

**City of Piedmont  
COUNCIL AGENDA REPORT**

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DATE: September 7, 2010

FROM: Chester Nakahara, Interim Director Public Works  
Mark Feldkamp, Parks & Project Manager  
Sylvia M. Toruño, Planning Technician II

SUBJECT: **First Reading of Ord. 694 N.S. Amending Chapter 30,  
Storm Water Management and Discharge Control**

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**RECOMMENDATION:**

Approve the first reading of Ord. 694 N.S. the amending Chapter 30 to comply with the new requirements by the Alameda County Clean Water Program.

**BACKGROUND:**

In 1991 the City of Piedmont joined the Alameda County Clean Water Program (ACCWP) which is comprised of 17 members, 14 Cities in Alameda County, Alameda County, the Alameda County Flood Control and Water Conservation District and Zone 7 of the District. The Clean Water Board has a four part mandate for storm water management and discharge control:

ARTICLE I.	Title , Purpose and General Provisions
ARTICLE II.	Discharge Regulations and Requirements
ARTICLE III.	Inspection and Enforcement
ARTICLE IV.	Coordination with Other Programs

Each of the four Articles are broken into specific sections: Inspection, Implementation, Legal Authority and Site Management.

The ACCWP has asked that all of the 17 member agencies amend their respective City codes to strengthen and clarify the existing language making it more in line with the ACCWP enforcement standards. The majority of the proposed modifications that were made to Chapter 30 of the Piedmont Municipal Code occurred in ARTICLE III. Inspection and Enforcement. Further clarifications were proposed by the acting City Attorney, Michelle Kenyon regarding inspection and enforcement issues. Specific language was included covering notifications of spills, reporting and monitoring , testing, and assigning legal authority for effective site management of industrial and commercial sites.

Please see Exhibit A which outlines in detail all proposed changes to Chapter 30. These modifications reflect the necessary changes required to be in compliance with ACCWP. Language in Chapter 30 that is to be modified has been highlighted and all new language is printed in red. These proposed revisions are currently being reviewed by Jim Scanlon, Program Manager for ACCWP and Gary Grimm, Legal Council for ACCWP.

Attachments: Exhibit A: Ordinance amending Chapter 30  
Date report prepared: September 1, 2010

ORDINANCE NO. 694 N.S.

AN ORDINANCE AMENDING CHAPTER 30 OF THE PIEDMONT CITY CODE  
REGARDING STORMWATER MANAGEMENT AND DISCHARGE CONTROL

The City Council of the City of Piedmont hereby ordains as follows:

SECTION 1

The intent of this ordinance is to amend Chapter 30 to comply with the new stormwater management and discharge control requirements as requested by the Alameda County Clean Water Program.

SECTION 2

Chapter 30 of the Piedmont City Code is hereby amended in its entirety to read as follows:

“Chapter 30  
**STORM WATER MANAGEMENT AND DISCHARGE CONTROL**”

ARTICLE I. TITLE, PURPOSE, AND GENERAL PROVISIONS

- 30.1 Purpose and intent
- 30.2 Definitions
- 30.3 Responsibility for administration
- 30.4 Construction and application
- 30.5 Severability and validity
- 30.6 Taking

ARTICLE II DISCHARGE REGULATIONS AND REQUIREMENTS

- 30.7 Discharge of pollutants
- 30.8 Discharge in violation of permit
- 30.9 Illicit discharge and illicit connections
- 30.10 Reduction of pollutants in storm water
- 30.11 Watercourse protection

ARTICLE III INSPECTION AND ENFORCEMENT

- 30.12 Authority to inspect
- 30.13 Violations constituting misdemeanors
- 30.14 Violations constituting infractions
- 30.15 Penalty for violation
- 30.16 Continuing violation
- 30.17 Concealment

- 30.18 Acts potentially resulting in violation of federal Clean Water Act and/or Porter- Cologne Act
- 30.19 Violations deemed a public nuisance
- 30.20 California code of civil procedure. Section 1094.6
- 30.21 Civil actions
- 30.22 Administrative enforcement powers
- 30.23 Authority to arrest or issue citations
- 30.24 Remedies not exclusive

**ARTICLE IV COORDINATION WITH OTHER PROGRAMS**

- 30.25 Coordination with hazardous materials inventory and response program
- ~~30.28 Best management practices during construction~~

**ARTICLE I. TITLE, PURPOSE, AND GENERAL PROVISIONS**

**SEC. 30.1** ~~PURPOSE AND INTENT~~ INTENT AND PURPOSE

The purpose of this Chapter is to ensure the future health, safety, and general welfare of Alameda County citizens **Piedmont residents** by:

- (a) eliminating non-storm water discharges **into the City's municipal separate storm sewer drain system.**
- (b) controlling the discharge **into the City's municipal separate storm sewers drain systems** from spills, dumping or disposal of materials other than storm water.
- (c) reducing pollutants in storm water discharges to the maximum extent practicable.

The intent of this ordinance is to protect and enhance the water quality ~~of our~~ **in the City's** watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the ~~Clean Water Act.~~ **Porter-Cologne water Quality Control Act and the Federal Clean Water Act and any acts amendatory thereof or supplementary thereto.**

**SEC. 30.2** DEFINITIONS.

30.2.1 Any terms defined in the **Federal Clean Water Act** and acts amendatory thereof or supplementary thereto, and/or defined in the regulations for the storm water 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 ordinance shall have the same meaning as in that statute or regulations. ~~Specifically, the definition of the following terms included in that statute or regulations are hereby incorporated by reference, as now applicable or as may hereafter be amended: navigable waters, administrator, director, pollutants, biological monitoring, discharge, storm water, and non-storm water. These terms presently are defined as follows:~~ **The following words and phrases when used in this chapter shall be as defined below:**

30.2.1.1 **Discharge of a Pollutant**

- (a) any addition of any pollutant to navigable waters from any point source, or
- (b) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

30.2.1.2 **Illicit Discharge.** Any discharge into the City's storm sewer drain system that is not composed entirely of storm water except discharges pursuant to a NPDES permit and discharges resulting from fire fighting activities.

30.2.1.3 **Pollutant** Dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharge into the City's water storm drain system.

30.2.1.4 **Publicly Owned Treatment Works ("POTW").** Any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of liquid nature which is owned by a "State" or "municipality." This definition includes sewers, pipes or other conveyances only if they convey wastewater to a POTW providing treatment.

30.2.1.5 **Storm Water.** ~~Storm water runoff,~~ Flow on the surface of the ground resulting from precipitation, snow melt runoff, surface runoff, and subsurface drainage.

30.2.2 When used in this Chapter, the following words shall have the meanings ascribed to them in this Section:

30.2.2.1 **Authorized Enforcement Official.** The following City Officials: Director of Public Works, Public Services Superintendent, Public Services Supervisor, Building Official, City Planner, Fire Chief, Police Chief, and sworn officers.

30.2.2.2 **Best Management Practices ("BMPs").**Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the United States." BMPs also include treatment requirements, operating procedures, prohibitions and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage and other management practices, to prevent or reduce the discharge of pollutants directly or indirectly to watercourses, water bodies and wetlands.

30.2.2.3 **City.** The City of Piedmont

30.2.2.4 **City Storm Drain Sewer System.** Includes but is not limited to the facilities within the city by which storm water may be conveyed to waters of the United States, including any roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains, which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

30.2.2.5 **Non-Storm Water Discharge.** Any discharge of a pollutant that is not entirely composed of storm water.

30.2.2.6 **Premises.** Any building, lot parcel, real estate, or land or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

SEC. 30.3      RESPONSIBILITY FOR ADMINISTRATION.

This Chapter shall be administered for the City by the Director of Public Works. Where storm drain facilities and/or watercourses have been accepted for maintenance by the Alameda County Flood Control and Water Conservation District (ACFCWCD) or other public agency legally responsible for certain watercourses then the responsibility for enforcing the provisions of this Chapter are hereby assigned to those public agencies over those watercourses for which they have accepted maintenance.

SEC. 30.4      CONSTRUCTION AND APPLICATION.

This ordinance shall be construed to assure consistency with the requirements of the Federal Clean Water Act and acts amendatory thereof or supplementary thereto, applicable implementing regulations, and NPDES Permit No. CAS0039831, and any amendment, revision or reissuance thereof.

SEC. 30.5      SEVERABILITY AND VALIDITY.

If any portion of this ordinance is declared invalid, the remaining portions of this ordinance are to be considered valid.

SEC. 30.6      TAKING.

The provisions of this ordinance 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 ordinance to a specific project would create a taking then pursuant to the ordinance the (City Council) 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 ordinance as stated in section 30.1 above.

## **ARTICLE II DISCHARGE REGULATIONS AND REQUIREMENTS**

### SEC. 30.7 DISCHARGE OF POLLUTANTS.

The discharge of non-storm water discharges to the City storm ~~sewer~~ **drain** system is prohibited. All discharges of material other than storm water must be in compliance with a NPDES permit issued for the discharge (other than **a NPDES Permit No. CAS0029831 permit**). (Ord. 642 N.S. 10/03)

30.7.1 Exceptions to Discharge Prohibition. The following discharges are exempt from the prohibitions ~~set forth in Section 9 above~~ **of this Chapter.**

30.7.1.1 The prohibition on discharges shall not apply any discharge regulated under a National Pollutant Discharge Elimination System (NPDES) permit issued to the discharger and administered by the State of California under authority of the United States Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit and other applicable laws or regulations.

30.7.1.2 Discharges from the following activities will not be considered a source of pollutants to waters of the United States ~~when properly managed~~ **only if appropriate control measures are implemented as required by a NPDES permit, and any of it's amendments, revisions, or reissuance thereof** - water line flushing and other discharge from potable water source, landscape irrigation and lawn watering; irrigation water; diverted stream flows; rising ground waters; infiltration ~~to~~ **from** separate storm drains; uncontaminated pumped ground water; foundation and footing drains; water from crawl space pumps; air conditioning condensation; springs; ~~individual~~ **personal** car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges or flows from fire fighting; **flows from riparian habitats or wetlands; diverted stream flows; flows from natural springs; rising ground water; uncontaminated and unpolluted groundwater infiltration; pumped groundwater; pumped groundwater from water aquifer;** and accordingly will not be subject to the prohibition on discharges.

### SEC.30.8 DISCHARGE IN VIOLATION OF PERMIT.

Any discharge that would result in or contribute to a violation of NPDES ~~Permit No. CAS0029831, attached to this ordinance as Attachment A,~~ 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 person shall defend, indemnify and hold harmless the City in any administrative or judicial enforcement action relating to such discharge. (Ord. 642 N.S. 10/03)

### SEC.30.9 ILLICIT DISCHARGE AND ILLICIT CONNECTIONS.

It is prohibited to establish, use, maintain, or continue illicit drainage connections to the City storm ~~sewer~~ **drain** system, and to commence or continue any illicit discharges to the City storm ~~sewer~~ **drain** 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.

SEC.30.10 REDUCTION OF POLLUTANTS IN STORM WATER.

Any person engaged in activities which will or may result in pollutants entering the City storm ~~sewer~~ **drain** system shall undertake all practicable measures to reduce such pollutants. Examples of such activities include ownership and use of facilities which may be a source of pollutants such as parking lots, gasoline stations, industrial facilities, commercial facilities, stores fronting City street, etc. The following minimal requirements shall apply.

30.10.1 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 street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land in the City, so that the same might be or become a pollutant, except in containers or in lawfully established dumping grounds.

The occupant or tenant, or in the absence of occupant or tenant, the owner, lessee, or proprietor of any real property in the City of Piedmont in front of which there is a paved sidewalk shall maintain said sidewalks free of dirt or litter. Sweepings from said sidewalks shall not be swept or otherwise made or allowed to go into the gutter or roadway, but shall be disposed of in receptacles maintained on said real property as required for the disposal of garbage.

No person shall throw or deposit litter in any fountain, pond, lake, stream, or any other body of water in a park or elsewhere within the City.

30.10.2 Standard for Parking Lots and Similar Structures. Persons owning or operating a parking lot, gas station tarmac or similar structure shall clean those structures as frequently and thoroughly as practicable in a manner that does not result in discharge of pollutants to the City storm ~~sewer~~ **drain** system.

30.10.3 Best Management Practices for New Developments and Redevelopments. Any construction contractor performing work in the City shall ~~endeavor, whenever possible, to provide filter materials at the catch basin to retain any debris and dirt flowing in to the City's storm sewer system.~~ **comply with and undertake the latest best management practices for construction projects adopted by the Alameda Countywide Clean Water Program, and if required, any approved erosion and sediment control plans incorporated into said building permit.** The Director of Public Works may establish controls on the volume and rate of storm water runoff from new developments and redevelopments as may be appropriate to minimize the discharge and transport of pollutants. (Ord. 642 N.S. 10/03)

30.10.4 Notification of Intent and Compliance with General Permits. Each industrial **and commercial** discharger, discharger associated with construction activity, or other discharger, described in any general storm water permit addressing such discharges, as may be adopted by the United State **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 any general storm water permit applicable to such discharges.

Each discharger identified in an NPDES permit relating to storm water discharges shall comply with and undertake all activities required by such permit. (Ord. 642 N.S. 10/03)

30.10.5 Compliance with Best Management Practices. Where best management practices, guidelines or requirements have been adopted by any federal, State of California, regional or city agency, for any activity, operation, or facility which may cause or contribute to storm water pollution or contamination, illicit discharges and/or discharge of non-storm water to the storm ~~water~~-**drain** system, every person undertaking such activity or operation or owning or operating such facility shall comply with such guidelines or requirements (as may be identified by the Director of Public Works). (Ord. 642 N.S. 10/03)

SEC.30.11 WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee or tenant, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles which would pollute, contaminate, or significantly retard the flow of water through the watercourse; shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse; and shall not remove healthy bank vegetation beyond that actually necessary for said maintenance, nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion.

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

- 30.11.1 Discharge into or connect any pipe or channel to a watercourse;
- 30.11.2 Modify the natural flow of water in a watercourse;
- 30.11.3 Carry out development within a setback;
- 30.11.4 Deposit in, plant in, or remove any material from a watercourse including its banks, except as required for necessary maintenance;
- 30.11.5 Construct, alter, enlarge, connect to, change, or remove any structure in a watercourse; or

- 30.11.6 Place any loose or unconsolidated material along the side of or within a watercourse or so close to the side as to cause a diversion of the flow, or to cause a probability of such material being carried away by storm waters passing through such watercourses.

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

#### **SEC. 30.12 AUTHORITY TO INSPECT.**

Whenever necessary to make an inspection to enforce any of the provisions of this Chapter, or whenever an authorized enforcement official has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this Chapter, the official may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the official by this Chapter; provided that

- (i) if such building or premises be occupied, he or she shall first present proper credentials and request entry; and
- (ii) if such building or premises be unoccupied, he or she make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

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 official is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this ordinance, including but not limited to random sampling and/or sampling in areas with evidence of storm water contamination, illicit discharges, discharge of non-storm water to the storm water system, or similar factors.

**30.12.1 Authority to Sample and Establish Sampling Devices.** The City shall have the right to establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the official may take any samples deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities onsite.

**30.12.2 Notification of Spills.** As soon as any person in charge of a facility or responsible for emergency response for a facility has knowledge of any confirmed or unconfirmed release of materials, pollutants or waste which may result in pollutants or non-storm water discharges entering the City storm sewer system, such person shall take all necessary steps to ensure the discovery and containment and clean up of such release and shall notify the City of the occurrence by telephoning Department of Public Works, if the spill occurs

during normal business hours or the Fire Department, if the spill occurs when the Department of Public Works is closed.

30.12.3 Requirement to Test or Monitor. Any authorized enforcement official may request that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution or contamination, illicit discharges, and/or discharge of any non-storm water to the storm water system, undertake such monitoring activities and/or analysis and furnish such reports as the official may specify. The burden, including costs of these activities, analyses and reports shall bear a reasonable relationship to the need for the monitoring, analyses and reports and the benefits to be obtained. The recipient of such request shall undertake and provide the monitoring analyses and/or reports requested. (Ord. 642 N.S. 10/03)

## SEC. 30.13 INDUSTRIAL AND COMMERCIAL SITE CONTROLS

The City shall implement an industrial and commercial site control program at all sites which could reasonably be considered to cause or contribute to pollution of stormwater runoff, with inspections and effective follow-up and enforcement to abate actual or potential pollution sources consistent with the City's Enforcement Response Plan (ERP), to prevent discharge of pollutants and impacts on beneficial uses of receiving waters. Inspectors shall confirm implementation of appropriate and effective BMP's and other pollutant controls by industrial and commercial site operators.

### 30.13.1 Industrial and Commercial Site Controls

#### Legal Authority for Effective Site Management

- (a) Task Description – The City shall enforce effective stormwater pollutant control on industrial sites. The City shall have the ability to inspect and require effective stormwater pollutant control and to escalate progressively stricter enforcement to achieve expedient compliance and pollutant abatement at commercial and industrial sites within its jurisdiction.
- (b) Implementation Level
  - i. The City may oversee, inspect, and require expedient compliance and pollution abatement at all industrial and commercial sites which may be reasonably considered to cause or contribute to pollution of stormwater runoff. The City shall require implementation of BMPs at industrial and commercial to address pollutant sources associated with outdoor process and manufacturing areas, outdoor material storage areas, outdoor waste storage and disposal areas, outdoor vehicle and equipment, storage and maintenance areas, outdoor parking areas and access roads, outdoor wash areas, outdoor drainage from indoor areas, rooftop equipment, and contaminated and erodible surface areas, and other sources determined by the City or Water Board Executive Officer to have a reasonable potential to contribute to pollution of stormwater runoff.

- ii. The City shall notify the discharger of any actual or potential pollutant sources and violations and require problem correction within a reasonably short and expedient time frame commensurate with the threat to water quality. The City shall require timely correction of problems involving rapid temporary repair, and may allow longer time periods for implementation of more permanent solutions, if these require significant capital expenditure or construction. Violations shall be corrected prior to the next rain event or within 10 business days after the violations are noted. If more than 10 business days are required for correction, a rationale shall be given in the tabulated sheets.

### 30.13.2 Illicit Discharge Detection and Elimination

#### Legal Authority

- (a) Task Description – The City shall have the authority to prohibit and control illicit discharges and escalate stricter enforcement to achieve expedient compliance.
- (b) Implementation Level
  - i. The City may address stormwater and non-stormwater pollution associated with, but not limited to the following:
    - (a) Sewage;
    - (b) Discharges of wash water resulting from the cleaning of exterior surfaces and pavement, or the equipment and other facilities of any commercial business, or any other public or private facility;
    - (c) Discharges of runoff from material storage areas, including containing chemicals, fuels, or other potentially polluting or hazardous materials;
    - (d) Discharges of pool or fountain water containing chlorine, biocides, or other chemicals; discharges of pool or fountain filter backwash water;
    - (e) Discharges of sediment, pet waste, vegetation clippings, or other landscape or construction-related wastes; and
    - (f) Discharges of food-related wastes (e.g., grease, fish processing, and restaurant kitchen mat and trash bin wash water, etc.
  - ii. The City may discover through inspection and surveillance, illicit connections and discharges to storm drains and thereafter take whatever means available necessary to eliminate said connections or discharges.

### 30.13.3 Construction Site Control

#### Legal Authority for Effective Site Management

- (a) Task Description – The City shall require effective stormwater pollutant control, and escalate progressively stricter enforcement to achieve expedient compliance and clean up at all public and private construction sites.
- (b) Implementation Level
  - i. The City shall require at all construction sites year round effective erosion control, run-on and runoff control, sediment control, active treatment systems (as appropriate), good site management, and non storm water management through all phases of construction (including but not limited to site grading, building, and finishing of lots) until the site is fully stabilized by landscaping or the installation of permanent erosion control measures.
  - ii. The City shall oversee, inspect, and require expedient compliance and clean up at all construction sites year round.
  - iii. Reporting – The City shall comply with reporting requirements of the Alameda County Clean Water Program.

SEC. 30.13 VIOLATIONS CONSTITUTING MISDEMEANORS.

Unless otherwise specified by ordinance, the violations of any provision of this Chapter, or failure to comply with any of the mandatory requirements of this Chapter shall constitute a misdemeanor; except that notwithstanding any other provisions of this Chapter, any such violation constituting a misdemeanor under this Chapter may, in the discretion of the enforcing authority be charged and prosecuted as an infraction.

SEC. 30.14 VIOLATIONS CONSTITUTING INFRACTIONS.

Any person violating or failing to comply with any of the following provisions of this ordinance shall be guilty of an infraction, which shall be enforced and punishable in the manner prescribed by the Penal Code and the Government Code of the State of California or abated as a nuisance as provided in Chapter 12 of the Piedmont City Code.

SEC. 30.15 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 36901.

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

SEC. 30.16 CONTINUING VIOLATION.

Unless otherwise provided, a person, firm, corporation, or organization shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this Chapter is committed, continued or permitted by the person, firm, corporation, or organization and shall be punishable accordingly as herein provided.

SEC. 30.17 CONCEALMENT.

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

SEC. 30.18 ACTS POTENTIALLY RESULTING IN VIOLATION OF FEDERAL CLEAN WATER ACT AND/OR PORTER COLOGNE ACT.

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

SEC. 30.19 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 is a threat to the public health, safety and welfare and is declared and deemed a nuisance, and may be summarily abated and/or restored by any authorized enforcement official, and/or civil action to abate, enjoin or otherwise compel the cessation of such nuisances may be taken by the City ~~attorney~~

~~The cost of such abatement and restoration shall be borne by the owner of the property and the cost thereof shall be a lien upon and against the property and such lien shall continue in existence until the same shall be paid. If the lien is not satisfied by the owner of the property within three (3) month after the completion by the City Engineer of the removal of the nuisance and the restoration of the property to its original condition, the property may be sold in satisfaction thereof in a like manner as other real property is sold under execution.~~

~~If any violation of this Chapter constitutes a seasonal and recurrent nuisance, the City Council shall so declare. Thereafter such seasonal and recurrent nuisance shall be abated every year without the necessity of any further hearing.~~

**Attorney as provided in Chapter 6 of this code including the assessment of the costs of abatement which may be collected at the same time and in the same manner as ordinary municipal taxes as provided by Government Code Section 38773.5 and by civil action to abate, enjoin or otherwise compel the cessation of such nuisance by the City Attorney.**

SEC.30.20 CALIFORNIA CODE OF CIVIL PROCEDURE. SECTION 1094.6.

The provisions of Section 1094.6 of the California Code of Civil Procedure are applicable to judicial review of City decisions pursuant to this Chapter.

SEC. 30.21 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 City. In any such action the City may seek, and the court shall grant, as appropriate, the following remedies:

- (1) A temporary or permanent injunction.
- (2) Assessment of the violator for the cost 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.
- (3) Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation.
- (4) Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life. Assessments under this subsection shall be paid to the City to be used exclusively for costs associated with monitoring and establishing storm water discharge pollution control systems and/or implementing or enforcing the provisions of this ordinance.

SEC. 30.22 ADMINISTRATIVE ENFORCEMENT POWERS.

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

30.22.1 Cease and Desist Orders. When an authorized enforcement official finds that a discharge has taken place or is likely to take place in violation of this Chapter, the official may issue an order to cease and desist such discharge, or practice, or operation likely to cause such discharge and direct that those persons not complying shall:

- (a) comply with the requirement,
- (b) comply with a time schedule for compliance, and/or
- (c) take appropriate remedial or preventative action to prevent the violation from recurring.

30.22.2 Notice to Clean. Whenever an authorized enforcement official 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 sidewalk abutting or adjoining any parcel of land or upon any parcel of land or grounds, which may result in an increase in pollutants entering the City storm sewer system or a non-storm water discharge to the City storm sewer system, he or

she shall give notice to remove such oil, earth, dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or other material, in any manner that he or she may reasonably provide.

**SEC. 30.23 AUTHORITY TO ARREST OR ISSUE CITATION.**

Authorized enforcement officials shall have and are hereby vested with the authority to arrest or cite 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 misdemeanor infractions as prescribed by Chapter 5, 5c, and 5d of Title 3, Part 2 of the Penal Code (or as the same may be hereinafter amended).

Such authorized enforcement officials or employees may issue a citation and notice to appear in the manner prescribed by Chapter 5c 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 City Council that the immunities prescribed in Section 836.5 of the Penal Code be applicable to public officers or employees or employees acting in the course and scope of employment pursuant to this Chapter.

(Bail for infractions shall be as set by resolution of the City Council.)

**SEC. 30.24 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.

**ARTICLE IV COORDINATION WITH OTHER PROGRAMS.**

**SEC. 30.25 COORDINATION WITH HAZARDOUS WASTE MATERIALS INVENTORY AND RESPONSE PROGRAM.**

The first revision of the business plan for any facility subject to the City's hazardous materials inventory and response program shall include a program for compliance with this Chapter, including the prohibitions on non-storm water discharges and illicit discharges, and the requirement to reduce storm water pollutants to the maximum extent practicable.”

**SECTION 3.**

This ordinance shall be posted at City Hall after its second reading by the City Council for at least thirty (30) days and shall become effective 30 days after such second reading.