

**AN ORDINANCE OF THE CITY OF EUREKA AMENDING TITLE V, BY ADDING
CHAPTER 54 PERTAINING STORM WATER QUALITY MANAGEMENT AND
DISCHARGE CONTROL**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:

Section 1.

Title V, entitled "Public Works" is hereby amended by adding new Chapter 54 "Storm Water Quality Management and Discharge Control" to read as follows:

**STORM WATER QUALITY MANAGEMENT AND
DISCHARGE CONTROL**

§54.020 Title.

This chapter shall be known as the "Urban Storm Water Quality Management and Discharge Control Ordinance" of the City of Eureka and may be so cited.

§54.021 Purpose and Intent.

The purpose and intent of this Chapter is to protect and promote the health, safety, and general welfare of citizens, and protect and enhance the water quality of watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. §1251 et seq.), and the Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.) by reducing pollutants in storm water discharges to the maximum extent practicable and by prohibiting non-storm water discharges to the storm drainage facilities.

§54.022 Definitions.

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

- A. **Best Management Practices:** Activities, prohibitions, practices, or maintenance procedures that prevent or reduce the discharge of pollutants or discharges directly or indirectly to the municipal storm drain facilities and waters of the State and/or United States. Best Management Practices include but are not limited to: treatment facilities to remove pollutants from storm water; operating and maintenance procedures; facility management practices to control runoff, spillage or leaks of non-storm water, waste disposal, and drainage from materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices, and procedures and such other provisions as the City determines appropriate for the control of pollutants.

- B. **City:** The City of Eureka.
- C. **Clean Water Act:** The federal Water Pollution Control Act, also known as the Clean Water Act, 33 USC § 1251 et seq., and any subsequent amendments thereto.
- D. **Construction Activity:** Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- E. **Director:** The City of Eureka Public Works Director.
- F. **Discharge of Pollutants:** The introduction of pollutants into the City's storm drainage facilities or any waters of the United States.
- G. **Discharger:** The person, corporation, partnership or other entity directly causing or allowing the discharge.
- H. **Hazardous Substances:** Without limitation, any material that because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the work place or the environment. Hazardous substances include, but are not limited to, those substances included within the definitions of "hazardous substance," "hazardous waste," "hazardous material," "toxic substance," "solid waste," or "pollutant or contaminant" in any local, state or federal law or regulation.

(California Health and Safety Code §25117).
- I. **Illicit Discharge:** Any direct or indirect non-storm water discharge to the storm drainage facilities, except as exempted in Section 54.040 of this chapter.
- J. **Illicit Connections:** An illicit connection is defined as either of the following:
1. Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain facilities including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water enter the storm drain facilities and any connections to the storm drain facilities from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or
 2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain facilities which has not been documented in plans, maps, or equivalent records and approved by the City.
- K. **Industrial Activity:** Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
- L. **National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge**

Permits: Permit issued pursuant to section 402 of the Clean Water Act, 33 USC. 1342, and administered by the State of California under the authority of the U.S. Environmental Protection Agency, permitting the discharge of pollutants into navigable waters of the United States.

- M. **Non-Storm Water Discharge:** Any discharge to the storm drain facilities that is not composed entirely of storm water.
- N. **Pollutant:** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind. A pollutant shall also include any increment or increase in the total volume or rate of storm water runoff resulting from any activity or development occurring after the effective date of this chapter in which a storm water limit had been set as a condition of approval.
- O. **Pollution:** The human-made or human-induced alteration of the quality of waters by pollutant(s) to a degree which unreasonably affects, or has the potential to unreasonably affect, either the waters for beneficial uses or the facilities which serve these beneficial uses (California Water Code §13050).
- P. **Porter-Cologne Act:** The Porter-Cologne Water Quality Control Act and as amended (California Water Code §13000 et seq.).
- Q. **Premises:** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- R. **Storm drainage facilities:** The storm and surface water drainage systems comprised of storm water control facilities and any other natural facilities which store control, treat and/or convey storm and surface water. Storm drainage facilities shall include all natural and constructed elements used to convey storm water from the first point of contact with the surface of the earth to a suitable receiving body of water or location, internal or external, to the boundaries of the City. They shall include: pipes, appurtenant features, culverts, streets, curbs, gutters, pumping stations, channels, streams, ditches, wetlands, detention/retention basins, ponds, and other storm water conveyance and treatment facilities whether public or private.
- S. **Storm Water:** Any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snow melt, surface runoff and drainage.
- T. **Waters of the United States:** Surface watercourses and water bodies as defined at 40 CFR § 122.2. including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms

and may not carry storm water at and during all times and seasons.

§54.030 Applicability.

This chapter shall apply to all water entering the storm drain facilities generated on any developed and undeveloped lands lying within the City of Eureka.

§54.031 Responsibility for Administration.

The Public Works Director or designee of the City shall administer, implement and enforce the provisions of this Chapter. Any powers granted or duties imposed upon the Public Works Director may be delegated in writing by the Public Works Director to persons or entities acting in the beneficial interest of or in the employ of the City.

§54.032 Severability.

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

§54.033 Regulatory Consistency.

This Chapter shall be construed to assure consistency with the requirements of the Clean Water Act and Porter-Cologne Act and acts amendatory thereof or supplementary thereto, or any applicable implementing regulations.

§54.034 Ultimate Responsibility of Discharger.

The standards set forth herein and promulgated pursuant to this Chapter are minimum standards; therefore, this Chapter 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 State and/or U.S. caused by said person. This Chapter shall not create liability on the part of the City of Eureka, or any agent or employee thereof for any damages that result from any discharger's reliance on this Chapter or any administrative decision lawfully made there under.

§54.040 Prohibition of Illicit Discharges.

- A. No person shall discharge or cause to be discharged into the storm drainage facilities or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.
- B. Discharges from the following activities are exempt and shall not be considered an illicit discharge when the discharger conducts the activity such that the least amount of non-storm water as practicable enters the storm water drainage facilities:

1. Watering of lawns, landscaping, and gardens;
 2. Exterior washing of personal motorized vehicles by residents;
 3. Draining of water from swimming pools or spas, after the chlorine or other disinfectant concentrate of such water shows a reading of zero concentration on a test kit;
 4. Flushing of water lines and hydrants, or other discharges from potable water sources if the chlorine concentration is less than 1.0 milligrams per liter measured at the point of entry into the storm water drainage system;
 5. Flows from firefighting;
 6. Crawl space and basement sump pumps which are properly permitted;
 7. Condensation from air conditioning units;
 8. Gravity drainage from groundwater piping systems, including foundation and footing drains, and roof drainage downspouts;
 9. Discharges from naturally occurring rising ground waters, floodwaters, springs and flows from riparian habitats and wetlands.
- C. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the State of California under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the City of Eureka for any discharge to the storm drain facilities.
- D. With written concurrence of the Regional Water Quality Control Board, the City of Eureka may exempt in writing other non-storm water discharges which are not a source of pollutants to the storm drainage facilities nor waters of the U.S.

§54.041 Prohibition of Illicit Connections.

- A. No person shall install, use or maintain a drain, conveyance, pipe, channel or other connection to the storm water drainage facilities, whether on the surface or subsurface, that may result in the discharge of a pollutant or pollutants into the storm water drainage facilities. For example, such illicit connections include but are not limited to those that could allow sewage, wastewater, and wash water to enter the storm water drainage facilities and connections from indoor drains and sinks, regardless of whether the connection had been previously allowed, permitted, or approved by the City.

- B. No person shall install, use or maintain a drain or conveyance connected from a commercial or industrial premise to the storm water drainage facilities where such connection or drain is not approved by the City and documented in City records.

§54.042 Waste Disposal Prohibitions.

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drainage facilities, or water of the U.S., any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.

§54.043 Requirements for Reducing Pollutants in Storm Water.

- A. Any person engaging in activities that may result in pollutants entering the City's storm drain facilities or waters of the State and/or U.S. shall implement Best Management Practices to the extent they are technologically achievable to prevent and reduce such pollutants. Examples of such activities include, but are not limited to, ownership of and use of premises that may be a source of pollutants such as parking lots, gasoline stations, industrial facilities, business enterprises. The owner or operator of commercial or industrial facilities shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain facilities or watercourses. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner or operator's expense.
- B. Any construction contractor performing work in the City shall implement appropriate Best Management Practices to prevent the discharge of construction waste, debris or contaminants from construction materials, tools and equipment from entering the storm water system. Best Management Practices shall include, but not be limited to the use of filter materials at drain inlets to retain debris, dirt or other pollutants generated by such work.
- C. Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Public Works Director prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

§54.044 ADOPTION OF BEST MANAGEMENT PRACTICES.

- A. The Public Works Director or designee shall, as soon as practicable, formulate and develop a Best Management Practices Manual for activities, operations, or facilities that may cause or contribute to pollution or contamination of the storm drainage facilities or waters of the State

and/or United States. The Best Management Practices Manual shall include appropriate Best Management Practices for controlling the volume, rate and potential pollutant load of storm water runoff from existing and new projects as may be appropriate to minimize the generation, transport and discharge of pollutants. Best Management Practices requirements promulgated by any federal, state, or regional agency shall be incorporated into the Manual as appropriate.

- B. The Best Management Practices Manual shall be revised and updated on a regular basis as needed to address new development, new regulations, or changing circumstances.
- C. The Best Management Practices Manual and all revisions thereto shall be adopted by the City Council.

§54.050 Requirement to Eliminate Illicit Discharges.

Notwithstanding the requirements of this Chapter, the Public Works Director may require by written notice that a person responsible for an illicit discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illicit discharges.

§54.051 Requirement to Eliminate or Secure Approval for Illicit Connections.

- A. The Public Works Director may require by written notice that a person responsible for an illicit connection to the storm drain facilities comply with the requirements of this Chapter to eliminate or secure approval for the connection by a specified date, regardless of whether or not the connection or discharges to it had been established or approved prior to the effective date of this Chapter.
- B. If, subsequent to eliminating a connection found to be in violation of this Chapter, the responsible person can demonstrate that an illegal discharge will no longer occur, said person may request City approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense.

§54.052 Watercourse Protection.

Every person owning property through which a watercourse passes, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris 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.

§54.053 Requirement to Remediate.

Whenever the Public Works Director finds that a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution of storm water, storm drainage facilities, or water of the State and/or U.S., the Public Works Director may require by written notice to the

owner of the property and/or the responsible person that the pollution be remediated and the affected property restored within a time specified in said notice.

§54.054 Requirement to Monitor and Analyze.

The Public Works Director may require by written notice of requirement that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution, illicit discharges, and/or non-storm water discharges to the storm drain facilities or waters of the State and/or U.S., to undertake at said person's expense such monitoring and analyses and furnish such reports to the City of Eureka as deemed necessary to determine compliance with this chapter.

§54.055 Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain facilities, or water of the State and/or U.S. from said facility, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of a hazardous material said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event of a release of non-hazardous materials, said person shall notify the City's Public Works Department in person, by phone or facsimile no later than 5:00 p.m. of the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City's Public Works Department within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§54.060 Authority to Inspect.

Whenever necessary to make an inspection to enforce any provision of this Chapter or whenever the Public Works Director 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 Director may enter such premises at all reasonable times to inspect the same and to inspect and copy records related to storm water compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

§54.061 Authority to Sample, Establish Sampling Devices, and Test.

During any inspection as provided herein, the Public Works Director or designee may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.

§54.062 Notice of Violation.

Whenever the Public Works Director finds that a person has violated a prohibition or failed to meet a requirement of this Chapter, the Director may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- A. The performance of monitoring, analyses, and reporting;
- B. The elimination of illicit connections or discharges;
- C. That violating discharges, practices, or operations shall cease and desist;
- D. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- E. Payment of a fine to cover administrative and remediation costs; and
- F. The implementation of source control or treatment BMP's.

§54.063 Appeal.

Notwithstanding the provisions of Section 54.064 below, any person receiving a Notice of Violation under Section 54.062 above may appeal the determination of the Public Works Director to the City Manager. The notice of appeal must be received by the City Manager within 5 days from the date of the Notice of Violation. Hearing on the appeal before the City Manager or his/her designee shall take place within 15 days from the date of City's receipt of the notice of appeal. The decision of the City Manager or designee shall be final.

§54.064 Abatement by City.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal under Section 54.063, within 10 days of the decision of the City Manager upholding the decision of the Public Works Director, then the City or a contractor designated by the Public Works Director shall enter upon the subject private property and is authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the City or designated contractor to enter upon the premises for the purposes set forth above.

§54.065 Charging Cost of Abatement/Liens.

Within 30 days after abatement of the nuisance by the City, the Public Works Director shall notify the property owner of the abatement cost, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment with the City Clerk within 15 days. The City Clerk shall set the matter for public hearing by the City Council. The decision of the City Council shall be set forth by resolution and shall be final.

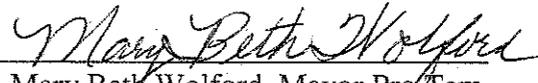
If the amount due is not paid within 10 days of the decision of the City Council or the expiration of the time in which to file an appeal under this Section, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the County Auditor so that the auditor may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the tax collector shall include the amount of the assessment on the bill for taxes levied against the parcel of land.

§54.066 Acts Potentially Resulting in a Violation of the Federal Clean Water Act and/or California Porter-Cologne Act.

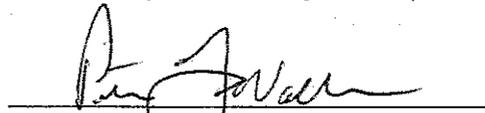
Any person who violates any provision of this Chapter or any provision of any requirement issued pursuant to this Chapter may also be in violation of the Clean Water Act and/or the Porter-Cologne Act and may be subject to the sanctions of those acts including civil and criminal penalties. Any enforcement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

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the 17th day of January, 2006, by the following vote:

AYES:	COUNCILMEMBERS	WOLFORD, BASS-JACKSON, LEONARD, KERRIGAN, JONES
NOES:	COUNCILMEMBERS	NONE
ABSENT:	COUNCILMEMBERS	NONE
ABSTAIN:	COUNCILMEMBERS	NONE


Mary Beth Wolford, Mayor Pro Tem

The above ordinance was submitted to me on the 24 day of January, 2006, and I hereby approve the same.


Peter LaVallee, Mayor

Attest:


Kathleen L. Franco Simmons, City Clerk

Approved as to Administration:


David W. Tyson, City Manager

Approved as to form:


David Tranberg, City Attorney