal law.

- B. Notwithstanding any other remedies or procedures available to the city, if any person, business, corporation or other entity discharges into the storm drainage system in a manner that is contrary to the provisions of this chapter, the city attorney may commence an action for appropriate legal and equitable relief including damages and costs in the District Court of Contra Costa County. The city attorney may seek a preliminary or permanent injunction or both which restrains or compels the activities on the part of the discharger.
- C. In addition to the penalties specified previously, any violator is subject to the following statutory penalties:
 - 1. Water Code Violations. Section 13387(a)(4) of the Water Code specifies, among other things, that a "knowing" or negligent violation of the Federal Clean Water Act Section 301 (33 U.S.C. Section 311) is a crime, subject to the following penalties:
 - a. Negligent Violation (misdemeanor) - Minimum fine \$13,500.00 to a maximum of \$67,500.00 and/or up to one year in jail.
 - b. Knowing Violation (felony) - Minimum fine \$13,500.00 to a maximum of \$135,500.00 and/or up to three years in jail. Repeat violations, or violations which place a person in imminent danger of death or serious bodily injury, call for even greater penalties.
 - 2. Government Code Violations (Oil Spill Prevention and Response Act).
 - a. Section 8670.64(3) provides that it is illegal if any person, business, corporation or other entity knew or reasonably should have known that he or she was engaging in or causing the discharge or spill (42 gallons or more) of oil to marine waters. A violation may be a felony or misdemeanor, with penalties of up to three years in state prison and/or a fine and penalty assessment of not less than \$13,500.00 and up to \$1,350,000.00.
 - b. Section 8670.66(a) provides for civil penalties of between \$25,000.00 and \$500,000.00 for an intentional or negligent spill of a barrel or more of oil to marine waters.
 - 3. Penal Code Violations.
 - a. Section 374.7 prohibits the littering or dumping of waste matter into a bay, lagoon, channel, river, creek, creek bank or within 150 feet of the high water mark of a body of water. A violation is a misdemeanor punishable by up to six months in jail, and a fine of between \$270.00 and \$2,700.00.
 - b. Section 374.8 prohibits knowingly causing any "hazardous substance" to be deposited on any road, street, land of another without permission, or into the

waters of the state. A violation can be a felony or misdemeanor, punishable by up to three-years in prison and a fine of between \$135.00 to \$27,000.00.

- c. Sections 374.3(a) and (b) prohibit the placing, depositing, or dumping of any waste matter or any rocks or dirt, or causing the same, on any highway or road, on any private property without consent of the owner, or in or upon any public park property. A violation is punishable as an infraction, with a fine of between \$675.00 and \$2,700.00, and may include the requirement to remove the material dumped.
 - d. Section 674.3(h) prohibits the placing, depositing, or dumping of waste matter in commercial quantities (one cubic yard or more), or causing the same, on any highway or road, on any private property without the consent of the owner, or in or upon any public park property. A violation is punishable as a misdemeanor, with a fine of between \$1,350.00 and \$4,050.00 and/or six-month jail sentence.
4. Hazardous Waste Control Law (Chapter 6.5 of Division 20 of the Health and Safety Code—Sections 251000 et seq.). The HWCL enacts a "cradle to grave" system for regulating the state prison sentence and generation transportation, treatment and disposal of hazardous waste. Disposal of hazardous waste to water (or any place else in the environment) without a permit or other authorization from the department of toxic substances control is illegal. Intentional, knowing, or negligent disposal of hazardous waste may be a felony, and may result in fines of as high as \$250,000.00 and a prison sentence. Civil penalties may be up to \$25,000.00 per violation.
- D. The extent of fines, penalties and prison sentences indicated herein are subject to change in accordance with revisions in state and federal laws and regulations.
(Ord. 549 § 1 (part), 2005)

5-431 Fees, charges, fines, penalties, recovery of cost to city to abate, special assessment.

- A. Fees and charges for administration and enforcement of the provisions of this chapter shall be as specified by [Chapter 1-6](#) of this code and as further specified herein.
- B. Any expense related to administration, enforcement and abatement pursuant to the provisions of this chapter by the city shall be fully reimbursed by the owner, business, contractor, utility company or entity in accordance with Stormwater Pollution Prevention Ordinance No. 549.
- C. Within 90 days after abatement by city representatives, the director shall notify the property owner of the costs of abatement, including administrative costs, legal fees, and the deadline for payment. The property owner may protest the amount of the abatement cost before the city council. The written protest must be received by the city manager's office within 15 days of the date of the notification. A hearing on the matter will be scheduled before the city council. The decision of the city council shall be final.
- D. If the amount due is not paid within the protest period or within ten days following of the decision of the city council, a special assessment shall be filed against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the county clerk so that the clerk may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the treasurer

shall include the amount of the assessment on the bill for taxes levied against the parcel of land.
(Ord. 549 § 1 (part), 2005)

5-432 Remedies not exclusive.

The remedies identified in this chapter are in addition to, and do not supersede or limit, any and or all other remedies, administrative, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(Ord. 549 § 1 (part), 2005)

Article 7 – Appeals

5-433 General.

- A. Except as appeal procedures are specified by other provisions of this section or other applicable provisions of the Lafayette Municipal Code, any recipient of a written notice issued by an enforcement officer may file a written appeal with the director. Such appeal must be made within ten calendar days following the date of the notice, upon a form provided by the city.
- B. Upon receipt of the request, the director shall set the matter for hearing at the earliest practical date. At the hearing, the director may hear additional evidence, and may reject, affirm or modify the written notice requirements. The action upon the appeal by the director shall be final.
(Ord. 549 § 1 (part), 2005)

5-434 Appeal of cease and desist order.

- A. Any person, business, corporation or other entity receiving a cease and desist order may appeal, following immediate corrective action taken to alleviate the pollutant situation, the order to the director. The written appeal must be received by the director within seven days of the date of the order. The director will affirm, modify or rescind the order in writing, within seven days of the date of the appeal.
- B. Any person, business, corporation or other entity may appeal the decision of the director to the city council by submitting a written appeal to the city clerk within 15 days of the date of the director's written decision. A hearing on the appeal will be scheduled before the city council. The decision of the city council shall be final.
(Ord. 549 § 1 (part), 2005)

5-435 Appeal of administrative citations.

A recipient of an administrative citation issued pursuant to [Title 1](#), General Provisions, [Chapter 1-9](#) (Administrative Citations) of the Lafayette Municipal Code may request a hearing to appeal such citation in accordance with Section 1-1005 (Hearing) of said chapter.

(Ord. 549 § 1 (part), 2005)

5-436 Appeal of administrative remedies.

A recipient of a compliance order issued pursuant to [Title 1](#), General Provisions, [Chapter 1-10](#) (Administrative Remedies) of the Lafayette Municipal Code may request a hearing to appeal such order in accordance with Section 1-1005 (Hearing) of said chapter.
(Ord. 549 § 1 (part), 2005)

5-437 Judicial review.

The provisions of Code of Civil Procedure Section 1094.5 are applicable to judicial review of determinations made by the director pursuant to this chapter.
(Ord. 549 § 1 (part), 2005)

5-438 Liability and hold harmless.

- A. Liability for prohibited discharge lies with the person, business, corporation or other entity causing or responsible for the discharge, and that person, business, corporation or other entity shall defend, indemnify and hold harmless the city and its employees in every administrative and judicial enforcement action relating to the discharge.
- B. The ordinance codified in this chapter shall not create liability on the part of the city of Lafayette, or any agent or employee thereof for any damages that result from any discharger's reliance on this article, ordinance or any administrative decision lawfully made thereunder.
(Ord. 549 § 1 (part), 2005)