

**CHAPTER 13.08 OF THE GENERAL ORDINANCE CODE OF THE  
COUNTY OF ALAMEDA RELATING TO STORMWATER MANAGEMENT AND  
DISCHARGE CONTROL**

The Board of Supervisors of the Alameda County Flood Control and Water Conservation District do ordain as follows:

**CHAPTER 13.08 - STORMWATER MANAGEMENT AND DISCHARGE CONTROL**

**ARTICLE I - GENERAL PROVISIONS**

**13.08.010 - Title.**

This chapter shall be known as the county of Alameda stormwater management and discharge control ordinance and may be so cited.

*[Ord. 2005-61 § 1 (part)]*

**13.08.020 - Purpose and intent.**

The purpose and intent of this chapter is to reduce or eliminate the pollution of receiving waters, including creeks and the San Francisco Bay, and to protect and enhance the water quality in county water bodies, including watercourses, wetlands, creeks, and flood control facilities, in a manner pursuant to and consistent with the Federal Clean Water Act, the State Porter/Cologne Act, and the county NPDES permit, by:

- A. Reducing and eliminating illegal or illicit non-storm discharges to the waters of the U.S., the county stormdrain system, the creeks, and the bay from construction activities, county maintenance operations, industrial and commercial activities, new development, redevelopment, and other activities, through inspection, monitoring, and complaint response;
- B. Controlling the discharge to the county stormdrain system, the creeks, and the bay from spills, dumping or disposal of materials other than stormwater or other legal discharges;
- C. Reducing pollutants in stormwater discharges to the maximum extent practicable;
- D. Regulating the design and construction of permanent post-development stormwater quality measures and controls, including the application of site design, source control, stormwater treatment, and hydromodification management, through the provisions of this chapter and of other county ordinances, rules, regulations, and procedures;
- E. Inspecting, monitoring, and regulating pollution prevention measures during construction; and
- F. Establishing legal authority to perform all reviewing, inspection, surveillance, and monitoring activities necessary to ensure compliance with this chapter.

*[Ord. 2005-61 § 1 (part)]*

**13.08.030 - Definitions.**

- A. Except for those terms amended for use in this chapter as described in Section 13.08.030(B), 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, as now applicable or as may hereafter be amended, are hereby incorporated by reference; "discharge," "discharge of a pollutant," "indirect discharger," "pollutant," "publicly owned treatment works," and "stormwater." These terms presently are defined as follows:

"Discharge" when used without qualification means the "discharge of a pollutant."

"Discharge of a pollutant" means:

1. Any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source;" or
2. Any addition of any pollutant or combination of pollutants to the waters of the "contiguous zone" or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into "waters of the United States" from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any "indirect discharger."

"Indirect discharger" means a nondomestic discharger introducing "pollutants" to a "publicly owned treatment works."

"Pollutant" means soil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharge into water. It does not mean:

1. Sewage from vessels; or
2. Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well is used either to facilitate production or for disposal purposes is approved by the state in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources.

"Publicly owned treatment works or POTW" means a treatment works as defined by Section 212 of the Act, which is owned by a State or municipality (as defined by Section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage and industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

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

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

"Authorized enforcement officer" means the director of public works. In accordance with prescribed procedures, the director of public works may appoint such number of technical officers, inspectors, and other employees as required to perform the tasks described in this chapter. The director of public works

shall have the authority to deputize such officers, inspectors, or employees as may be necessary to enforce the regulations, requirements, and other provisions of this chapter.

"Best management practices (BMPs)" means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention practices, maintenance procedures, management practices, the installation of stormwater pollution prevention features and measures, and the construction of post-construction or permanent "site design," "source control," "treatment," or "hydromodification" facilities to prevent or reduce the discharge of pollutants directly or indirectly to the "waters of the United States." BMPs also include treatment requirements, operating procedures, design specifications, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. The implementation of certain BMPs may be required by the director of public works as a condition or conditions of a county stormwater permit or of a stormwater pollution prevention plan.

"Clean Water Act (CWA)" means Public Law 92-500, as amended, 33 U.S.C. 1251 et seq.

"Commercial/industrial activity" means any activities conducted in conjunction with the operation of a commercial or industrial business.

"Construction activity" means those activities that are subject to regulation by the county under the requirements of the county NPDES permit.

"County" means the county of Alameda.

"County stormdrain system" means those facilities within the county by which stormwater may be conveyed from private property to the "waters of the United States," including flood control facilities, roadway drainage systems, creeks, and other drainage facilities owned and maintained by the county or under the jurisdiction of the county that are not part of a "publicly owned treatment works."

"County stormwater permit" means a permit, issued in accordance with the provisions of Article IV of this chapter, regulating the construction, alteration, removal, replacement, or modification of stormwater quality and drainage facilities on private property.

"Creek" means any natural or improved channel, pond, conduit, or other facility or topographical feature through which water flows continuously or intermittently in a definite direction and course or that is used for the holding, delay, or storage of water. "Flood control channels" are those channels owned and maintained by the "flood control district."

"Development" for the purposes of County Code Section 13.08 means the creation or replacement of five thousand (5,000) square feet or more of impervious surfaces, or less than five thousand (5,000) square feet if part of a larger plan of development or sale. Impervious surfaces include but are not limited to buildings, foundations, rooftops, roadways, driveways, patios, ramps, parking lots.

"Director of public works" means the director of the Alameda County public works agency.

"Facility" means a building, structure, site, complex, or portion thereof, that is built, altered, improved, or otherwise developed for a particular purpose. See "Stormwater facility."

"Flood control district" means the Alameda County flood control and water conservation district.

"General ordinance code" means the Alameda County general ordinance code.

"Hydromodification management (HM)" means the application of measures to control the duration and flow rate of post-construction runoff so as to preclude or reduce the negative impact of such runoff to natural creek channels.

"Illicit discharge," or "nonstormwater discharge" means any discharge to the county stormdrain system that is not composed entirely of stormwater, except for those discharges exempted by the provisions of Section 13.08.070(B).

"Industrial/commercial activity" see "Commercial/industrial activity."

"Non-point source discharge" means a discharge of nonstormwater or polluted stormwater, the source of which is other than a discharge pipe from an industrial or manufacturing process.

"Nonstormwater discharge;" see "Illicit discharge."

"NPDES municipal stormwater permit" means a municipal National Pollutant Discharge Elimination System permit issued by the state to a discharger under the provisions of the Federal Clean Water Act and the State Porter/Cologne Act, and all revisions amendments, and reissuances thereof.

"Permanent stormwater quality controls" or "post-construction stormwater quality controls" means a system or facility designed and installed to remove or reduce pollutants from stormwater or to control the flow rate or volume of stormwater runoff prior to conveying the stormwater to the county stormdrain system or the waters of the United States. Permanent stormwater quality controls can include "site design," "source control," "stormwater treatment," or "hydromodification management" features or designs.

"Permit" see "NPDES permit" and "County stormwater permit."

"Person" means a natural person, firm, partnership, association, organization, company, or corporation.

"Premises" means any privately-owned building, lot, parcel, real estate, or land or portion of land whether improved or unimproved.

"Sampling" means the sampling of stormwater for the purpose of performing tests of water quality and suitability for discharge to the county stormdrain system or to the "waters of the United States."

"Site design" means those measures applied to the design of buildings, structures, and the premises to limit or reduce the amount of permanent impervious surface area associated with construction or reconstruction of a property.

"Source control" means those measures applied to the design of buildings, structures, and the premises to eliminate or reduce the introduction of pollutants to stormwater.

"Stormwater facility" means any drainage conveyance features existing or proposed on the premises, including but not limited to pipes, inlets, swales, v-ditches, basins, natural waterways, permanent stormwater quality controls, and temporary construction-related drainage facilities.

"Stormwater permit;" see "County stormwater permit" and NPDES stormwater permit.

"Treatment" means the removal of pollutants from stormwater through filtration or other means.

"Watercourses" means those creeks that are subject to regulation by the county under the provisions of Chapter 13.12 of this title.

*[Ord. 2005-61 § 1 (part)]*

**13.08.040 - Responsibility for administration.**

This chapter shall be administered for the county by the director of public works.

*[Ord. 2005-61 § 1 (part)]*

**13.08.050 - Construction and application.**

This chapter shall be construed to assure consistency with the requirements of the Clean Water Act, the county NPDES permit, and all implementing regulations, procedures, and rules adopted by the county and by other public agencies.

In case of conflict between the provisions of this chapter and those of the county building or plumbing codes (Chapters 15.08 and 15.16, respectively, of Title 15 of the general ordinance code), the building and plumbing code provisions shall prevail.

If any section, subsection, sentence, clause, or phrase of this Chapter 13.08 is for any reason held to be unconstitutional, contrary to statute, exceeding the authority of the county as stipulated by statutes, or otherwise inoperative, such decision shall not affect the validity of the remaining portions of this chapter.

*[Ord. 2005-61 § 1 (part)]*

**13.08.060 - Taking.**

The provisions of this chapter shall not operate to deprive any landowner of substantially all of the market value of his/her property or otherwise constitute an unconstitutional taking without compensation. If application of this chapter to a specific project would create a taking then pursuant to the chapter the county board of supervisors may allow additional land uses, but only to the extent necessary to avoid a taking. Such uses shall be consistent with and carry out the purposes of this chapter as state in Section 13.08.020 of this article.

*[Ord. 2005-61 § 1 (part)]*

**ARTICLE II - DISCHARGE REGULATIONS AND REQUIREMENTS**

**13.08.070 - Discharge of pollutants.**

- A. Except for those discharges described in subsection B of this section, the discharge of nonstormwater discharges to the waters of the United States or to the county stormdrain system is prohibited.
- B. Exceptions to Discharge Prohibition. The following discharges are exempt from the prohibition set forth in subsection A of this section:
  - 1. The prohibition of discharges shall not apply to any discharge regulated under a National Pollutant Discharge Elimination System (NPDES) permit issued to the discharger and administered by the state under the 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 will not be considered a source of pollutants to the waters of the United States or to the county stormdrain system and are therefore not subject to the illegal discharge provisions of this chapter, provided that they are properly managed: waterline flushing and other discharges from potable water sources, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising groundwaters, infiltration to separate stormdrains, uncontaminated pumped groundwater, foundation and footing drains, water from crawl space pumps, air conditioning condensate, springs, individual residential car washings, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges or flows from fire fighting, accordingly are not subject to the prohibition of discharges. Notwithstanding the listing of these exceptions to the prohibition against illegal discharging, several of the activities mentioned are subject to other rules, regulations, ordinances, and procedures of the county and of other public agencies, and as such, may not be allowed for a particular development.

*[Ord. 2005-61 § 1 (part)]*

#### **13.08.080 - Discharge in violation of NPDES permit.**

Any discharge that would result in or contribute to a violation of the county NPDES permit (this permit is available for viewing at the county public works agency building, 399 Elmhurst Street, Hayward, California) and any amendment, revision or reissuance thereof, either separately considered or when combined with other discharges, is prohibited.

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

*[Ord. 2005-61 § 1 (part)]*

#### **13.08.090 - Illicit discharge and illicit connections.**

- A. It is prohibited to establish, use, maintain, or continue illicit drainage connections to the county stormdrain system, and to commence or continue any illicit discharges to the to the county stormdrain 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.
- B. Any person responsible for a property or premise that is, or that could be, the source of an illicit discharge may be required to implement, at no cost to the county and at the direction of an authorized enforcement officer, BMPs to prevent the further discharge of pollutants to the county stormdrain system or the waters of the United States.
- C. Any authorized enforcement officer may, without prior notice, suspend discharge access to the county stormdrain system or the waters of the United States to a person when such suspension is necessary to stop an actual or a threatened discharge that presents or may present an imminent and substantial danger to the environment; or to the health or welfare of persons, or to the county stormdrain system or the waters of the United States. If any person fails to comply with such an order to suspend, the authorized enforcement officer may take such steps as deemed necessary to prevent or minimize the damage to the county stormdrain system or the waters of the United States, and/or to minimize the danger to persons.

- D. Any person discharging to the county stormdrain system or to the waters of the United States in violation of this chapter may have their discharge access terminated if such termination would abate or reduce an illicit discharge. The director of public works shall notify the violator in writing of the proposed termination of the said access; the violator may appeal this notice of termination in accordance with the provisions of Section 13.08.230. Following the issuance of a notice of termination, any person reinstating discharge access without the prior approval, of the director shall be guilty of a misdemeanor in accordance with the provisions of Section 13.08.120 of this chapter.

*[Ord. 2005-61 § 1 (part)]*

**13.08.095 - Stormwater discharges to the waters of the United States or the county stormdrain system.**

- A. With the following exceptions, all discharges of stormwater to the waters of the United States or to the county stormdrain system by means of a stormwater facility shall be authorized by means of a county stormwater permit issued in accordance with the provisions of Article IV of this chapter:
  - 1. Incidental surface runoff of stormwater conveyed outside of a stormwater facility. Such runoff may nonetheless be subject to other ordinances, rules, or regulations pertaining to the control of erosion and sedimentation, public safety, or the protection of the public way.
  - 2. Those discharges described in Section 13.08.070(B)(2) of this chapter. Such discharges may nonetheless be subject to other rules, regulations, ordinances, and procedures of the county and of other agencies.
- B. Connections in a public roadway, maintained by the county, of stormdrain laterals, pipes, inlets, sub drains, sidewalk drains, ditches, swales, or any other facilities intended to convey stormwater from the premises to the roadway drainage systems must also be authorized by a roadway encroachment permit issued in accordance with the provisions of Chapter 12.08 of the general ordinance code. Similar connections intended to convey stormwater to drainage systems in public roadways maintained by the state (Caltrans) or by incorporated cities must be authorized by encroachment permits issued by those entities.
- C. Connections of stormdrain laterals, pipes, subdrains, ditches, swales, or any other facilities intended to convey stormwater to privately-owned watercourses that are subject to the requirements of Chapter 13.12 of this title must also be authorized by a county watercourse permit issued in accordance with the permit provisions of that chapter.
- D. Connections of stormdrain laterals, pipes, or other facilities intended to convey stormwater to the right-of-way of the flood control district must also be authorized by a district permit issued in accordance with the permit regulations of the district.

*[Ord. 2005-61 § 1 (part)]*

**13.08.100 - Reduction of pollutants in stormwater.**

Any person engaged in activities that could result in pollutants entering the waters of the United States or the county stormdrain system shall undertake all practicable measures to reduce or eliminate such pollutants. Examples of such activities include ownership and use of buildings, structures, facilities, or premises that could be a source of pollutants such as parking lots, gasoline stations, industrial facilities, stores fronting roadways, etc. The following minimum requirements shall apply:

- A. Littering. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned objects,

articles, and accumulations, in or upon any portion of the county stormdrain system, or in any roadway, sidewalk, stormdrain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private plot of land in the county, so that the same might be or become a pollutant, except into approved and designated containers or in lawfully established waste disposal facilities.

The occupant or tenant, or in the absence of occupant or tenant, the owner, lessee, or proprietor of any real property in the county adjacent to a paved public sidewalk shall maintain the said sidewalk free of dirt and litter to the maximum extent practicable. Sweepings from the sidewalk shall not be swept or otherwise made or allowed to go into the roadway gutter or pavement, but shall be disposed of in receptacles maintained on said real property as required for the disposal of garbage.

No person shall throw or deposit litter in any fountain, pond, lake, stream, wetland, or any other watercourse or flood control facility in a park or elsewhere within the county.

- B. Standard for Parking Lots and Similar Structures. Persons owning or operating a paved parking lot, gas station pavement, paved private roadway, 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 waters of the United States or the county stormdrain system.
- C. Best Management Practices for New Developments and Redevelopments. The director of public works shall have the authority to prepare and enforce policies and procedures establishing design, construction, and installation of post-construction stormwater quality controls at new developments and redevelopments as may be appropriate to minimize the discharge and transport of pollutants and to protect the county stormdrain system, all in accordance with the provisions of the NPDES permit.
- D. SWPPP for Construction Sites. The director of public works may require of any construction contractor planning to perform work under any permit issued by the director under the regulations of this chapter or of Chapters 13.12, 15.08, 15.16, or 15.36 of the general ordinance code, the submittal of a stormwater pollution prevention plan (SWPPP), prior to issuance of the said permit. Any such plan shall be subject to monitoring and inspection by the director, under the provisions of this chapter, at any time during the life of the permit.
- E. Notification of Intent and Compliance with General NPDES Permits. Each industrial discharger, discharger associated with construction activity, or other discharger, described in any General NPDES permit addressing such discharges, as may be adopted by the United States Environmental Protection Agency, the State Water Resources Control Board, or the California Regional Water Quality Control Board, San Francisco Bay Region, shall provide notice of intent, comply with, and undertake all other activities required by the said NPDES permit applicable to such discharges, regardless of the applicability of Section 13.08.095 and Article IV to the said discharges.

In the same manner, each discharger identified in a Municipal NPDES permit relating to stormwater discharges shall comply with and undertake all activities required by the NPDES permit, regardless of the applicability of Section 13.08.095 and Article IV to the said discharges.

- F. Compliance with Best Management Practices. Where best management practices, guidelines, or requirements have been adopted, by the county or by any other public agency, for any activity, operation, or facility which may cause or contribute to stormwater pollution or contamination, illicit discharges, and/or discharges of nonstormwater to the waters of the United States or the county stormdrain system, every person undertaking such activity or operation, or owning, operating, or constructing such facility shall comply with the guidelines or requirements as may be identified to him by the director of public works. The director shall have the authority to prepare and enforce policies and procedures based upon the implementation of best management practices intended to protect the waters of the United States and/or the county stormdrain system

during the construction, modification, renovation, or removal of any building, structure, or other facility that is subject to permitting by the director under the regulations of the general ordinance code.

*[Ord. 2005-61 § 1 (part)]*

## **ARTICLE III - INSPECTION AND ENFORCEMENT**

### **13.08.110 - Authority to inspect.**

- A. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, including but not limited to those inspections deemed necessary to assure compliance with the provisions of Article IV, or whenever an authorized enforcement officer has reasonable cause to believe that there exists, in any building, structure, or facility, or upon any premises, any condition that constitutes a violation of the provisions of this chapter, the officer may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the officer by this chapter; provided that:
  - 1. If such building or premises be occupied, he or she shall first present proper credentials and request entry; and
  - 2. If such building or premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.
- B. 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 and/or occupant refuses entry after such request has been made, the officer is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.
- C. 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 nonstormwater to the waters of the United States or the county stormdrain system, or similar indications of potential pollution. The inspection of on-going maintenance of permanent stormwater quality controls constructed under the provisions of Section 13.08.095 and Article IV of this chapter shall be in accordance with a procedure or procedures established and published for that purpose by the director of public works.
- D. Authority to Sample and Establish Sampling Devices. With the consent of the owner or occupant or pursuant to a search warrant, any authorized enforcement officer may establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the officer may take any samples deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities on-site.
- E. Notification of Spills. All persons in charge of an industrial, manufacturing, or commercial facility or responsible for emergency response for such a facility have a responsibility to train facility personnel and to maintain notification procedures to assure immediate notification is provided to the county of any suspected, confirmed or unconfirmed release of material, pollutants or waste creating a risk of illicit or illegal discharge into the waters of the United States or the county stormdrain system.

As soon as any person in charge of a facility or responsible for emergency response for a facility has knowledge of any suspected spill that could result in pollutants or nonstormwater discharge entering the

waters of the United States or the county stormdrain system, such person shall take all necessary steps to ensure the discovery and containment and clean up of such release and shall notify the county of the occurrence by telephoning 510-670-5543 and confirming the notification by correspondence to director of public works, 399 Elmhurst Street, Hayward, CA 94544, Attn: Spill Notification.

F. Requirement to Test or Monitor. Any authorized enforcement officer may request that any person engaged in any activity and/or owning, operating, or constructing any facility that the officer has reasonable cause to believe could cause or contribute to stormwater pollution or contamination, illicit discharges, and/or discharge of nonstormwater to the waters of the United States or the county stormdrain system, undertake such monitoring activities and/or analyses and furnish such reports as the officer may reasonably require. 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 reports required.

*[Ord. 2005-61 § 1 (part)]*

**13.08.120 - Violations constituting misdemeanors.**

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

*[Ord. 2005-61 § 1 (part)]*

**13.08.130 - Penalty for violation.**

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 25132. Upon a person's first violation of this chapter charged as an administrative violation, the person shall be subject to a fine of not more than one hundred dollars (\$100.00). Upon a second violation within a one-year period, the violator shall be subject to a fine of not more than two hundred dollars (\$200.00). Upon a third violation within a one-year period, the violator shall be subject to a fine of not more than five hundred dollars (\$500.00). If the fine is not paid within sixty (60) days of issuance thereof, a lien shall be placed upon and against the property involved in the violation.

*[Ord. 2005-61 § 1 (part)]*

**13.08.140 - Continuing violation.**

Unless otherwise provided, a person 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 and shall be punishable accordingly as herein provided. Unless otherwise directed by the director of public works, this provision shall not be applicable to the requirements of Article IV.

*[Ord. 2005-61 § 1 (part)]*

**13.08.150 - Concealment.**

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

*[Ord. 2005-61 § 1 (part)]*

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

Any person who violates any provision of this chapter, any provision of any NPDES or other state permit issued pursuant to this chapter, or who discharges waste or wastewater that causes pollution, or who violates any order or notice of an authorized enforcement officer may also be in violation of the Federal Clean Water Act and/or the State 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 should also include notice to the violator of such potential liability.

*[Ord. 2005-61 § 1 (part)]*

**13.08.170 - Violations deemed a public nuisance.**

In addition to the penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter may be determined by the director of public works to be a threat to the public health, safety and welfare, and as such, may be declared and deemed by him to be a nuisance, may be summarily abated and/or restored by any authorized enforcement officer, and/or civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken by county counsel.

The cost of such abatement and restoration shall be borne by the owner of the property and the cost thereof shall be invoiced to the owner of the property. If the invoice is not paid within sixty (60) days, the invoice may be sent to county collections. If the invoice is not paid through collections, a lien may be placed upon and against the property. If the lien is not satisfied within three months, the property may be sold in satisfaction thereof in a like manner as the other real property is sold under execution.

If any violation of this chapter constitutes a seasonal and recurrent nuisance, the director of public works shall so declare. Thereafter such seasonal and recurrent nuisance shall be abated every year without the necessity of any further hearing. In any administrative or civil proceeding under this chapter in which the county prevails, the county shall be awarded all costs of investigation, administrative overhead, out-of-pocket expenses, costs of administrative hearings, costs of suit and reasonable attorney fees.

*[Ord. 2005-61 § 1 (part)]*

**13.08.180 - 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 the county decisions pursuant to this chapter.

*[Ord. 2005-61 § 1 (part)]*

**13.08.190 - Civil actions.**

In addition to any other remedies provided in this section, any violation of this section may be enforced by civil action brought by the county. In any such action, the county may seek, and the court may 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; and/or
- D. Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life. Assessments under this subsection shall be paid to the county 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. 2005-61 § 1 (part)]*

### **13.08.200 - Administrative enforcement powers.**

In addition to the other enforcement powers and remedies established by this chapter, an authorized enforcement officer shall have the authority to undertake the following administrative actions:

- A. Cease and Desist Orders. When an authorized enforcement officer finds that a discharge has taken place or is likely to take place in violation of this chapter, he may issue a written order to the property owner directing that such discharge be stopped.
- B. Notices to Clean. Whenever an authorized enforcement officer finds any oil, earth, dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or any other material of any kind, in or upon the premises or upon the public sidewalk abutting or adjoining the premises, that may result in an increase in pollutants entering the county stormdrain system or a nonstormwater discharge to the county stormdrain system, he may give written notice to the property owner directing the removal of such material.
- C. Stop Work Notices. An authorized enforcement officer may issue a stop work notice to any person who is conducting work in violation of this chapter. If there are not persons present on the premises, the officer shall post the stop work notice in a conspicuous place.

All notices or orders issued by the enforcement officer shall state the specific nature of the violation, including a reference to the provision of this chapter being violated. Any property owner or other person receiving such notice or order from an authorized enforcement officer shall promptly comply.

The requirements of this Section 13.08.200 may be enforced in accordance with the provisions of Chapter 15.28 of the general ordinance code.

- D. Enforcement Fees. The cost of enforcement, including the current pay rate of the enforcement officer, including benefits and overhead, to achieve final resolution of any non-compliance of any section of this chapter shall be borne by the owner of the property and the cost thereof shall be invoiced to the owner of the property. If the invoice is not paid within sixty (60) days, the invoice may be sent to county collections. If the invoice is not paid through collections, a lien may be placed upon and against the property.

*[Ord. 2005-61 § 1 (part)]*

**13.08.210 - Authority to arrest or issue citations.**

Authorized enforcement officers shall have and are hereby vested with the authority to arrest or cite and release any person who violates any section of this code in the manner provided by the California Penal Code for the arrest or release on citation of misdemeanors or 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.)

Such authorized enforcement officers or employees may issue a citation and notice to appear in the manner prescribed by Chapter 5 of Title 3, Part 2 of the Penal Code, including Section 853.6 (or as the same may hereafter be amended). It is the intent of the county board of supervisors 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.

*[Ord. 2005-61 § 1 (part)]*

**13.08.220 - 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. 2005-61 § 1 (part)]*

**13.08.230 - Appeal.**

Any person aggrieved by any decision or direction of an authorized enforcement officer may appeal such decision or direction to the director of public works within ten days following the effective date of the decision by writing to the director of public works. Upon receipt of such request, the director of public works shall request a report and recommendation from the authorized enforcement officer and shall set the matter for hearing at the earliest practical date. At said hearing, the director of public works may hear additional evidence, and may reject, affirm or modify the authorized enforcement officer's decision. Said decision shall be final.

*[Ord. 2005-61 § 1 (part)]*

**13.08.235 - Appeals from administrative fines.**

Any person receiving an administrative fine from an authorized enforcement officer may appeal such action to the director of public works by submitting a letter contesting the administrative fine to the director of public works at the address listed on the citation. This letter must be post-marked no later than ten (10) days following the date the administrative fine was imposed. Upon receipt of such request, the director of public works shall request a report and recommendation from the authorized enforcement officer and shall set the matter for hearing at the earliest practical date. At said hearing, the director of public works may hear additional evidence, and may reject, affirm or modify the administrative fine imposed. The director of public works may designate a public works employee to conduct the hearing. The decision of the director of public works or his designee shall be final.

*[Ord. 2005-61 § 1 (part)]*

**13.08.240 - Disclaimer of liability.**

The degree of protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific, engineering and other relevant technical considerations. The standards set forth herein are minimum standards and this chapter does not imply that compliance will ensure that there will be no unauthorized discharge of pollutants into the waters of the United States. This chapter shall not create liability on the part of the county, any officer or employee thereof for any damages that result from reliance on this chapter, or any administrative decision lawfully made thereunder.

*[Ord. 2005-61 § 1 (part)]*

**ARTICLE IV - COUNTY STORMWATER PERMITS**

**13.08.250 - Stormwater permit required.**

Except for the exemptions described in Section 13.08.255, no person shall engage in development, as defined in this chapter, without first obtaining a valid county stormwater permit from the director of public works.

Upon receipt of a permit application in accordance with the provisions of Section 13.08.260 of this chapter, the director of public works shall determine the required stormwater quality controls in accordance with the regulations of the county NPDES permit and shall impose those controls on the said development by means of the stormwater permit.

*[Ord. 2005-61 § 1 (part)]*

**13.08.255 - Permit exemptions.**

The following types of discharge and development may be performed without obtaining a county stormwater permit:

- A. Those discharges described in Section 13.08.095A of this chapter.
- B. Development that does not create or replace more than five thousand (5,000) square feet of impervious surfaces, provided that the development is not part of a larger plan of development that does create or replace more than five thousand (5,000) square feet of impervious surface, and that the development does not involve the construction, modification, removal, or replacement of a stormwater facility. Impervious surfaces shall include, but not be limited to, buildings, exposed foundations, roadways, driveways, walkways, patios, ramps, parking lots, and other structures that generate stormwater runoff. Lined drainage channels or ponds shall not be considered impervious surfaces.

*[Ord. 2005-61 § 1 (part)]*

**13.08.260 - Application for permit.**

A property owner, or his agent, intending to obtain a county stormwater permit shall file an application for the same upon a form prepared and published for this purpose by the director of public works. All applications shall include a plan check fee, an inspection fee, plans and specifications as required, supporting calculations as required, and a clear description of the total scope of work. The director of public

works shall have the authority to require additional information and/or supplementary submittals from the applicant, if so required to determine if the proposed work is in accordance with the provisions of this chapter.

*[Ord. 2005-61 § 1 (part)]*

### **13.08.270 - Plans, specifications, and other submittal documents.**

Plans, specifications, calculations, and other documents shall be submitted to the director of public works for his review in connection with the application for a county stormwater permit. The type, extent, content, and preparation requirements of such documents shall be prescribed in procedures and guidelines prepared for this purpose by the director.

*[Ord. 2005-61 § 1 (part)]*

### **13.08.280 - Permit conditions.**

- A. The director of public works shall not issue a county stormwater permit until he is satisfied that the proposed project plans are in compliance with the provisions of this chapter and any other rule, regulation, ordinance or other requirement of the county or of any other public agency having jurisdiction.
- B. The authorized work shall be limited to that scope described in the permit and shown on the associated plans.
- C. The director of public works shall have the authority to establish any condition of approval necessary to protect the health, safety, and welfare of the public, to avoid the creation of a nuisance, to enhance the expeditious and satisfactory completion of the work and to comply with the provisions of this chapter and the NPDES municipal stormwater permit.
- D. The issuance of a stormwater permit by the director of public works shall not be construed as relieving the permittee from obtaining all other necessary approvals, permits, releases, easements, or rights-of-entry from other department or agencies of the county, other public agencies, or other property owners. Permit issuance shall also not be construed as approval to violate any of the conditions of this chapter or of any other regulation, rule, law, condition, or ordinance of the county or of other public agencies, and shall not prevent the director of public works from requiring the correction of errors or from directing the stoppage of work that is in violation of this chapter.
- E. Unless otherwise specified in the issued permit, all work must be completed within one year of the date of issuance. If the work cannot be completed within the time limit established, the permittee may request a permit extension from the director of public works.
- F. If the work is incomplete prior to the date of expiration of the permit, and no permit extension has been granted by the director of public works, the work site shall be secured and no further work shall be performed by the permittee. The permittee may request the issuance of a renewal permit to complete the work; however, the director of public works shall have the authority to require the resubmittal of a permit application, including the payment of additional plan check and inspection fees, as a condition of issuance of any renewal permit.
- G. To the fullest extent permitted by law, any person taking a permit under the provisions of this Article (hereinafter "permittee") shall indemnify, defend, and hold harmless the county, the board of supervisors, the director of public works, and all other officers, employees, and agents of the county (hereinafter collectively "indemnitees") from any and all claims, losses, damages, liabilities, or expenses, including reasonable attorney fees incurred in the defense thereof, for the death of or injury

to any person or persons (including the permittee's or the county's employees), or damage to any property that arises out of or is in any way connected to the issuance of a permit under this article or to work performed by the permittee or permittee's contractors, consultants, or agents under such a permit (hereinafter collectively "liabilities") The only exceptions to this duty to indemnify defend, and hold harmless are for those liabilities caused solely by the negligence or willful misconduct of any indemnitee.

- H. The director of public works shall have the authority to require that the post-construction operation, repair, and maintenance of any stormwater quality controls be made subject to a permanent maintenance plan, prepared by the permittee, and approved by the director.

*[Ord. 2005-61 § 1 (part)]*

## **ARTICLE V - DESIGN, OPERATION, AND MAINTENANCE OF PERMANENT STORMWATER QUALITY CONTROLS**

### **13.08.290 - Design.**

- A. All permanent stormwater quality controls shall be designed in such a manner so as to enhance reliability and minimize the need for maintenance.
- B. If permanent stormwater quality controls are required to be installed by the provisions of this chapter, all such controls shall be approved by the director of public works as a precondition of any permit issued in accordance with the provisions of Article IV of this chapter.
- C. The director of public works shall have the authority to require that the property owner provide long-term covenants to the county and/or the property deed, recognizing the responsibility for maintenance by the property owner and the need for continuing county access to certain permanent stormwater quality controls for on-going maintenance inspection. Any such covenant shall be recorded against the property by the property owner, as a precondition of the permit authorizing the installation of the said controls, features, installations, or facilities

*[Ord. 2005-61 § 1 (part)]*

### **13.08.300 - Operation and maintenance.**

- A. All permanent stormwater quality controls shall be operated and maintained by the property owner in accordance with the guidelines prepared for this purpose by the director of public works.
- B. The director of public works shall have the authority to require that the operation and maintenance activities described in Section 13.08.300A be conducted in accordance with a permanent maintenance plan, as described in Section 13.08.310 of this chapter; where such formal plan is required, it shall specify routine maintenance and upkeep operations along with procedures for determining if and when major repair or replacement is required. Many standard designs for stormwater treatment facilities require systematic major maintenance/repair activities, such as dredging of detention ponds, replacement of vegetation in swales, etc., in order to remain effective. The determination by the director of whether such formal maintenance plans are required shall be based upon a procedure developed and published by the director for this purpose.

*[Ord. 2005-61 § 1 (part)]*

**13.08.310 - Maintenance plans for permanent stormwater quality controls.**

Maintenance plans shall include, but not be limited to, the following information, procedures, and provisions:

- A. A description of the general characteristics of the site, including soil types, groundwater levels, vegetation and natural runoff, impervious surfaces, propensity for erosion and sedimentation, etc.
- B. The location and nature of the county stormdrain system, creeks, and/or waters of the United States that the site drains to.
- C. A description of all installed permanent stormwater quality controls.
- D. An operational plan for the periodic performance of all routine maintenance and clean-up operations associated with the stormwater system, including the removal of trash and debris from screens, racks, hoods and filters, the mowing of grass, the trimming of vegetation, the sweeping of pavement, the cleanup of trash enclosures, etc.
- E. An operational plan for the systematic inspection of permanent stormwater quality controls in order to determine if and when major maintenance, such as dredging of detention ponds or revegetation of swales, or other repair/replacement of such facilities is necessary.
- F. Provisions allowing for regular monitoring/inspection of the premises by the director.
- G. Provisions allowing the director to enter the premises to perform regular or major maintenance or repair operations, at the expense of the owner, when the owner is unwilling or unable to so perform in a timely manner.

*[Ord. 2005-61 § 1 (part)]*

**ARTICLE VI - FEES AND BONDS**

**13.08.320 - Fees.**

- A. The director of public works shall have the authority to collect fees or deposits associated with the review, issuance, renewal, reissuance, and inspection of stormwater permits issued in accordance with the provisions of Article IV of this chapter. All such fees or deposits shall be charged in accordance with a schedule prepared for this purpose and approved from time-to-time by the board of supervisors.
- B. The director of public works shall also have the authority to collect stormwater pollution prevention inspection fees in conjunction with the issuance of certain classes and types of the following county permits:
  - 1. Building permits issued in accordance with the provisions of Chapter 15.08 of the general ordinance code.
  - 2. Plumbing permits issued in accordance with the provisions of Chapter 15.16 of the general ordinance code.
  - 3. Encroachment permits issued in accordance with the provisions of Chapter 12 of the general ordinance code.
  - 4. Watercourse permits issued in accordance with the provisions of Chapter 13.12 of this title.

The said stormwater pollution prevention inspection fees shall be charged in accordance with a schedule prepared for this purpose and approved from time-to-time by the board of supervisors. The

schedule shall include fees for inspection of work sites, for the purpose of investigation and correction of illicit discharges and/or illicit connections. The amount of the said fees shall be as defined in the approved fee schedule, but in no case shall be more than four percent of the total permit fee as established per the listed ordinance chapter or regulation.

- C. The director of public works shall also have the authority to establish and utilize open charge review and inspection accounts in conjunction with the resolution and enforcement of illegal or illicit discharges from any activity, operation, or facility identified and designated as non-compliant in accordance with the provisions of this chapter. Upon notification by an authorized enforcement officer, the owner or operator of any such designated non-compliant activity, operation, or facility, shall provide a cash deposit to the director in an amount determined by the director to be adequate to cover the costs of the anticipated reviews, inspections, documentation, and reports, but in no case shall be less than one thousand dollars (\$1,000.00). The director shall be responsible for maintaining an account balance and shall refund all excess funds from the account to the owner/operator upon final resolution of the non-compliance. Billing to this account shall be at the current staff pay rate, including benefits and overhead.

*[Ord. 2005-61 § 1 (part)]*

### **13.08.330 - Bonds.**

- A. The director of public works shall have the authority to require the deposit of a security bond as a condition of the issuance of a stormwater permit in accordance with the provisions of Article IV of this chapter. The purpose of the bond would be to ensure faithful performance of the proposed work scope and/or restoration of the premises in the event of default by the permittee. The amount of the bond shall be as established in a fee schedule by the director at one hundred fifty (150) percent of the estimated cost of the approved scope of work pertaining to stormwater conveyance and stormwater quality controls. Minimum and maximum bond amounts will be set per the fee schedule.
- B. The director of public works shall also have the authority to require the submittal of an additional cash security in an amount deemed necessary, by the director, to ensure the maintenance of any facility installed with a stormwater permit issued in accordance with the provisions of Article IV of this chapter.
- C. The performance security required by Section 13.08.330A will be released upon satisfactory completion of the conditions of the stormwater permit and satisfactory operation of the installed facility through one full rainy season (October 1 through April 15); however, in the event that the work is not completed or the completed facility fails to perform as planned, the director shall have the authority to order that the work be completed or the premises be restored at the expense of the permittee or his surety.
- D. The maintenance security in Section 13.08.340B may be required depending on the type of stormwater quality controls proposed or the type of maintenance arrangement proposed in the maintenance plan. A maintenance security may be held for a period of up to ten (10) years to ensure the maintenance of stormwater quality controls per the maintenance plan.

*[Ord. 2005-61 § 1 (part)]*

## **ARTICLE VII - COORDINATION WITH OTHER PROGRAMS**

### **13.08.340 - Coordination with hazardous materials inventory and response program.**

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

*[Ord. 2005-61 § 1 (part)]*