

ORDINANCE NO. 1157

**AN ORDINANCE REVISING FOLSOM MUNICIPAL CODE CHAPTER 8.70,
STORMWATER MANAGEMENT AND DISCHARGE CONTROL**

THE CITY COUNCIL OF THE CITY OF FOLSOM HEREBY DOES ORDAIN AS
FOLLOWS:

SECTION 1 PURPOSE

The purpose of this ordinance is to revise Chapter 8.70 in Title 8 of the Folsom Municipal Code pertaining to Stormwater Management and Discharge Control. Chapter 8.70 will be amended to ensure compliance with the 2008 NPDES Stormwater Permit as follows: 1) add language to ensure the City has the legal authority to enforce current design standards and maintenance requirements for new development and redevelopment projects as required by the 2008 NPDES permit, 2) update inspection and enforcement language to improve implementation of the commercial/industrial business inspection program and 3) improve general consistency with the 2008 NPDES permit.

SECTION 2

Chapter 8.70 of the Folsom Municipal Code is hereby amended to read as follows:

Chapter 8.70

STORMWATER MANAGEMENT AND DISCHARGE CONTROL

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The foregoing instrument is a correct copy
of the original on file in this office.

ATTEST: Christa Saunders
City Clerk of the City of Folsom, California

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Article I. General Provisions

8.70.010 Findings.

- A. The Federal Clean Water Act provides for the regulation and reduction of pollutants discharged into the waters of the United States by extending National Pollutant Discharge Elimination System requirements to stormwater and urban run-off discharge into the city stormwater conveyance system.
- B. The State Water Resources Control Board ("State Water Board") is the State water pollution control agency for all purposes of the Clean Water Act pursuant to Section 13160 of the California Water Code (Water Code). The State Water Board is authorized by the United States Environmental Protection Agency to administer the NPDES program within the State of California. The Porter-Cologne Water Quality Control Act (Water Code section 13000 et seq.) provides authority for the State NPDES program, including provisions to issue NPDES Permits and Waste Discharge Requirements to regulate discharges of stormwater to waters of the State. The State Water Board, in turn, delegates authority to the Central Valley Regional Water Quality Control Board (Regional Water Board) for issuance and enforcement of municipal stormwater permits in Sacramento County.
- C. Stormwater flows from individual properties to the city stormwater conveyance system and then ultimately to the waters of the United States.
- D. The City is a co-permittee under the "Waste Discharge Requirements for County of Sacramento, Cities of Sacramento, Folsom, Elk Grove, Citrus Heights, Rancho Cordova and Galt

Area-Wide Storm Water Discharges From Municipal Separate Storm Sewer Systems Sacramento County," which also serves as a National Pollutant Discharge Elimination System Permit under the Federal Clean Water Act (NPDES No. CAS082597 municipal stormwater permit). As a co-permittee, the City is required to possess the necessary legal authority, and to implement appropriate procedures, to regulate the entry of pollutants and non-stormwater discharges into and from the City stormwater conveyance system.

E. The City's municipal stormwater permit requires the City effectively to prohibit non-stormwater discharges from the incorporated area of the City into the city stormwater conveyance system except as otherwise permitted by federal law or the municipal stormwater permit.

F. Non-stormwater discharges and stormwater pollutants that are discharged directly to waters of the state without passing through the city stormwater conveyance system are not subject to the requirements of the municipal stormwater permit. However, such discharges have the potential to degrade water quality and impact the quality of life for the people of the City. Regulation of such discharges by the City provides benefits to its people and protects the local environment.

G. The City Council finds in this regard that the provisions of this chapter are necessary to provide the City with the legal authority necessary to implement and otherwise comply with the requirements of its municipal stormwater permit. (Ord. 1018 § 2 (part), 2004; Ord. 922 § 1 (part), 2000)

8.70.020 Purpose and intent.

A. This chapter is adopted pursuant to Article XI, Section 7 of the California Constitution which authorizes the City to exercise its police power to protect and promote the public health, safety and general welfare. While stormwater runoff is one step in the natural cycle of water, human activities, including, but not limited to, agriculture, construction, manufacturing and the operation of an urban infrastructure, may result in undesirable discharges of pollutants and certain sediments. Such discharges may accumulate in the City stormwater conveyance system, local drainage channels and waterways and eventually may be deposited in the waters of the United States. The purpose of this chapter is to protect and enhance the water quality of watercourses, water bodies and wetlands within the incorporated area of the city in a manner consistent with the Federal Clean Water Act, the Porter-Cologne Water Quality Control Act and municipal stormwater permit #CAS082597 by controlling the contribution of urban pollutants to stormwater runoff which enters the City stormwater conveyance system.

B. It is the intent of the City Council in adopting this chapter to provide the City with the legal authority to accomplish the following goals:

1. To reduce the discharge of pollutants in stormwater to the maximum extent practicable (MEP);
2. To effectively prohibit non-stormwater discharges into the city stormwater conveyance system;
3. To comply with the requirements of the Federal Clean Water Act, the Porter-Cologne Water Quality Control Act and NPDES municipal stormwater permit #CAS082597 as they apply to the discharge of pollutants into and from the city stormwater conveyance system;
4. To fully implement the City's comprehensive stormwater management program as described in the current edition of the Stormwater Quality Improvement Plan approved by the Regional Water Board;

5. To protect the physical integrity and function of the city stormwater conveyance system from the effects of pollutants and materials other than stormwater;
6. To prevent the contamination of groundwater as a result of pollution migration from the city stormwater conveyance system;
7. To promote cost effective management and beneficial use of sediments in the city stormwater conveyance system;
8. To protect the health and safety of maintenance personnel and the public who may be exposed to pollutants in the city stormwater conveyance system;
9. To provide for the recovery of regulatory costs incurred by the City in the implementation of the comprehensive stormwater management program, including, but not limited to, enforcement activities, inspections, investigations, sampling and monitoring; and
10. To establish appropriate enforcement procedures and penalties for violations of the provisions of this chapter. (Ord. 1018 § 2 (part), 2004; Ord. 922 § 1 (part), 2000)

8.70.030 Definitions.

A. As used in this chapter, the following words and phrases shall have the meanings set forth below unless the context clearly indicates otherwise.

"Administrator" means the Public Works Director and his or her designees.

"Best management practices" or "BMPs" means schedules of activities, prohibition of practices, general good house-keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce to the maximum extent practicable pollutant discharges directly or indirectly to the City stormwater conveyance system or receiving waters. BMPs shall also be defined to include structural controls, treatment controls, source controls, training requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw materials storage.

"Business" means any commercial/industrial/retail business, enterprise, trade, service, calling, vocation, profession, or any means of livelihood whether or not carried on for gain or profit.

"City Council" means the City Council of the City of Folsom.

"City stormwater conveyance system" or "city storm drain system" means those public and man-made facilities within the incorporated area of the City which are owned, operated, maintained or controlled by the City by which stormwater may be conveyed to waters of the United States, including, but not limited to, any roads with drainage systems, municipal streets, catch basins, water quality basins, detention basins, constructed wetlands, artificial channels, aqueducts, canyons, gullies, curbs, gutters, ditches, sumps, pumping stations, drain inlets and storm drains.

"County" means the County of Sacramento.

"Discharge" means the release or placement of any pollutant into the city stormwater conveyance system or receiving waters.

"Discharger" means any person who discharges, or causes to discharge, either directly or indirectly, stormwater or any other material into the city storm drain system or receiving waters.

"Illicit connection" means any physical connection to the city stormwater conveyance system or receiving waters which is not expressly authorized by the City.

"Illicit discharge" means any discharge to the storm drain system or receiving waters that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term illicit discharge includes all non-stormwater discharges except discharges pursuant to an NPDES permit, or discharges that are authorized by the Regional Water Board.

"Implementing agency" means the agency or department designated by the Administrator to enforce the provisions of this chapter with respect to a particular site, facility or industry category.

"Industry" or "industrial activity" means any service, business, enterprise, or any other activity conducted by any person for the purpose of monetary or other compensation, or in support of or promotion of such activity. This term shall also mean any similar activity conducted by a non-profit corporation as defined by the State of California.

"Material" means any substance, including, but not limited to, raw materials, finished products, garbage and debris, lawn clippings, leaves and other vegetation, biological and fecal waste, sediment and sludge, oil and grease, gasoline, paints, solvents, cleaners and any fluid or solid containing chemicals.

"Municipal stormwater permit" means NPDES Permit #CAS082597, including any amendments thereto or successor permits, issued by the Regional Water Board to the City, the selected incorporated cities within the boundaries of the county, and the County of Sacramento.

"National Pollutant Discharge Elimination System Permit" or "NPDES permit," means a permit issued by either the Regional Water Board or the State Water Board pursuant to Chapter 5.5 (commencing with Section 13370) of Division 7 of the Water Code to control discharges from point sources to waters of the United States.

"New Development" means activities to create urban and suburban forms on previously undeveloped land, including, but not limited to, land disturbing activities; structural development (including construction or installation of a building or structure), creation of impervious surfaces; and land subdivision.

"Nonstormwater discharge" means any discharge to the city stormwater conveyance system or directly to the receiving waters that is not composed exclusively of stormwater.

"Person" means any natural person as well as any corporation, partnership, public agency, trust, estate, cooperative association, joint venture, business entity or other similar entity, or the agent, employee or representative of any of the above.

"Pollutant" means any contaminant or other substance which, if present in sufficient quantities or concentrations can cause exceedance of receiving water limitations defined in the municipal stormwater permit, or any successor permit, or otherwise cause a violation of the municipal stormwater permit. Pollutant may include, but is not limited to, solid waste, sewage, garbage, medical waste, wrecked or discarded equipment, radioactive material, dredged soil, rock, sand, industrial waste, feces, fecal coliform, fecal streptococcus, enterococcus, volatile organic carbon, surfactants, oil and grease, petroleum hydrocarbon, organic solvents, metals, phenols, pesticides, nutrients, suspended or settleable solids, materials causing an increase in biochemical or chemical oxygen or total organic carbon, substances which alter pH, and those pollutants defined in Section 1362(6) of the Federal Clean Water Act.

"Potential discharger" means any person who by nature of the enterprise, activity or business in which such person is engaged, or by the use, possession or ownership of specified types of building, facility, equipment or materials, is determined by the Administrator to generate or have the capacity to generate pollutants which have significant potential to be discharged to the city stormwater conveyance system or receiving waters.

"Premises" means any building, lot, parcel or land, or portion thereof, whether improved or unimproved.

"Private storm drain system" means those man-made facilities within the City that are owned, operated, maintained or controlled by any person other than the City, by which stormwater may

be conveyed to the city storm drain system or to receiving waters, including, but not limited to, any roads with drainage systems, streets, catch basins, water quality basins, detention basins, constructed wetlands, artificial channels, aqueducts, curbs, gutters, ditches, sumps, pumping stations, storm drain inlets, and storm drains.

"Prohibited discharge" means any non-stormwater discharge to the city stormwater conveyance system or directly to the receiving waters, which is not otherwise specifically authorized by this chapter, the Regional Water Board, state or federal law, or an NPDES permit.

"Receiving water limitations" means those restrictions and prohibitions defined and listed in the municipal stormwater permit or any successor permit.

"Receiving waters" means surface bodies of water, as defined by the municipal stormwater permit, including, but not limited to, creeks and rivers, which serve as discharge points for the city stormwater conveyance system.

"Regional Water Board" means the California Regional Water Quality Control Board, Central Valley Region.

"Sacramento Stormwater Quality Partnership" is the name referring to the group of permittees covered by the municipal stormwater permit, including the County of Sacramento and the cities of Citrus Heights, Elk Grove, Folsom, Galt, Rancho Cordova and Sacramento.

"Significant industrial activity" means any industrial activity, individual industrial facility, or class of industrial facilities which is identified as a priority industry in the municipal stormwater permit. "Significant industrial activity" can also mean any industrial activity, individual industrial facility, or class of industrial facilities determined by the Administrator to discharge (or have the potential to discharge) pollutants into stormwater, or non-stormwater in discharges, in quantities or concentrations which may contribute to or cause an exceedance of receiving water limitations.

"Significant redevelopment" means the creation, addition, or replacement of 5,000 square feet or more of impervious surfaces on an already developed site. Significant redevelopment includes, but is not limited to, expansion of a building footprint, addition or replacement of a structure; replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities related to structural or impervious surfaces. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

"State Construction General Permit" means the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ, NPDES Permit No. CAS000002 and any successor documents.

"State Industrial General Permit" means the State Water Resources Control Board's "Water Quality Order No. 97-03-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated With Industrial Activities Excluding Construction Activities" and any successor documents.

"Stormwater" means surface runoff and drainage resulting from storm events and snowmelt.

"Stormwater Quality Improvement Plan (SQIP)" is a comprehensive description of the Permittees' program, including various program elements and associated activities, collectively developed by the Permittees in accordance with the municipal stormwater permit.

Implementation of the SQIP is intended to facilitate compliance with the municipal stormwater permit.

"Threatened prohibited discharge" means any condition or activity which does not currently result in a prohibited discharge but has a substantial likelihood of resulting in a prohibited discharge.

"Waters of the state" means any surface water or groundwater, including saline waters, within the boundaries of the state.

"Waters of the United States" has the same meaning as set forth in Part 122.2 of Title 40 of the Code of Federal Regulations or any successor provision.

B. Any term(s) defined in the Federal Clean Water Act, as amended, in the NPDES regulations for the stormwater discharge permitting program issued by the Environmental Protection Agency, as amended, and/or in the municipal stormwater permit that are not specifically defined in subsection A of this section shall, when used in this chapter, have the same meaning as set forth in such act or regulations. (Ord. 1018 § 2 (part), 2004; Ord. 922 § 1 (part), 2000)

8.70.040 Construction.

The provisions of this chapter shall be construed to assure consistency with the requirements of the Federal Clean Water Act and any acts amendatory thereof or supplementary thereto, applicable implementing regulations, and NPDES Permit # CA 0082597 and any amendment, revision or reissuance thereof. In the event of a conflict between this chapter and any federal or state law, regulation, order or permit, the requirement which establishes the higher standard for public health and safety shall govern. (Ord. 1018 § 2 (part), 2004; Ord. 922 § 1 (part), 2000)

8.70.050 Applicability.

The provisions of this chapter shall be applicable to all dischargers and potential dischargers located within the incorporated area of the city and all dischargers or potential dischargers that discharge either directly or indirectly into the city stormwater conveyance system or receiving waters. (Ord. 1018 § 2 (part), 2004; Ord. 922 § 1 (part), 2000)

8.70.060 Regulatory consistency.

The provisions of this chapter shall take precedence over and are controlling with respect to any conflicting or inconsistent provisions in this code. (Ord. 1018 § 2 (part), 2004; Ord. 922 § 1 (part), 2000)

8.70.070 Compliance disclaimer.

Compliance by any person with the provisions of this chapter shall not preclude the need to comply with other local, state or federal statutory or regulatory requirements relating to the control of pollutant discharges or protection of stormwater quality, or both. (Ord. 1018 § 2 (part), 2004; Ord. 922 § 1 (part), 2000)

8.70.080 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this chapter. The City Council hereby declares that it would have adopted this chapter and each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof without regard to whether any other section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter would subsequently be declared to be invalid or unconstitutional. (Ord. 1018 § 2 (part), 2004; Ord. 922 § 1 (part), 2000)

8.70.090 Administration.

Except as otherwise provided herein, the Administrator shall be responsible for the administration, implementation and enforcement of the provisions of this chapter. Any powers granted to or duties imposed upon the administrator may be delegated by the administrator to other City employees or, upon the approval of the City Council, to employees of other public agencies. (Ord. 1018 § 2 (part), 2004; Ord. 922 § 1 (part), 2000)

8.70.100 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 City or any officer or employee thereof for any damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. 1018 § 2 (part), 2004; Ord. 922 § 1 (part), 2000)

Article II. Prohibited Discharges

8.70.110 Prohibited discharge.

Except as provided in Section 8.70.120, it shall be unlawful for any person to make or cause to be made any non-stormwater discharge into any of the following: (Ord. 1018 § 2 (part), 2004; Ord. 922 § 1 (part), 2000)

- A. The City storm drain system.
- B. Receiving waters.
- C. A private storm drain system, where the design of the system will not prevent the non-stormwater discharge from reaching the City storm drain system or receiving waters.

8.70.120 Exceptions to discharge prohibition.

The following discharges to the city stormwater conveyance system are exempt from the otherwise applicable discharge prohibition set forth in Section 8.70.110:

- A. Any discharge regulated under an NPDES permit issued to the discharger, and administered by the state pursuant to Chapter 5.5 of Division 7 of the Water Code, provided that any such discharge is in compliance with all requirements of the NPDES permit and all other applicable laws and regulations.
- B. Any discharge from the following activities provided that any such discharge does not cause or contribute to the violation of any receiving water limitation as determined by the Administrator.
 - 1. Diverted stream flows;
 - 2. Rising groundwaters;
 - 3. Uncontaminated groundwater infiltration, as defined in 40 CFR 35.2005(20);
 - 4. Uncontaminated pumped ground water;
 - 5. Foundation drains;
 - 6. Springs;
 - 7. Water from crawl space pumps;
 - 8. Footing drains;
 - 9. Air conditioning condensation;
 - 10. Flows from riparian habitats and wetlands;
 - 11. Water line flushing;
 - 12. Landscape irrigation
 - 13. Discharges from potable water sources;

14. Uncontaminated irrigation water;
 15. Individual residential car washing;
 16. De-chlorinated swimming pool discharges;
 17. Lawn watering; and
 18. Street wash water.
- C. Emergency firefighting flows (i.e. flows necessary for the protection of life or property) do not require immediate implementation of BMP's and are not prohibited.
- D. Any discharges which the Administrator, the county health officer or the Regional Water Board determines in writing are necessary for the protection of public health or safety.
- E. Additional categories of non-stormwater discharges which do not cause or contribute to the violation of any receiving water limitation may be exempted from the otherwise applicable prohibition by the Administrator upon approval of the executive officer of the Regional Water Board, as provided in the municipal stormwater permit. (Ord. 1018 § 2 (part), 2004: Ord. 922 § 1 (part), 2000)

8.70.130 Exception to otherwise applicable exemptions.

Notwithstanding the exemptions provided for in Section 8.70.120, if the Regional Water Board or the Administrator determines that a discharge which is otherwise exempt from the prohibition on discharges causes or significantly contributes to the violation of any receiving water limitation or is identified as a source of pollutants to waters of the State, or is otherwise a danger to public health or safety, the Administrator may give written notice to the owner or operator of the facility that the discharge exception shall not apply to the discharge at issue following expiration of the thirty (30) day period commencing upon delivery of the notice. Upon expiration of such thirty (30) day period, any such discharge shall be unlawful. Upon finding that a continuance of the discharge poses an immediate significant threat to the environment or to public health and safety, the Administrator may waive the thirty (30) day waiting period and require immediate cessation of the discharge. (Ord. 1018 § 2 (part), 2004: Ord. 922 § 1 (part), 2000)

8.70.140 General discharge prohibition.

It shall be unlawful for any person to discharge, or cause to be discharged, any pollutant to the City stormwater conveyance system or receiving waters which results in, or contributes to, a violation of the municipal stormwater permit. (Ord. 1018 § 2 (part), 2004: Ord. 922 § 1 (part), 2000)

8.70.150 Threatened prohibited discharge.

It shall be unlawful for any person to maintain, or cause to be maintained, a threatened prohibited discharge after having received notice of the Administrator's determination as to the existence of a threatened prohibited discharge. (Ord. 1018 § 2 (part), 2004: Ord. 922 § 1 (part), 2000)

8.70.160 Illicit connections prohibited.

A. It shall be unlawful for any person to establish, use or maintain, or cause to establish, use or maintain, any illicit connection. Illicit connections shall be subject to removal and abatement by the City pursuant to Chapters 1.08 to 1.10 of this code.

8.70.170 Negligence or intent not required.

A violation of the provisions of this article shall occur irrespective of the negligence or intent of the violator to construct, maintain, operate or utilize an illicit connection or to cause, allow or facilitate any prohibited discharge. (Ord. 1018 § 2 (part), 2004: Ord. 922 § 1 (part), 2000)

Article III. Reduction of Pollutants In Stormwater

8.70.200 General requirements.

Any person engaged in activities which may result in non-stormwater or pollutants entering the stormwater conveyance system or receiving waters shall undertake all measures to eliminate or reduce the risk of non-stormwater and/or pollutant discharges to the maximum extent practicable. The following requirements shall apply:

A. Business Related Activities.

1. Stormwater Pollution Prevention Plan. The Administrator may require any business in the City that is engaged in activities that may result in non-stormwater and/or pollutant discharges to develop and implement a stormwater pollution prevention plan in accordance with requirements established by the Administrator.

2. Coordination with Hazardous Materials Release Response Plans and Inventory. Any business requiring a hazardous materials release response and inventory plan under Chapter 6.95 (commencing with Section 25500) of Division 20 of the California Health and Safety Code, shall include in that plan provisions for compliance with this chapter, including the provisions prohibiting non-stormwater discharges and illicit discharges, and requiring the discharge of pollutants to be reduced to the maximum extent practicable.

3. Coordination with Hazardous Waste Generator Contingency Plan and Emergency Procedures. Any business requiring a hazardous waste generator contingency plan and emergency procedures pursuant to California Code of Regulations, Title 22, Sections 66265.51 to 66265.56, shall include in that plan provisions for compliance with this chapter, including the provisions prohibiting non-stormwater discharges and illicit discharges, and requiring the discharge of pollutants to be reduced to the maximum extent practicable.

B. Development/Redevelopment.

1. The Administrator may establish requirements to control the long-term, post construction discharge of runoff, non-stormwater discharges and/or pollutants from new development or significant redevelopment to comply with the municipal stormwater permit. The requirements for new development and significant redevelopment may include, but are not limited to, standards and specifications for site design and design, construction and maintenance of control measures. Control measures may include, but are not limited to, BMP's for runoff reduction/low impact development, pollutant source control or water quality treatment.

2. The Administrator may require a property owner to establish, document and conduct a maintenance program, subject to City approval, for the private storm drain system or any BMP that they own related to said property, or to ensure continued compliance with city/manufacture/industry performance standards for the BMP. This requirement shall apply to BMP's required by the City or voluntarily installed on the property. Such maintenance may be required to comply with the municipal stormwater permit or in cases where the Administrator determines that maintenance is necessary to protect public safety, health, infrastructure or the environment.

3. Any person associated with construction activities in the city shall prevent non-stormwater and/or pollutants from entering the stormwater conveyance system or receiving waters and comply with all applicable federal, state and local laws, ordinances or regulations including but not limited to the general permit for stormwater discharges associated with construction activity issued by the State Water Resources Control Board and any City ordinance, regulation or standard related to development and grading.

C. Compliance with General and/or Individual Stormwater Permits. Each discharger subject to any general and/or individual stormwater permit issued by the United States Environmental Protection Agency, the State Water Resources Control Board, the Regional Water Quality

Control Board or the City of Folsom shall comply with the requirements of such permit. (Ord. 1018 § 2 (part), 2004; Ord. 922 § 1 (part), 2000)

8.70.210 Containment and notification of spills.

Any person owning or occupying a premises that has knowledge of any discharge of pollutants, any non-stormwater discharge or threatened prohibited discharge, from the premises to the city stormwater conveyance system or receiving waters shall immediately take all reasonable action to contain and otherwise minimize any such discharge and notify the City within 24 hours of such prohibited discharge or threatened prohibited discharge. (Ord. 1018 § 2 (part), 2004; Ord. 922 § 1 (part), 2000)

8.70.220 Compliance with best management practices.

Every person undertaking any activity or use of a premises which may cause or contribute to stormwater pollution or contamination, illicit discharges, or other non-stormwater discharges shall (1) comply with those best management practices or pollution control measures as may be established by the Administrator and (2) properly operate and maintain those best management practices or control measures utilized on the premises to prevent or reduce, to the maximum extent practicable, stormwater pollution or contamination, illicit discharges, or other non-stormwater discharges as required by the Administrator. (Ord. 1018 § 2 (part), 2004; Ord. 922 § 1 (part), 2000)

8.70.230 Best management practices.

The Administrator may require BMPs which shall be implemented by persons conducting activities associated with certain activities as designated by the Administrator. Those activities for which BMPs may be required include, but are not limited to, new development and/or significant redevelopment, construction, maintenance, storage, material handling, food handling, waste handling, air pollution control, water and wastewater treatment, heating and cooling, manufacturing, assembly, equipment operations, vehicle washing, maintenance, loading, and fueling, and cleaning (including carpets, streets, sidewalks, buildings, etc.). BMPs may be required for individual activities, premises or businesses; or may be required generally for categories of activities or equipment. (Ord. 1018 § 2 (part), 2004; Ord. 922 § 1 (part), 2000)
Any discharger who relies on a structural BMP to achieve continued compliance with specified performance requirements, or with any provisions of this chapter, shall establish and conduct maintenance procedures to ensure the ongoing effectiveness of the BMP. Any such maintenance procedures may be subject to approval by the Administrator. Maintenance procedures established pursuant to this subsection must be appropriate for the site conditions and design of the BMP and as applicable, shall conform to manufacturer recommendations. Upon written notification from the Administrator, the discharger shall keep documentation that demonstrates adequate maintenance of the structural BMP for a minimum of five (5) years.

Article IV. Inspection and Monitoring

8.70.300 Scope of inspections.

A. To carry out the purposes of this chapter, the Administrator may, at any reasonable hour of the day, or as authorized pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the California Code of Civil Procedure, do any of the following:

1. Enter and inspect public or private property, including any business, plant, construction site, disposal site, transfer facility, or any establishment or any other place deemed necessary to carry out the objectives of this chapter and shall be based upon such reasonable selection processes, including, but not limited to, compliance with requirements of the municipal stormwater permit, visual evidence, complaints received, knowledge or physical evidence of

industrial activities or other pollutant sources, random sampling, sampling in areas with evidence of stormwater contamination, illicit connections, discharge of non-stormwater to the city storm drain system or similar factors.

2. Complete any sampling activities necessary to carry out the purpose and intent of this chapter. Upon request, split samples shall be given to the person, or representative of the person, from whose property the samples were obtained.
3. Investigate the source of any discharge to any public, street, inlet, gutter, storm drain or the city storm drain system.
4. Verify compliance with the provisions of this chapter, including, but not limited to, the following:
 - a. Identify products produced, process conducted, chemicals used and materials stored on or contained within the property;
 - b. Identify point(s) of discharge of all wastewater, process water systems, pollutants and other discharges from the property;
 - c. Investigate the drainage patterns of the premises, including natural and graded slopes, and artificial conveyance systems;
 - d. Establish the location of all points of discharge from the property, whether by surface run-off or through a storm drain system;
 - e. Locate any prohibited condition, illicit connection, or the source of any prohibited discharge; and
 - f. Verify implementation and maintenance of BMP's.
5. Inspect any vehicle, truck, trailer, tank truck or other mobile equipment, or any stationary equipment, which may reasonably be believed to be used by the business for business-related activities and to be associated with industrial sources of pollutants or with non-stormwater discharges.
6. Inspect and copy all records of the owner or occupant of any premises relating to chemicals or processes presently or previously occurring on-site, including, but not limited to, materials and/or chemical inventories, facilities maps or schematics or diagrams, material safety data sheets, hazardous waste manifests, business plans, pollution prevention plans, state general permits, monitoring program plans or any other records relating to illicit connections, prohibited discharges or the potential discharge of pollutants to the city storm drain system. In addition, the Administrator may require the owner or occupant to furnish, within a reasonable time period, copies of all such records.
7. Inspect, sample and test any are runoff, soils area (including any groundwater testing), process discharge, materials within any waste storage area (including any container contents), and/or treatment system discharge for the purpose of determining the potential for the contribution of pollutants to the city storm drain system. The Administrator may investigate the integrity and layout of all storm drain and sanitary sewer systems or other pipelines on the premises using appropriate tests, including, but not limited to, smoke and dye tests or video surveys. The Administrator may take photographs or video/digital recordings, make measurements or drawings, and create any other record reasonably necessary to document conditions on the premises.
8. Erect and maintain monitoring and sampling devices for the purpose of measuring any discharge or potential source of discharge to the city storm drain system.

9. The Administrator may require regular reports from a premises owner and/or business owner regarding the provisions of this chapter whose premises discharges to the city stormwater conveyance system or receiving waters.

B. City-approved construction permits including approved building permits shall constitute permission by premises owner and/or business owner for Administrator or designee to enter upon premises and conduct any and all inspections, monitoring and testing necessary to determine compliance with this code and approved permits.

C. The business owner and/or premises owner shall bear all costs incurred by the City associated with the administration and enforcement of this chapter including, but not limited to, investigation, testing, reports, and monitoring. (Ord. 1018§2 (part), 2004: Ord. 922§1 (part), 2000)

8.70.310 Establishment of stormwater management and discharge control fund. Fees to defray the cost of processing applications, determining compliance, and monitoring compliance pursuant to this title may be established by resolution of the City Council. (Ord. 1018 § 2 (part), 2004: Ord. 922 § 1 (part), 2000)

8.70.320 Commercial and industrial facility inspections.

A. The City and Sacramento County are co-permittees under NPDES Permit No. CAS082597 (municipal stormwater permit) which requires regular compliance inspections and enforcement at certain commercial and industrial facilities as defined by the municipal stormwater permit. Sacramento County operates an inspection, investigation and enforcement program that enforces compliance with environmental and water quality requirements by commercial and industrial facilities located within the county.

B. Under Article 11, Section 8 of the California Constitution, and applicable provisions of the City and Sacramento County Charters, the City and Sacramento County may enter into agreements for Sacramento County to perform specified municipal functions within the city.

C. In order to provide for effective and efficient administration and enforcement of this chapter with respect to certain commercial and industrial facilities within the city, and to ensure compliance with NPDES Permit No. CAS082597, the City Council and the Sacramento County Board of Supervisors may enter into an agreement or agreements for Sacramento County to administer and enforce the provisions of this chapter with respect to certain commercial and industrial facilities located within the City, by including certain commercial and industrial facilities located within the City in Sacramento County's commercial and industrial compliance program. If the City Council and the Sacramento County Board of Supervisors enter into such an agreement or agreements:

1. The City may authorize Sacramento County and its authorized official(s) and employee(s), or other entity, to enforce the provisions of this chapter as they apply to certain commercial and industrial facilities located within the city, in accordance with the provisions of such agreement(s).

2. The City may authorize Sacramento County and its authorized official(s) and employee(s), or other entity, to take any action with respect to certain commercial and industrial facilities located within the city, in accordance with the provisions of this chapter and such agreement(s).

3. The City may establish and collect, or authorize Sacramento County, or other entity, to establish and collect from applicable commercial and industrial facilities located within the city such fees as may be necessary to cover the actual costs incurred by the City, Sacramento County, or other entity, to include these facilities in its commercial and industrial compliance program,

provided that the fees are established and collected in accordance with the provisions of such agreement(s) and all applicable legal requirements. (Ord. 1018 § 2 (part), 2004)

Article V. Enforcement

8.70.400 Enforcement.

- A. This chapter shall be enforced pursuant to the provisions of Chapters 1.08 to 1.10, inclusive, of Title 1 of the Folsom Municipal Code.
- B. The Administrator shall enforce the provisions of this chapter.
- C. If the City Council and the Sacramento County Board of Supervisors enter into an agreement for Sacramento County to administer and enforce the provisions of this chapter with respect to certain commercial and industrial facility inspections within the city, pursuant to Section 8.70.320 of this chapter, any administrative or civil enforcement by Sacramento County of any provision of this chapter with respect to such facilities shall be governed by and conducted pursuant to Chapter 15.12 of the Sacramento County Code, and the provisions of subsections A and B of this section and sections 8.70.410 and 8.70.420 of this chapter shall not apply. (Ord. 1018 § 2 (part), 2004; Ord. 922 § 1 (part), 2000)

8.70.410 Penalties.

- A. A violation of this chapter shall be an administrative violation as defined in Section 1.08.020 of this code. In addition to enforcement by any procedure set forth in Chapters 1.08 to 1.10, inclusive, any violation of this chapter shall be punishable as a misdemeanor, which shall be punishable by a fine not to exceed \$1,000, or by imprisonment in the county jail for not more than 6 months, or by both such fine and imprisonment.
- B. Each of the sanctions for administrative violations identified in Section 1.09.013 of this code shall be available for enforcement of the provisions of this chapter.
- C. In addition to the criminal penalty set forth in subsection A of this section, based upon the criteria for the imposition of administrative sanctions set forth in Section 1.09.014 of this code, a violation of a provision of this chapter shall be deemed a level E violation, as that term is described in Section 1.09.012 of this code. The range of monetary sanctions available for a violation of this chapter shall be as set forth in Section 1.09.012(A)(5) and may be imposed on a per day basis for each violation. (Ord. 1018 § 2 (part), 2004; Ord. 922 § 1 (part), 2000)

8.70.420 Enforcement procedures, notice to correct.

- A. Prior to the suspension, revocation, or denial of any license or permit, or the assessment of any fee, penalty, or charge, or the commencement of any other enforcement action pursuant to this chapter, the enforcement authority shall follow the procedures set forth in Chapter 1.09 of this code. The rights to judicial review set forth in Sections 1.09.050 to 1.09.059, inclusive, of this code shall apply.
- B. Notwithstanding other provisions in Chapter 1.09 and 1.08, a notice to correct shall not be required to commence the administrative hearing procedures set forth in Chapters 1.08 to 1.10, inclusive, of this code. Pursuant to Section 1.09.024(A) of this code, a notice of administrative violation shall be served in accordance with the provisions of Section 1.09.027 of this code. (Ord. 1018 § 2 (part), 2004; Ord. 922 § 1 (part), 2000)

8.40.430 Injunctions/Civil Penalties

When any person has engaged in, is engaged in, or threatens to engage in, any acts or practices which violates this chapter, or any resolution, rule, or regulation adopted pursuant to this chapter, the City Attorney may apply to any court of competent jurisdiction for an order enjoining those acts or practices for an order directing compliance, and/or seek other civil remedies.

Article VI. Recovery of Cost

8.70.500 Abatement.

A. Any person engaged in activities which cause, allow, facilitate or result in a prohibited discharge or threatened prohibited discharge, whether on public or private property, shall bear all costs incurred by the City as a result of such prohibited discharge or threatened prohibited discharge including, but not limited to, the cost of abatement, cleanup and disposal.

B. The Administrator will keep an account of the administrative, labor, equipment and other costs of abatement, cleanup and recovery. (Ord. 1018 § 2 (part), 2004)

C. Cost recovery shall include, but not be limited to, wage rates plus benefits, overhead expenses, vehicle and equipment usage costs. The purpose of cost recovery is to require the person/entity engaged in an activity requiring abatement to bear the full cost of response, clean up, follow up and other activities associated with a discharge.

8.70.510 Regulatory actions.

Any person determined to be in violation of this chapter whose activities result in the City being in violation of any federal, state or local statute, ordinance, regulation or permit, shall bear all costs incurred by the city resulting from, or related to any correction of a violation or the payment of monetary sanctions, or both. (Ord. 1018 § 2 (part), 2004)

Chapter 8.80

SECTION 3

Except as set forth in this ordinance, all other provisions of Chapter 8.70 remain in full force and effect.

SECTION 4 SEVERABILITY

If any section, subsection, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 5 EFFECTIVE DATE

This ordinance shall become effective thirty (30) days from and after its passage and adoption, provided it is published in full or in summary within twenty (20) days after its adoption in a newspaper of general circulation in the City of Folsom.

This ordinance was introduced and the title thereof read at the regular meeting of the City Council on February 28, 2012, and the second reading occurred at the regular meeting of the City Council on March 13, 2012.

On a motion by Council Member Starsky, seconded by Council Member Morin, the foregoing ordinance was passed and adopted by the City Council of the City of Folsom, State of California, this 13th day of March 2012 by the following vote, to wit:

AYES:	Council Member(s):	Starsky Morin, Sheldon, Howell
NOES:	Council Member(s):	None
ABSENT:	Council Member(s):	Miklos
ABSTAIN:	Council Member(s):	None


Kerri M. Howell, MAYOR

ATTEST:


Christa Saunders, CITY CLERK

Effective: April 12, 2012